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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3

RIN 0510–AA04

Inflation Catch-Up Adjustment of Civil Monetary Penalty Amounts

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends USDA's civil monetary penalty regulations by making inflation adjustments as mandated by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. USDA also removes one obsolete civil monetary penalty (CMP) regulation previously authorized under a statute that is no longer current law.

DATES: Effective December 5, 2017.

FOR FURTHER INFORMATION CONTACT: Heather Self, Esq., OGC, USDA, Room 3311–S, 1400 Independence Avenue SW., Washington, DC 20250–1400, (202) 720–5840.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act), to improve the effectiveness of CMPs and to maintain their deterrent effect. The 2015 Act requires agencies to:

(1) Adjust the level of CMPs with an initial ''catch-up'' adjustment through a final rulemaking (FR); and

(2) Make subsequent annual adjustments for inflation.

Previously, the Inflation Adjustment Act required agencies to adjust CMP levels every 4 years based on the percentage by which the Consumer Price Index (CPI) for the month of June of the prior calendar year exceeded the CPI for the month of June of the calendar year during which the last adjustment was made. The Inflation Adjustment Act also capped the increase for each adjustment at 10 percent and rounded the adjustment based on the size of the penalty (for example, multiple of $10 in the case of penalties less than or equal to $100). The rounding process meant that penalties would often not be increased at all if the inflation factor was not large enough. Furthermore, the cap on increases of 10 percent in tandem with the rounding meant that the formula over time caused penalties to lose value relative to total inflation. The 2015 Act updates these requirements by prescribing that agencies make annual adjustments for inflation based on the CPI for the month of October and round to the nearest dollar after an initial adjustment.

In order to eliminate the inconsistent changes caused by the prior method, the 2015 Act resets the inflation adjustment by excluding prior inflationary adjustments under the Inflation Adjustment Act, which contributed to a decline in the real value of penalty levels. To do this, the 2015 Act provides that the initial adjustment will be the percentage by which the CPI for the month of October 2015 exceeds that of the month of October of the calendar year during which the amount of the CMP was originally established or otherwise adjusted under a provision of law other than the Inflation Adjustment Act. While the 2015 Act does not provide a cap on adjustments going forward, the initial adjustment under the 2015 Act does limit large CMP increases by providing that no initial adjustments may exceed 150 percent of the amount of the CMP as of the date the 2015 Act was enacted, November 2, 2015. Lastly, the 2015 Act requires that agencies publish a final rule with the initial adjustment by July 1, 2016, and have the adjustments take effect no later than August 1, 2016. The initial adjustment under the 2015 Act also provides that, following public comment, the head of an agency may reduce the required increase if the agency head determines that the increase will have a negative economic impact or the social costs of the increase outweigh the benefits and the Director of the Office of Management and Budget concurs.

II. CMPs Affected by This Final Rule

Several USDA agencies administer laws that provide for the imposition of CMPs being adjusted by this final rule. Those agencies are:

(1) Agricultural Marketing Service;

(2) Animal and Plant Health Inspection Service;

(3) Food and Nutrition Service;

(4) Food Safety and Inspection Service;

(5) Forest Service;

(6) Grain Inspection, Packers and Stockyards Administration;

(7) Federal Crop Insurance Corporation;

(8) Rural Housing Service,

(9) Farm Service Agency,

(10) Commodity Credit Corporation, and

(11) Office of the Secretary.

The CMPs in this final rule are listed according to the applicable administering agency.

III. Waiver of Proposed Rulemaking

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures contained in 5 U.S.C. 553. We have determined that, under 5 U.S.C. 553(b)(3)(B), good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically the rulemaking comports with and is consistent with the statutory authority required by Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, as amended, with no issue of policy discretion. Accordingly, we have determined that opportunity for prior comment is unnecessary and contrary to the public interest, and we are issuing this revised regulation as a final rule that will apply to all future cases.

IV. Procedural Requirements

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this regulatory action in accordance with the provisions of Executive Order 12866, Regulatory Planning and Review, and has determined that it does not meet the criteria for significant regulatory action. Additionally, because this rule does not meet the definition of a significant

regulatory action, it does not trigger the requirements contained in 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).

As indicated above, the provisions of this final rulemaking contain inflation adjustments in compliance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The great majority of individuals, organizations, and entities affected participating in the programs affected by this regulation do not engage in prohibited activities and practices that would result in civil monetary penalties being incurred. Accordingly, we believe that any aggregate economic impact of this revised regulation will be minimal, affecting only the limited number of program participants that may engage in prohibited behavior in violation of the statutes.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because USDA was not required to publish notice of proposed rulemaking under 5 U.S.C. 553 or any other law. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This final rule imposes no new reporting or recordkeeping requirements necessitating clearance by OMB.

List of Subjects in 7 CFR Part 3

Administrative practice and procedure, Debt management, Penalties.

For the reasons set forth in the preamble, USDA amends 7 CFR part 3 as follows:

PART 3—DEBT MANAGEMENT

Subpart I—Adjusted Civil Monetary Penalties

■ 1. The authority citation for subpart I continues to read as follows:

Authority: 28 U.S.C. 2461 note.

■ 2. Revise § 3.91(a)(1), (2) and (b) to read as follows:

§ 3.91 Adjusted civil monetary penalties.

(a) * * *

(1) *Adjustments.* The Secretary will adjust the civil monetary penalties, listed in paragraph (b) of this section, to take account of inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, as amended.

(2) *Timing.* Any increase in the dollar amount of a civil monetary penalty listed in paragraph (b) of this section applies only to violations occurring after December 5, 2017.

* * * * *

(b) *Penalties.—(1) Agricultural Marketing Service*—(i) Civil penalty for improper recordkeeping, codified at 7 U.S.C. 136i–1(d), has: A maximum of $905 in the case of the first offense, and a minimum of $1,759 in the case of subsequent offenses, except that the penalty will be less than $1,759 if the Secretary determines that the person made a good faith effort to comply.

(ii) Civil penalty for a violation of the unfair conduct rule under the Perishable Agricultural Commodities Act, in lieu of license revocation or suspension, codified at 7 U.S.C. 499b(5), has a maximum of $4,928.

(iii) Civil penalty for violation of the licensing requirements under the Perishable Agricultural Commodities Act, codified at 7 U.S.C. 499c(a), has a maximum of $1,573 for each such offense and not more than $393 for each day it continues, or a maximum of $393 for each offense if the Secretary determines the violation was not willful.

(iv) Civil penalty in lieu of license suspension under the Perishable Agricultural Commodities Act, codified at 7 U.S.C. 499h(e), has a maximum penalty of $3,145 for each violative transaction or each day the violation continues.

(v) Civil penalty for a violation of the Export Apple Act, codified at 7 U.S.C. 586, has a minimum of $144 and a maximum of $14,372.

(vi) Civil penalty for a violation of the Export Grape and Plum Act, codified at 7 U.S.C. 596, has a minimum of $275 and a maximum of $27,500.

(vii) Civil penalty for a violation of an order issued by the Secretary under the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, codified at 7 U.S.C. 608c(14)(B), has a maximum of $2,750. Each day the violation continues is a separate violation.

(viii) Civil penalty for failure to file certain reports under the Agricultural Adjustment Act, reenacted by the Agricultural Marketing Agreement Act of 1937, codified at 7 U.S.C. 610(c), has a maximum of $275.

(ix) Civil penalty for a violation of a seed program under the Federal Seed Act, codified at 7 U.S.C. 1596(b), has a minimum of $94 and a maximum of $1,875.

(x) Civil penalty for failure to collect any assessment or fee for a violation of the Cotton Research and Promotion Act, codified at 7 U.S.C. 2112(b), has a maximum of $2,750.

(xi) Civil penalty for failure to pay, collect, or remit any assessment or fee for a violation of a program under the Potato Research and Promotion Act, codified at 7 U.S.C. 2621(b)(1), has a minimum of $1,232 and a maximum of $12,319.

(xii) Civil penalty for failure to obey a cease and desist order under the Potato Research and Promotion Act, codified at 7 U.S.C. 2621(b)(3), has a maximum of $1,232. Each day the violation continues is a separate violation.

(xiii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Egg Research and Consumer Information Act, codified at 7 U.S.C. 2714(b)(1), has a minimum of $1,425 and a maximum of $14,023.

(xiv) Civil penalty for failure to obey a cease and desist order under the Egg Research and Consumer Information Act, codified at 7 U.S.C. 2714(b)(3), has a maximum of $1,425. Each day the violation continues is a separate violation.

(xv) Civil penalty for failure to remit any assessment or fee or for a violation of a program under the Beef Research and Information Act, codified at 7 U.S.C. 2908(a)(2), has a maximum of $11,119.

(xvi) Civil penalty for failure to remit any assessment or for a violation of a program regarding wheat and wheat foods research, codified at 7 U.S.C. 3410(b), has a maximum of $2,750.

(xvii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Floral Research and Consumer Information Act, codified at 7 U.S.C. 4314(b)(1), has a minimum of $1,294 and a maximum of $12,941.

(xviii) Civil penalty for failure to obey a cease and desist order under the Floral Research and Consumer Information Act, codified at 7 U.S.C. 4314(b)(3), has a maximum of $1,294. Each day the violation continues is a separate violation.

(xix) Civil penalty for violation of an order under the Dairy Promotion Program, codified at 7 U.S.C. 4510(b), has a maximum of $2,393.

(xx) Civil penalty for pay, collect, or remit any assessment or fee or for a violation of the Honey Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 4610(b)(1), has a minimum of $737 and a maximum of $7,370.

(xxi) Civil penalty for failure to obey a cease and desist order under the Honey Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 4610(b)(3), has a maximum of $737. Each day the violation continues is a separate violation.

(xxii) Civil penalty for a violation of a program under the Pork Promotion, Research, and Consumer Information Act of 1985, codified at 7 U.S.C. 4815(b)(1)(A)(i), has a maximum of $2,224.

(xxiii) Civil penalty for failure to obey a cease and desist order under the Pork Promotion, Research, and Consumer Information Act of 1985, codified at 7 U.S.C. 4815(b)(3)(A), has a maximum of $1,112. Each day the violation continues is a separate violation.

(xxiv) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Watermelon Research and Promotion Act, codified at 7 U.S.C. 4910(b)(1), has a minimum of $1,112 and a maximum of $11,119.

(xxv) Civil penalty for failure to obey a cease and desist order under the Watermelon Research and Promotion Act, codified at 7 U.S.C. 4910(b)(3), has a maximum of $1,112. Each day the violation continues is a separate violation.

(xxvi) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Pecan Promotion and Research Act of 1990, codified at 7 U.S.C. 6009(c)(1), has a minimum of $1,811 and a maximum of $18,107.

(xxvii) Civil penalty for failure to obey a cease and desist order under the Pecan Promotion and Research Act of 1990, codified at 7 U.S.C. 6009(e), has a maximum of $1,811.

(xxviii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Mushroom Promotion, Research, and Consumer Information Act of 1990, codified at 7 U.S.C. 6107(c)(1), has a minimum of $880 and a maximum of $8,797.

(xxix) Civil penalty for failure to obey a cease and desist order under the Mushroom Promotion, Research, and Consumer Information Act of 1990, codified at 7 U.S.C. 6107(e), has a maximum of $880. Each day the violation continues is a separate violation.

(xxx) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of the Lime Research, Promotion, and Consumer Information Act of 1990, codified at 7 U.S.C. 6207(c)(1), has a minimum of $880 and a maximum of $8,797.

(xxxi) Civil penalty for failure to obey a cease and desist order under the Lime Research, Promotion, and Consumer Information Act of 1990, codified at 7 U.S.C. 6207(e), has a maximum of $880. Each day the violation continues is a separate violation.

(xxxii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Soybean Promotion, Research, and Consumer Information Act, codified a 7 U.S.C. 6307(c)(1)(A), has a maximum of $1,811.

(xxxiii) Civil penalty for failure to obey a cease and desist order under the Soybean Promotion, Research, and Consumer Information Act, codified at 7 U.S.C. 6307(e), has a maximum of $9,054. Each day the violation continues is a separate violation.

(xxxiv) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Fluid Milk Promotion Act of 1990, codified at 7 U.S.C. 6411(c)(1)(A), has a minimum of $880 and a maximum of $8,797, or in the case of a violation that is willful, codified at 7 U.S.C. 6411(c)(1)(B), has a minimum of $17,593 and a maximum of $175,931.

(xxxv) Civil penalty for failure to obey a cease and desist order under the Fluid Milk Promotion Act of 1990, codified at 7 U.S.C. 6411(e), has a maximum of $9,054. Each day the violation continues is a separate violation.

(xxxvi) Civil penalty for knowingly labeling or selling a product as organic except in accordance with the Organic Foods Production Act of 1990, codified at 7 U.S.C. 6519(c), has a maximum of $17,593.

(xxxvii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993, codified at 7 U.S.C. 6808(c)(1)(A)(i), has a minimum of $830 and a maximum of $8,295.

(xxxviii) Civil penalty for failure to obey a cease and desist order under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993, codified at 7 U.S.C. 6808(e)(1), has a maximum of $8,295. Each day the violation continues is a separate violation.

(xxxix) Civil penalty for a violation of a program under the Sheep Promotion, Research, and Information Act of 1994, codified at 7 U.S.C. 7107(c)(1)(A), has a maximum of $1,617.

(xl) Civil penalty for failure to obey a cease and desist order under the Sheep Promotion, Research, and Information Act of 1994, codified at 7 U.S.C. 7107(e), has a maximum of $808. Each day the violation continues is a separate violation.

(xli) Civil penalty for a violation of an order or regulation issued under the Commodity Promotion, Research, and Information Act of 1996, codified at 7 U.S.C. 7419(c)(1), has a minimum of $1,527 and a maximum of $15,270 for each violation.

(xlii) Civil penalty for failure to obey a cease and desist order under the Commodity Promotion, Research, and Information Act of 1996, codified at 7 U.S.C. 7419(e), has a minimum of $1,527 and a maximum of $15,270. Each day the violation continues is a separate violation.

(xliii) Civil penalty for a violation of an order or regulation issued under the Canola and Rapeseed Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7448(c)(1)(A)(i), has a maximum of $1,527 for each violation.

(xliv) Civil penalty for failure to obey a cease and desist order under the Canola and Rapeseed Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7448(e), has a maximum of $7,635. Each day the violation continues is a separate violation.

(xlv) Civil penalty for violation of an order or regulation issued under the National Kiwifruit Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7468(c)(1), has a minimum of $764 and a maximum of $7,635 for each violation.

(xlvi) Civil penalty for failure to obey a cease and desist order under the National Kiwifruit Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7468(e), has a maximum of $764. Each day the violation continues is a separate violation.

(xlvii) Civil penalty for a violation of an order or regulation under the Popcorn Promotion, Research, and Consumer Information Act, codified at 7 U.S.C. 7487(a), has a maximum of $1,527 for each violation.

(xlviii) Civil penalty for certain violations under the Egg Products Inspection Act, codified at 21 U.S.C. 1041(c)(1)(A), has a maximum of $8,797 for each violation.

(xlix) Civil penalty for violation of an order or regulation issued under the Hass Avocado Promotion, Research, and Information Act of 2000, codified at 7 U.S.C. 7807(c)(1)(A)(i), has a minimum of $1,389 and a maximum of $13,893 for each violation.

(l) Civil penalty for failure to obey a cease and desist order under the Hass Avocado Promotion, Research, and Information Act of 2000, codified at 7 U.S.C. 7807(e)(1), has a maximum of

$13,893 for each offense. Each day the violation continues is a separate violation.

(li) Civil penalty for violation of certain provisions of the Livestock Mandatory Reporting Act of 1999, codified a 7 U.S.C. 1636b(a)(1), has a maximum of $14,372 for each violation.

(lii) Civil penalty for failure to obey a cease and desist order under the Livestock Mandatory Reporting Act of 1999, codified a 7 U.S.C. 1636b(g)(3), has a maximum of $14,372 for each violation. Each day the violation continues is a separate violation.

(liii) Civil penalty for failure to obey an order of the Secretary issued pursuant to the Dairy Product Mandatory Reporting program, codified at 7 U.S.C. 1637b(c)(4)(D)(iii), has a maximum of $13,893 for each offense.

(liv) Civil penalty for a willful violation of the Country of Origin Labeling program by a retailer or person engaged in the business of supplying a covered commodity to a retailer, codified at 7 U.S.C. 1638b(b)(2), has a maximum of $1,116 for each violation.

(lv) Civil penalty for violations of the Dairy Research Program, codified at 7 U.S.C. 4535 & 4510(b), has a maximum of $2,393 for each violation.

(2) Animal and Plant Health Inspection Service—(i) Civil penalty for a violation of the imported seed provisions of the Federal Seed Act, codified at 7 U.S.C. 1596(b), has a minimum of $94 and a maximum of $1,875.

(ii) Civil penalty for a violation of the Animal Welfare Act, codified at 7 U.S.C. 2149(b), has a maximum of $11,162, and knowing failure to obey a cease and desist order has a civil penalty of $1,674.

(iii) Civil penalty for any person that causes harm to, or interferes with, an animal used for the purposes of official inspection by the Department, codified at 7 U.S.C. 2279e(a), has a maximum of $13,893.

(iv) Civil penalty for a violation of the Swine Health Protection Act, codified at 7 U.S.C. 3805(a), has a maximum of $27,500.

(v) Civil penalty for any person that violates the Plant Protection Act (PPA), or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in the PPA, codified a 7 U.S.C. 7734(b)(1), has a maximum of the greater of: $69,463 in the case of any individual (except that the civil penalty may not exceed $1,389 in the case of an initial violation of the PPA by an individual moving regulated articles not for monetary gain), $347,313 in the case of any other person for each violation, $558,078 for all violations adjudicated in a single proceeding if the violations do not include a willful violation, and $1,116,156 for all violations adjudicated in a single proceeding if the violations include a willful violation; or twice the gross gain or gross loss for any violation, forgery, counterfeiting, unauthorized us, defacing, or destruction of a certificate, permit, or other document provided for in the PPA that results in the person deriving pecuniary gain or causing pecuniary loss to another.

(vi) Civil penalty for any person (except as provided in 7 U.S.C. 8309(d)) that violates the Animal Health Protection Act (AHPA), or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided under the AHPA, codified at 7 U.S.C. 8313(b)(1), has a maximum of the greater of: $66,666 in the case of any individual, except that the civil penalty may not exceed $1,333 in the case of an initial violation of the AHPA by an individual moving regulated articles not for monetary gain, $333,328 in the case of any other person for each violation, $558,078 for all violations adjudicated in a single proceeding if the violations do not include a willful violation, and $1,116,156 for all violations adjudicated in a single proceeding if the violations include a willful violation; or twice the gross gain or gross loss for any violation, forgery, counterfeiting, unauthorized use, defacing, or destruction of a certificate, permit, or other document provided under the AHPA that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(vii) Civil penalty for any person that violates certain regulations under the Agricultural Bioterrorism Protection Act of 2002 regarding transfers of listed agents and toxins or possession and use of listed agents and toxins, codified at 7 U.S.C. 8401(i)(1), has a maximum of $333,328 in the case of an individual and $666,656 in the case of any other person.

(viii) Civil penalty for violation of the Horse Protection Act, codified at 15 U.S.C. 1825(b)(1), has a maximum of $5,500.

(ix) Civil penalty for failure to obey Horse Protection Act disqualification, codified at 15 U.S.C. 1825(c), has a maximum of $10,750.

(x) Civil penalty for knowingly violating, or, if in the business as an importer or exporter, violating, with respect to terrestrial plants, any provision of the Endangered Species Act of 1973, any permit or certificate issued thereunder, or any regulation issued pursuant to section 9(a)(1)(A) through (F), (a)(2)(A) through (D), (c), (d) (other than regulations relating to record keeping or filing reports), (f), or (g) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)(1)(A) through (F), (a)(2)(A) through (D), (c), (d), (f), and (g)), as set forth at 16 U.S.C. 1540(a), has a maximum of $50,277.

(xi) Civil penalty for knowingly violating, or, if in the business as an importer or exporter, violating, with respect to terrestrial plants, any other regulation under the Endangered Species Act of 1973, as set forth at 16 U.S.C. 1540(a), has a maximum of $24,133.

(xii) Civil penalty for violation, with respect to terrestrial plants, of the Endangered Species Act of 1973, or any regulation, permit, or certificate issued thereunder, as set forth at 16 U.S.C. 1540(a), has a maximum of $1,801.

(xiii) Civil penalty for knowingly and willfully violating 49 U.S.C. 80502 with respect to the transportation of animals by any rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel, codified at 49 U.S.C. 80502(d), has a minimum of $162 and a maximum of $808.

(xiv) Civil penalty for a violation of the Commercial Transportation of Equine for Slaughter Act, 7 U.S.C. 1901 note, and its implementing regulations in 9 CFR part 88, as set forth in 9 CFR 88.6, has a maximum of $5000. Each horse transported in violation of Part 88 is a separate violation.

(3) Food and Nutrition Service—(i) Civil penalty for violating a provision of the Food and Nutrition Act of 2008 (Act), or a regulation under the Act, by a retail food store or wholesale food concern, codified at 7 U.S.C. 2021(a) and (c), has a maximum of $111,616 for each violation.

(ii) Civil penalty for trafficking in food coupons, codified at 7 U.S.C. 2021(b)(3)(B), has a maximum of $39,574 for each violation, except that the maximum penalty for violations occurring during a single investigation is $71,262.

(iii) Civil penalty for the sale of firearms, ammunitions, explosives, or controlled substances for coupons, codified at 7 U.S.C. 2021(b)(3)(C), has a maximum of $40,221 for each violation, except that the maximum penalty for violations occurring during a single investigation is $72,428.

(iv) Civil penalty for any entity that submits a bid to supply infant formula to carry out the Special Supplemental Nutrition Program for Women, Infants

and Children and discloses the amount of the bid, rebate, or discount practices in advance of the bid opening or for any entity that makes a statement prior to the opening of bids for the purpose of influencing a bid, codified at 42 U.S.C. 1786(h)(8)(H)(i), has a maximum of $170,472,030.

(v) Civil penalty for a vendor convicted of trafficking in food instruments, codified at 42 U.S.C. 1786(o)(1)(A) and 42 U.S.C. 1786(o)(4)(B), has a maximum of $14,740 for each violation, except that the maximum penalty for violations occurring during a single investigation is $58,958.

(vi) Civil penalty for a vendor convicted of selling firearms, ammunition, explosive, or controlled substances in exchange for food instruments, codified at 42 U.S.C. 1786(o)(1)(B) and 42 U.S.C. 1786(o)(4)(B), has a maximum of $14,740 for each violation, except that the maximum penalty for violations occurring during a single investigation is $58,958.

(4) Food Safety and Inspection Service—(i) Civil penalty for certain violations under the Egg Products Inspection Act, codified at 21 U.S.C. 1041(c)(1)(A), has a maximum of $8,797 for each violation.

(ii) [Reserved]

(5) Forest Service—(i) Civil penalty for willful disregard of the prohibition against the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(1)(A), has a maximum of $905,353 per violation or three times the gross value of the unprocessed timber, whichever is greater.

(ii) Civil penalty for a violation in disregard of the Forest Resources Conservation and Shortage Relief Act or the regulations that implement such Act regardless of whether such violation caused the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(2)(A)(i), has a maximum of $135,803 per violation.

(iii) Civil penalty for a person that should have known that an action was a violation of the Forest Resources Conservation and Shortage Relief Act or the regulations that implement such Act regardless of whether such violation caused the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(2)(A)(ii), has a maximum of $90,535 per violation.

(iv) Civil penalty for a willful violation of the Forest Resources Conservation and Shortage Relief Act or the regulations that implement such Act regardless of whether such violation caused the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(2)(A)(iii), has a maximum of $905,353.

(v) Civil penalty for a violation involving protections of caves, codified at 16 U.S. C. 4307(a)(2), has a maximum of $19,787.

(6) Grain Inspection, Packers and Stockyards Administration—(i) Civil penalty for a packer or swine contractor violation, codified at 7 U.S.C. 193(b), has a maximum of $27,500.

(ii) Civil penalty for a livestock market agency or dealer failure to register, codified at 7 U.S.C. 203, has a maximum of $1,875 and not more than $94 for each day the violation continues.

(iii) Civil penalty for operating without filing, or in violation of, a stockyard rate schedule, or of a regulation or order of the Secretary made thereunder, codified at 7 U.S.C. 207(g), has a maximum of $1,875 and not more than $94 for each day the violation continues.

(iv) Civil penalty for a stockyard owner, livestock market agency, and dealer violation, codified at 7 U.S.C. 213(b), has a maximum of $27,500.

(v) Civil penalty for a stockyard owner, livestock market agency, and dealer compliance order, codified at 7 U.S.C. 215(a), has a maximum of $1,875.

(vi) Civil penalty for live poultry dealer violations, codified at 7 U.S.C. 228b–2(b), has a maximum of $80,000.

(vii) Civil penalty for a violation, codified at 7 U.S.C. 86(c), has a maximum of $268,750.

(7) Federal Crop Insurance Corporation—(i) Civil penalty for any person who willfully and intentionally provides any false or inaccurate information to the Federal Crop Insurance Corporation or to an approved insurance provider with respect to any insurance plan or policy that is offered under the authority of the Federal Crop Insurance Act, or who fails to comply with a requirement of the Federal Crop Insurance Corporation, codified at 7 U.S.C. 1515(h)(3)(A), has a maximum of the greater of: The amount of the pecuniary gain obtained as a result of the false or inaccurate information or the noncompliance; or $11,744.

(ii) [Reserved]

(8) Rural Housing Service—(i) Civil penalty for a violation of section 536 of Title V of the Housing Act of 1949, codified at 42 U.S.C. 1490p(e)(2), has a maximum of $192,459 in the case of an individual, and a maximum of $1,924,589 in the case of an applicant other than an individual.

(ii) Civil penalty for equity skimming under section 543(a) of the Housing Act of 1949, codified at 42 U.S.C. 1490s(a)(2), has a maximum of $34,731.

(iii) Civil penalty under section 543b of the Housing Act of 1949 for a violation of regulations or agreements made in accordance with Title V of the Housing Act of 1949, by submitting false information, submitting false certifications, failing to timely submit information, failing to maintain real property in good repair and condition, failing to provide acceptable management for a project, or failing to comply with applicable civil rights statutes and regulations, codified at 42 U.S.C. 1490s(b)(3)(A), has a maximum of the greater of: Twice the damages the Department, guaranteed lender, or project that is secured for a loan under Title V, suffered or would have suffered as a result of the violation; or $69,463 per violation.

(9) Farm Service Agency—(i) Civil penalty for failure to comply with certain provisions of the U.S. Warehouse Act, codified at 7 U.S.C. 254, has a maximum of $34,731 per violation if an agricultural product is not involved in the violation.

(ii) [Reserved]

(10) Commodity Credit Corporation—(i) Civil penalty for willful failure or refusal to furnish information, or willful furnishing of false information under of section 156 of the Federal Agricultural Improvement and Reform Act of 1996, codified at 7 U.S.C. 7272(g)(5), has a maximum of $15,270 for each violation.

(ii) Civil penalty for willful failure or refusal to furnish information or willful furnishing of false data by a processor, refiner, or importer of sugar, syrup and molasses under section 156 of the Federal Agriculture Improvement and Reform Act of 1996, codified at 7 U.S.C. 7272(g)(5), has a maximum of $15,270 for each violation.

(iii) Civil penalty for filing a false acreage report that exceeds tolerance under section 156 of the Federal Agriculture Improvement and Reform Act of 1996, codified at 7 U.S.C. 7272(g)(5), has a maximum of $15,270 for each violation.

(iv) Civil penalty for knowingly violating any regulation of the Secretary of the Commodity Credit Corporation pertaining to flexible marketing allotments for sugar under section 359h(b) of the Agricultural Adjustment Act of 1938, codified at 7 U.S.C. 1359hh(b), has a maximum of $11,162 for each violation.

(v) Civil penalty for knowing violation of regulations promulgated by the Secretary pertaining to cotton insect eradication under section 104(d) of the Agricultural Act of 1949, codified at 7

U.S.C. 1444a(d), has a maximum of $13,750 for each offense.

(11) Office of the Secretary—(i) Civil penalty for making, presenting, submitting or causing to be made, presented or submitted, a false, fictitious, or fraudulent claim as defined under the Program Fraud Civil Remedies Act of 1986, codified at 31 U.S.C. 3802(a)(1), has a maximum of $10,958.

(ii) Civil penalty for making, presenting, submitting or causing to be made, presented or submitted, a false, fictitious, or fraudulent written statement as defined under the Program Fraud Civil Remedies Act of 1986, codified at 31 U.S.C. 3802(a)(2), has a maximum of $10,958.

Dated: November 28, 2017.

Stephen L. Censky,

Deputy Secretary.

[FR Doc. 2017–26194 Filed 12–4–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1240

[EOIR Docket No. 180; AG Order No. 4034–2017]

RIN 1125–AA25

Procedures Further Implementing the Annual Limitation on Suspension of Deportation and Cancellation of Removal

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the Executive Office for Immigration Review (''EOIR'') regulations governing the annual limitation on cancellation of removal and suspension of deportation decisions. The amendment eliminates certain procedures created in 1998 that were used to convert 8,000 conditional grants of suspension of deportation and cancellation of removal to outright grants before the end of fiscal year 1998. In addition, it authorizes immigration judges and the Board of Immigration Appeals (''Board'') to issue final decisions denying applications, without restriction, regardless of whether the annual limitation has been reached.

DATES: This rule is effective January 4, 2018.

FOR FURTHER INFORMATION CONTACT: Jean King, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, telephone (703) 305–0470 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

On November 30, 2016, the Department published in the **Federal Register** a rule proposing to amend EOIR's regulations relating to the annual limitation on cancellation of removal and suspension of deportation. 81 FR 86291 (Nov. 30, 2016). The comment period ended on January 30, 2017. The Department received four comments. For the reasons set forth below, the proposed rule is adopted without change.

II. Background and Summary

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (''IIRIRA''), Public Law 104–208, Div. C, 110 Stat. 3009–546, added section 240A(e) to the Immigration and Nationality Act (''INA'' or the ''Act''), Public Law 82–414, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8, 18, and 22 U.S.C.), by establishing an annual limitation on the number of aliens who may be granted suspension of deportation or cancellation of removal followed by adjustment of status. The annual limitation is as follows:

> [T]he Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), of a total of more than 4,000 aliens in any fiscal year.

INA sec. 240A(e)(1) (8 U.S.C. 1229b(e)(1)).

On October 3, 1997, the Department issued an interim rule, which authorized immigration judges and the Board to grant applications for suspension of deportation and cancellation of removal only on a ''conditional basis.'' 62 FR 51760, 51762 (Oct. 3, 1997). This interim rule was a temporary measure to give the Department time to decide how best to implement the annual statutory limitation. Pursuant to the rule, the Chief Immigration Judge instructed immigration judges to convert previously reserved grants of suspension and cancellation to conditional grants.

On November 19, 1997, Congress enacted the Nicaraguan Adjustment and Central American Relief Act (''NACARA''), Public Law 105–100, title II, 111 Stat. 2160, 2193–2201, which amended section 240A(e) of the Act. NACARA reaffirmed the annual limitation of 4,000 grants but exempted from the limitation certain nationals of Guatemala, El Salvador, and the former Soviet bloc countries. *See* NACARA sec. 204, 111 Stat. at 2200–01. NACARA provided for an additional 4,000 suspension/cancellation grants to increase the annual limitation to a total of 8,000 for fiscal year 1998 only. *Id.*

On September 30, 1998, the Department issued the current interim rule, which eliminated the ''conditional grant'' process established in the October 1997 interim rule and provided new procedures for immigration judges and the Board to follow with respect to implementing the numerical limitation on suspension and cancellation of removal imposed by IIRIRA and NACARA, 63 FR 52134 (Sept. 30, 1998) (codified at 8 CFR 1240.21 (as in effect prior to publication of this rule)).

First, the interim rule created a process to address a discrete issue that required resolution before the end of fiscal year 1998: The interaction between the October 1997 interim rule authorizing immigration judges and the Board to grant applications for suspension and cancellation on a ''conditional basis,'' *see* 62 FR 51760, 51762 (Oct. 3, 1997), and the enactment of NACARA in November 1997, which added 4,000 grants to the statutory annual limitation, creating a total of 8,000 available grants for fiscal year 1998, *see* NACARA sec. 202, 111 Stat. at 2193–96. These procedures were set forth in 8 CFR 1240.21(b) (as in effect prior to publication of this rule). *See* 63 FR at 52138–39.

Second, the interim rule created a new procedure for processing applications for suspension and cancellation in order to avoid exceeding the annual limitation. *See* 63 FR at 52139–40 (codified at 8 CFR 1240.21(c) (as in effect prior to publication of this rule)). The rule eliminated the conditional grant process. *Id.* at 52138 (codified at 8 CFR 1240.21(a)(2)). Instead, under the interim rule, immigration judges and the Board issued grants of suspension or cancellation in chronological order until grants were no longer available in a fiscal year. The interim rule provided that when grants were no longer available in a fiscal year, ''further decisions to grant or deny such relief shall be reserved'' until grants become available in a future fiscal year. *Id.* at 52140 (codified at 8 CFR 1240.21(c)(1) (as in effect prior to publication of this rule)). With respect to denials, the interim rule stated that immigration judges and the Board ''may deny without reserving decision or may

pretermit those suspension of deportation or cancellation of removal applications in which the applicant has failed to establish statutory eligibility for relief.'' *Id.* However, the interim rule prohibited immigration judges and the Board from basing such denials ''on an unfavorable exercise of discretion, a finding of no good moral character on a ground not specifically noted in section 101(f) of the [INA], a failure to establish exceptional or extremely unusual hardship to a qualifying relative in cancellation cases, or a failure to establish extreme hardship to the applicant and/or qualifying relative in suspension cases.'' *Id.*

For the reasons discussed in the preamble to the proposed rule ''Procedures Further Implementing the Annual Limitation on Suspension of Deportation and Cancellation of Removal,'' *see* 81 FR 86291 (Nov. 30, 2016), on November 30, 2016, the Department proposed to amend the 1998 interim rule codified at 8 CFR 1240.21 (as in effect prior to publication of this rule). The comment period ended on January 30, 2017. The Department received four comments. For the reasons discussed below, the Department will adopt the proposed amendments to 8 CFR 1240.21 as final without change.

The final rule makes three amendments to the current interim regulation. First, the final rule eliminates the text of 8 CFR 1240.21(b) (as in effect prior to publication of this rule), which, as discussed above, established a procedure to convert 8,000 conditional grants of suspension of deportation and cancellation of removal to outright grants before the end of fiscal year 1998 and to convert some conditional grants to grants of adjustment of status under NACARA. The need for such procedures ceased to exist after fiscal year 1998. Second, the final rule amends the interim rule to allow immigration judges and the Board to issue final decisions denying cancellation and suspension applications, without restriction, regardless of whether the annual limitation has been reached. Under the final rule, after the annual limitation has been reached, only grants would be required to be reserved. The final rule will apply prospectively and will have no effect on decisions that were reserved prior to the final rule's effective date. Lastly, the final rule makes a technical amendment to 8 CFR 1240.21(c).

III. Comments and Responses

As noted above, the Department received four comments in response to the proposed rule. One comment was from the American Immigration Lawyers Association; one was from an attorney with a private law firm, and two were from individual commenters. The comments are addressed by topic because some commenters raised multiple subjects and some comments overlapped.

None of the commenters expressed concern with the final rule's elimination of certain procedures created in 1998 to convert 8,000 conditional grants of suspension and cancellation to outright grants before the end of fiscal year 1998. Additionally, none of the commenters expressed concern with the final rule's technical amendment to 8 CFR 1240.21(c).

Rather, the commenters focused on the rule's provision authorizing immigration judges and the Board to issue final decisions denying cancellation and suspension applications, without restriction, regardless of whether the annual limitation has been reached. There is nothing in the statutory language suggesting that decisions denying eligibility need to be delayed; the statutory provision only calls for delaying decisions to grant such relief when necessary because the statutory cap has been reached in a particular year. As explained in the preamble to the proposed rule, the purpose of this amendment is to: ''decrease the high volume of reserved decisions that result when the annual limitation is reached early in the fiscal year; reduce the associated delays caused by postponing the resolution of pending cases before EOIR; and provide an applicant with knowledge of a decision in the applicant's case on or around the date of the hearing held on the applicant's suspension or cancellation application.'' 81 FR 86291.

Comment: One commenter expressed concern that the rule will unfairly disadvantage applicants because it ''freezes the record in place for purposes of a decision denying cancellation or suspension but leaves it open for a potentially positive reserved decision.'' For example, the commenter hypothesized that under the interim rule an immigration judge is required to reserve decision on a cancellation application, which might otherwise be denied for failure of the applicant to meet the statutory requirement that the applicant must demonstrate that the applicant's removal would result in exceptional and extremely unusual hardship to a qualifying relative. The commenter states that if the immigration judge had reserved the decision and the applicant's qualifying relative develops serious health-problems while the reserved denial is still pending, the applicant could present this new information and potentially obtain cancellation of removal. On the other hand, under the final rule, an immigration judge would be required to reserve a decision on an application which would otherwise be granted (but for the annual statutory limitation) if the applicant demonstrated that the applicant's removal would result in exceptional and extremely unusual hardship to a qualifying relative such as the applicant's United States citizen child who is in poor health. If the applicant's qualifying child dies or ''ages-out'' and no longer qualifies as a ''qualifying relative'' while the decision is reserved, the applicant may lose eligibility for cancellation of removal. In light of these concerns, the commenter urges EOIR to keep the interim rule in place.

Response: The Department declines to change the final rule in light of this comment. As an initial matter, the Department notes that the final rule is consistent with section 240A(e)(1) of the INA, which limits the number of aliens who may be granted suspension of deportation or cancellation of removal to 4,000 aliens in any fiscal year. The Department has determined that the statute does not prohibit the issuance of denials of suspension or cancellation applications once the annual limitation has been reached, but it does require immigration judges and the Board to reserve applications that are to be granted until numbers become available in a subsequent fiscal year.

Moreover, the possibility that an applicant's qualifying relative may ''age-out'' or die while a decision is reserved exists under the current interim regulations. This final regulation therefore does not create a greater likelihood that an applicant may lose eligibility due to a qualifying relative ''aging out'' or dying while a decision is reserved.

The Department also notes that an applicant may file a motion to reopen if the applicant's qualifying relative experiences a change in circumstances that may qualify the applicant to receive cancellation of removal after the applicant's application was denied. The same commenter suggests that an applicant may be unable to file a motion to reopen if the applicant has been removed from the United States. EOIR notes, however, that most federal courts of appeal have held that the physical removal of an alien from the United States before a timely motion to reopen is filed does not preclude the alien from pursuing a motion to reopen, notwithstanding the current regulatory

departure bar set forth at 8 CFR 1003.2(d) and 1003.23(b)(1).[1]

Comment: One commenter stated that ''[i]f EOIR decides to implement the proposed rule for applications that were previously reserved, [it should] notify the [applicant] and counsel of any intent to deny the case'' so that the applicant and counsel can supplement the record with additional evidence prior to the issuance of a decision.

Response: As noted above, the final rule will apply prospectively beginning thirty days after the rule's publication and will have no effect on decisions that were reserved prior to the final rule's effective date. *See Bowen* v. *Georgetown Univ. Hosp.,* 488 U.S. 204, 208 (1988) (''[A]dministrative rules will not be construed to have retroactive effect unless their language requires this result.'').

Comment: One commenter expressed concern that the final rule will create an incentive for immigration judges and the Board to deny otherwise meritorious cancellation and suspension applications because it will ease EOIR's docket pressures and alleviate the backlog of reserved cases.

Response: The Department does not agree with the commenter's speculation that the rule will create an incentive for immigration judges and the Board to deny otherwise meritorious claims. Immigration judges and Board members are required to exercise their ''independent judgment and discretion'' in deciding all cases that come before them and adjudicate cases based on the law and facts presented. *See* 8 CFR 1003.10(b), 1003.1(d)(1)(ii). There is a presumption of regularity that attaches to the actions of government agencies, *see United States Postal Serv.* v. *Gregory,* 534 U.S. 1, 10 (2001), and the Supreme Court has long held that adjudicators such as immigration judges are ''assumed to be [individuals] of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances.'' *Withrow* v. *Larkin,* 421 U.S. 35, 55 (1975) (internal quotation mark omitted).

Additionally, as explained in the preamble to the proposed rule, immigration judges and the Board will still be required under this final rule to provide a legal and factual analysis for all decision denying cancellation and suspension applications. *See* 8 CFR 1003.37, 1003.1(d)(1). If an applicant believes an immigration judge's decision was erroneous and not based on the appropriate applicable law and the facts of the case, the applicant may appeal the immigration judge's decision to the Board, 8 CFR 1003.38, and after exhausting administrative remedies, an applicant may be able to file a petition for review in the appropriate circuit court of appeals. *See* INA sec. 242 *et seq.* (8 U.S.C. 1252 *et seq.*).

Comment: One commenter suggested that, instead of adopting as final the provisions of the proposed rule, EOIR should adopt a rule allowing immigration judges and the Board to ''provisionally approve or provisionally deny'' cancellation or suspension applications once the annual numerical limitation has been reached.

Response: The Department has previously determined that the statutory language and history of the cancellation cap provision does not support a permanent regime based on conditional grants. As discussed more fully in the preamble to the proposed rule, on September 30, 1996, Congress enacted IIRIRA, which included a statutory cap on the number of applications for suspension of deportation and cancellation of removal that the Attorney General could grant each fiscal year. On October 3, 1997, the Department adopted a conditional grant process as a temporary measure that gave the Department time to consider how best to implement the statutory cap. 62 FR 51760. After considering the issue, the Department determined that the statute does not support a conditional grant system that carries over from year to year (such as the one established in the 1997 interim regulation) because the statutory cap language in section 240A(e) of the INA has been interpreted to mean that those eligible applicants must be granted relief of suspension or cancellation during the fiscal year in which they are given a grant under the cap. 63 FR at 52135–36. Therefore, the Department eliminated the conditional grant process with its publication of the current interim rule. *Id.* (codified at 8 CFR 1240.21(c) (as in effect prior to publication of this rule)). The Department continues to believe that the statute does not support returning to a ''conditional grant'' or ''provisional grant'' system. Accordingly, the Department will not change the rule to adopt the commenter's suggestion.

IV. Regulatory Requirements

A. Regulatory Flexibility Act

The Department has reviewed this regulation in accordance with the RFA (5 U.S.C. 605(b)) and the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule will not regulate ''small entities,'' as that term is defined in 5 U.S.C. 601(6).

B. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

D. Executive Orders 12866 and 13563 (Regulatory Planning and Review), and 13771 (Reducing Regulation and Controlling Regulatory Costs)

The Department has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review and, therefore, it has not been reviewed by the Office of Management and Budget.

Moreover, this rule eliminates existing costs associated with the prior interim rule for purposes of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. Specifically, EOIR estimates that this rule will reduce the administrative

[1] *See e.g. Jian Le Lin* v. *U.S. Atty. Gen.,* 681 F.3d 1236, 1240 (11th Cir. 2012) (stating that ''Congress intended to ensure aliens the right to file one motion to reopen regardless of their geographical location''); *Contreras-Bocanegra* v. *Holder,* 678 F.3d 811, 818 (10th Cir. 2012) (en banc) (same); *Prestol Espinal* v. *Att'y Gen.,* 653 F.3d 213, 218 (3d Cir. 2011) (same); *Reyes-Torres* v. *Holder,* 645 F.3d 1073, 1077 (9th Cir. 2011) (stating that ''the physical removal of a petitioner by the United States does not preclude the petitioner from pursuing a motion to reopen'' (quotation marks omitted)); *Luna* v. *Holder,* 637 F.3d 85, 102 (2d Cir. 2011) (stating that ''the BIA must exercise its full jurisdiction to adjudicate a statutory [*i.e.* timely and not number barred] motion to reopen by an alien who is removed or otherwise departs the United States before or after filing the motion''); *William* v. *Gonzales,* 499 F.3d 329, 332 (4th Cir. 2007) (stating that section 240(c)(7)(A) of the Act ''unambiguously provides an alien with the right to file one motion to reopen, regardless of whether he is within or without the country'').

burden and scheduling complications, as well as related costs, associated with cancellation of removal cases subject to the annual limitation.[2] *See* EOIR, OPPM 12–01 (outlining current procedures immigration judges and court staff must follow to reserve denials).

First, in cases involving denials, immigration judges will no longer be required to render oral decisions via an audiocassette and ship the audio tape to EOIR headquarters for a transcription but instead can issue an oral or written decision immediately. EOIR estimates that this could save the agency $607,000 annually. Second, in cases involving denials, the new regulation will alleviate the need for the immigration court to both store case files and communicate with parties about the status of cases while reserved, which could save the government $18,000 annually. Third, in cases involving denials, there will no longer be a need to refresh background checks, *see* 8 CFR 1003.47, that expire while a case sits in reserve and which are required to be current before an immigration judge issues a decision. EOIR estimates this could save the government $152,000 annually. Finally, once numbers become available each fiscal year, many immigration judges dispose of their cases by calling the parties back into court for a hearing to confirm completion of required background checks and to render an oral decision. Additionally, in some cases, new information may arise, which may require additional hearing time. In cases involving denials, an immigration judge may issue a decision immediately, which circumvents the need to reschedule or rehear these cases. EOIR estimates that this may save the government approximately $748,000 annually. Accordingly, EOIR estimates this rule will eliminate existing costs associated with the current interim regulation in the amount of $1.5 million annually.

This rule has been drafted in accordance with the principles of Executive Order 12866, section 1(b), and Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including consideration of potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. It calls on each agency to periodically review its existing regulations and determine whether any should be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving its regulatory objectives.

The Department is issuing this final rule consistent with these Executive Orders. This rule would allow the adjudication of suspension of deportation and cancellation of removal cases, without unnecessary delays, in appropriate cases where the immigration judge or the Board determines that the application for such relief should be denied. The Department expects this rule would reduce the number of reserved suspension of deportation and cancellation of removal cases once the annual limitation has been reached. Further, this rule will have a positive economic impact on Department functions because it will significantly reduce the administrative work and scheduling complications associated with suspension of deportation and cancellation of removal cases subject to the annual limitation. While this rule would remove the current restrictions on issuing denials, immigration judges and the Board will still be required to provide a legal analysis for all decisions denying a suspension of deportation or cancellation of removal application. Accordingly, the Department does not foresee any burdens to the public as a result of this rule. To the contrary, it will benefit the public by saving administrative costs and allowing earlier resolution of cases.

E. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects in 8 CFR Part 1240

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

Accordingly, for the reasons stated in the preamble, the Department of Justice amends 8 CFR part 1240 as follows:

PART 1240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

■ 1. The authority citation for part 1240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1182, 1182, 1186a, 1186b, 1225, 1226, 1228, 1229a, 1229b, 1229c, 1252 note, 1361, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681).

■ 2. Amend § 1240.21 by removing and reserving paragraph (b) and revising paragraphs (c) introductory text and (c)(1) to read as follows:

§ 1240.21 Suspension of deportation and adjustment of status under section 244(a) of the Act (as in effect before April 1, 1997) and cancellation of removal and adjustment of status under section 240A(b) of the Act for certain nonpermanent residents.

* * * * *

(c) *Grants of suspension of deportation or cancellation of removal in fiscal years subsequent to fiscal year 1998.* On and after October 1, 1998, the Immigration Court and the Board may grant applications for suspension of deportation and adjustment of status under section 244(a) of the Act (as in effect prior to April 1, 1997) or cancellation of removal and adjustment of status under section 240A(b) of the Act that meet the statutory requirements for such relief and warrant a favorable exercise of discretion until the annual numerical limitation has been reached in that fiscal year. The awarding of such relief shall be determined according to the date the order granting such relief becomes final as defined in §§ 1003.1(d)(7) and 1003.39 of this chapter.

[2] To estimate the above cost savings, EOIR used available data from the Case Access System for EOIR, granular time records from EOIR's Office of Chief Immigration Judge, and Office of Administration cost modules. The analysis was limited to non-detained non-legal permanent resident cancellation of removal applications adjudicated by immigration courts from Fiscal Year (FY) 2012 through FY 2017 (August 2017).

(1) *Applicability of the annual limitation.* When grants are no longer available in a fiscal year, further decisions to grant such relief must be reserved until such time as a grant becomes available under the annual limitation in a subsequent fiscal year.

* * * * *

Dated: November 21, 2017.

Jefferson B. Sessions III,

Attorney General.

[FR Doc. 2017–26104 Filed 12–4–17; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0709; Product Identifier 2016–NM–200–AD; Amendment 39–19115; AD 2017–25–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A318 series airplanes; Model A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes. This AD was prompted by a report indicating that the lower rib foot angle of the center wing box did not match with the bottom skin panel inner surface. This AD requires repetitive inspections for cracking of the external bottom skin in certain areas on the left and right wings, and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 9, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 9, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0709.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0709; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A318 and A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes. The NPRM published in the **Federal Register** on July 25, 2017 (82 FR 34453) (''the NPRM''). The NPRM was prompted by a report indicating that the lower rib foot angle of the center wing box did not match with the bottom skin panel inner surface. The NPRM proposed to require repetitive inspections for cracking of the external bottom skin in certain areas on the left and right wings, and corrective actions if necessary, and provided an optional terminating modification for the repetitive inspections. We are issuing this AD to detect and correct cracking of the external bottom skin in the area of the rib 2 attachment of the wings, which could result in reduced structural integrity of the wings.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0222, dated November 7, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A318 and A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes. The MCAI states:

> During installation in production of new wing box ribs on post-mod 39729 aeroplanes, it was discovered that the centre wing lower rib foot angle was not matching with the bottom skin panel inner surface.
>
> This condition, if not detected and corrected, could induce fatigue cracking of the skin panel at the rib foot attachment, with possible detrimental effect on wing structural integrity.
>
> This condition was initially addressed by Airbus on the production line through adaptation mod 152155, then through mod 152200. For affected aeroplanes in service, Airbus issued Service Bulletin (SB) A320–57–1205, providing instructions for repetitive detailed inspections (DET) or special detailed inspections (SDI), and SB A320–57–1207, providing modification instructions.
>
> For the reasons described above, this [EASA] AD requires repetitive inspections (DET or SDI) of the wing bottom skin lower surface for crack detection and, depending on findings, the accomplishment of applicable corrective action(s). This [EASA] AD also includes reference to an optional modification (Airbus SB A320–57–1207), providing terminating action for the repetitive inspections required by this [EASA] AD.

The corrective action for cracking is to repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; EASA; or Airbus's EASA Design Organization Approval. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0709.

Comments

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

Request To Include Technical Adaptations

Delta Airlines asked for another ''Contacting the Manufacturer'' subparagraph acknowledging Technical Adaptations from Airbus to be added under paragraph (j) of the proposed AD, ''Other FAA AD Provisions.'' Delta observed that the FAA provision for contacting the manufacturer in paragraph (j) of the proposed AD would provide allowances for corrective actions without alternative methods of compliance (AMOCs). Delta noted that operators often receive Technical Adaptations that include an EASA Design Organization Approval (DOA)

authorized signature for typographical, omitted instruction, and technical errors, and that they should be included in the proposed AD.

We disagree with the commenter. The ''Contacting the Manufacturer'' paragraph in ADs only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. This paragraph states, in part, that for any requirement in an AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA; or the EASA; or Airbus's EASA DOA. We do not agree to extend this allowance to other AD requirements. All deviations from the service information sections that are marked ''RC'' (Required for Compliance) require AMOC approval unless otherwise stated in the AD. We have not changed this AD in this regard.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–57–1205, dated May 26, 2016. This service information describes procedures for inspecting the external bottom skin for cracking in the area of the rib 2 attachment between stringer 8 and stringer 11 on both wings, and repairing any cracks.

Airbus has also issued Service Bulletin A320–57–1207, including Appendix 01 and Appendix 02, dated May 26, 2016. This service information describes procedures for inspecting the lower rib feet (rib 2) and the bottom skin upper surface on both wings for cracking, modifying the wings by installing shims between the lower rib foot (rib 2) and the bottom skin upper surface, and repairing any cracks.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 10 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	5 work-hours × $85 per hour = $425 per inspection cycle.	$0	$425 per inspection cycle.	$4,250 per inspection cycle.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification	32 work-hours × $85 per hour = $2,720	$5,750	$8,470

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

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

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–25–01 Airbus: Amendment 39–19115; Docket No. FAA–2017–0709; Product Identifier 2016–NM–200–AD.

(a) Effective Date

This AD is effective January 9, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, all manufacturer serial numbers on which Airbus Modification 39729 was embodied in production, except those airplanes on which Airbus Modification 152155 or Modification 152200 was embodied in production.

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

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

(3) Airbus Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a report indicating that the lower rib foot angle of the center wing box did not match with the bottom skin panel inner surface. Misalignment of the lower rib foot angle of the center wing box with the bottom skin panel inner surface could induce fatigue cracking of the skin panel at the rib foot attachment. We are issuing this AD to detect and correct cracking of the external bottom skin in the area of the rib 2 attachment of the wings, which could result in reduced structural integrity of the wings.

(f) Compliance

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

(g) Repetitive Inspections

Before exceeding the applicable compliance time specified in table 1 to paragraph (g) of this AD, or within 3 months after the effective date of this AD, whichever occurs later: Do a detailed inspection or a special detailed inspection for cracking of the external bottom skin in the area of the rib 2 attachment between stringer 8 and stringer 11 of the left and right wings, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1205, dated May 26, 2016. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at the applicable intervals, based on the method used for the most recent inspection, as specified in table 2 to paragraph (g) of this AD.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—INITIAL INSPECTION TIMES

Airplane model and configuration	Compliance time—whichever occurs first since first flight of the airplane
Model A318 series airplanes; Model A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; pre-Airbus Modification 155374; not used as VIP or Elite.	Before the accumulation of 14,500 total flight cycles or 29,000 total flight hours.
Model A318 series airplanes; Model A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; post-Airbus Modification 155374; not used as VIP or Elite.	Before the accumulation of 13,600 total flight cycles or 27,300 total flight hours.
Model A319 series airplanes; post-Airbus Modifications 28162, 28238, and 28342; used as VIP or CJ.	Before the accumulation of 7,400 total flight cycles or 32,000 total flight hours.
Model A318 series airplanes; post-Airbus Modification 39195; used as VIP or Elite	Before the accumulation of 14,500 total flight cycles or 43,500 total flight hours.

TABLE 2 TO PARAGRAPH (g) OF THIS AD—REPETITIVE INSPECTION INTERVALS

Airplane model and configuration	Detailed inspection—whichever occurs first	Special detailed inspection—whichever occurs first
Model A318 series airplanes; Model A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; not used as VIP or Elite.	4,000 flight cycles or 8,000 flight hours.	5,000 flight cycles or 10,000 flight hours.
Model A319 series airplanes; post-Airbus Modifications 28162, 28238 and 28342; used as VIP or CJ.	2,000 flight cycles or 8,600 flight hours.	2,500 flight cycles or 11,000 flight hours.
Model A318 series airplanes; post-Airbus Modification 39195; used as VIP or Elite.	4,000 flight cycles or 12,000 flight hours.	5,000 flight cycles or 15,000 flight hours.

Note 1 to paragraph (g) of this AD: Airbus Modification 155374 defines the minimum airplane configuration for operation on Commonwealth of Independent States runway profiles.

(h) Terminating Action Limitation

Repair of an airplane, as required by paragraph (g) of this AD, does not constitute terminating action for the repetitive inspections required by paragraph (g) of this AD unless otherwise specified in the instructions obtained using the procedures specified in paragraph (j)(2) of this AD.

(i) Optional Terminating Action

Modification of the wings including a detailed inspection of the lower rib feet (rib 2) and bottom skin upper surface of the wings for cracking and all applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1207, including Appendix 01 and Appendix 02, dated May 26, 2016, constitutes terminating action for the repetitive inspections required by paragraph (g) of this AD for that airplane. If, during modification of an airplane as specified in this paragraph, accomplishment of any modification instruction is not possible due to configuration difficulties, accomplish the modification using the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this

AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0222, dated November 7, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0709.

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

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

(l) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–57–1205, dated May 26, 2016.

(ii) Airbus Service Bulletin A320–57–1207, including Appendix 01 and Appendix 02, dated May 26, 2016.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on November 22, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26037 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0340; Product Identifier 2017–NM–002–AD; Amendment 39–19114; AD 2017–24–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757–200, –200PF, and –300 series airplanes. This AD was prompted by reports of cracking found at a certain fuselage frame inner chord. This AD requires repetitive inspections for any cracking of a certain fuselage frame inner chord; identification of the material of a certain fuselage frame inner chord for certain airplanes; and applicable corrective actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 9, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 9, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0340.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0340; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Muoi Vuong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5205; fax: 562–627–5210; email: *Muoi.Vuong@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757–200, –200PF, and –300 series airplanes. The NPRM published in the **Federal Register** on May 19, 2017 (82 FR 22915). The NPRM was prompted by reports of cracking found at a certain fuselage frame inner chord. The NPRM proposed to require repetitive inspections for any cracking of a certain fuselage frame inner chord, identification of the material of a certain fuselage frame inner chord for certain airplanes, and applicable corrective actions. We are issuing this AD to detect and correct such cracks, which could result in the cargo door opening during flight, and result in rapid decompression of the airplane and the inability to sustain loads required for continued safe flight and landing.

Comments

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

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01518SE does not affect the actions specified in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD (82 FR 22915, May 19, 2017) as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01518SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request for Credit for Previous Actions Accomplished

Boeing requested credit for previous accomplishment of the inspections in the NPRM. Boeing stated that Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016 (referenced in the NPRM as the appropriate source of service information), was published on November 8, 2016. Boeing commented that the effective date of the AD could be more than 7 months later than publication date of the service information. Boeing stated that it is likely that some Model 757 operators have already accomplished the inspections in accordance with the service information by the time the AD takes effect; therefore, the AD should provide credit for those inspections.

We acknowledge the commenter's request and agree to clarify. Paragraph (f) of this AD states to accomplish the actions within the compliance times specified, unless those actions are already done. Therefore, if operators have accomplished the inspections in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, before the effective date of this AD, no further action is necessary. We have not revised this AD in this regard.

Request To Include Repair Information and Inspection Instructions

Delta Airlines (DAL) stated that it has concerns that the Accomplishment Instructions provided in Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, do not include the corrective action. DAL commented that it will likely accomplish the inspections during 10-day maintenance visit checks, which would not be sufficient time for repair development if a crack is found. DAL also commented that operators would benefit from having corrective actions provided in the service information.

DAL stated that Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, requires operators to repetitively inspect the inner chord, and the service information does not provide an option for an inspection should there be a previously installed FAA-approved repair. DAL commented that a previous repair of the frame has the potential to inhibit the ability to accomplish the inspection. DAL also commented that this leaves operators unable to accomplish the inspection as specified in Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, and will require additional instruction as an AMOC.

We infer that DAL is requesting to delay issuance of the final rule until a revision of the service information includes repair data and alternative inspection instructions for previously accomplished repairs.

We disagree with the commenter's request. Including the repair data would delay issuance of this AD. Unique repair configurations may be necessary depending on the cracking that is detected. It is not possible to address each individual repair configuration in one AD. The various repair configurations and locations are unknown and therefore cannot be addressed at this time. Therefore, if cracking is found, it must be repaired before further flight using the corrective actions specified in Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, or in accordance with paragraph (i)(2) of this AD. For previously approved repairs that prevent accomplishment of the inspections required by this AD, operators may request approval of an AMOC using the procedures in paragraph (j) of this AD. We have not revised this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016. The service information describes procedures for repetitive surface high frequency eddy current (HFEC) inspections for any cracking of the fuselage station (STA) 1380 frame inner chord; an identification of the material (an inspection or measurement) of the fuselage STA 1380 frame inner chord; and applicable corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 588 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Surface HFEC inspection.	5 work-hours × $85 per hour = $425 per inspection cycle.	$0	$425 per inspection cycle.	$249,900 per inspection cycle.
Identify the material	Up to 2 work-hours × $85 per hour = $170	0	Up to $170	Up to $99,960.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–24–10 The Boeing Company: Amendment 39–19114; Docket No. FAA–2017–0340; Product Identifier 2017–NM–002–AD.

(a) Effective Date

This AD is effective January 9, 2018.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 757–200, –200PF, and –300 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016.

(2) Installation of Supplemental Type Certificate (STC) ST01518SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracking found at the fuselage station (STA) 1380 frame inner chord. We are issuing this AD to detect and correct such cracks, which could result in the cargo door opening during flight, and result in rapid decompression of the airplane and the inability to sustain loads required for continued safe flight and landing.

(f) Compliance

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

(g) Inspection for Group 1 Airplanes

For Group 1 airplanes as identified in Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016; except as specified in paragraph (i)(1) of this AD, do a surface high frequency eddy current (HFEC) inspection for any cracking of the fuselage STA 1380 frame inner chord, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016; except as specified in paragraph (i)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the surface HFEC inspection, thereafter, at the times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016.

(h) Inspection for Group 2 Airplanes

For Group 2 airplanes as identified in Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, except as specified in paragraph (i)(1) of this AD, identify the material of the fuselage STA 1380 frame inner chord, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016.

(1) If the fuselage STA 1380 frame inner chord material 2024–T42 aluminum alloy is found during any identification required by paragraph (h) of this AD: No further action is required by this AD for that airplane.

(2) If the fuselage STA 1380 frame inner chord material 7075–T73 aluminum alloy is found during any identification required by the introductory text of paragraph (h) of this AD: Before further flight, do a surface HFEC inspection for any cracking of the fuselage STA 1380 frame inner chord, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016; except as specified in paragraph (i)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the surface HFEC inspection thereafter at the times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016.

(i) Exceptions to the Service Information

(1) Where Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016, specifies to contact Boeing for appropriate action and identifies that action as ''RC'' (Required for Compliance): Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures

found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (i)(2) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(k) Related Information

For more information about this AD, contact Muoi Vuong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5205; fax: 562–627–5210; email: *Muoi.Vuong@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 757–53A0101, dated November 8, 2016.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on November 22, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26040 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 17–19]

RIN 1515–AE34

Emergency Import Restrictions Imposed on Archaeological and Ethnological Materials From Libya

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect the imposition of emergency import restrictions on certain archaeological and ethnological materials from Libya. The Acting Under Secretary for Public Diplomacy and Public Affairs, United States Department of State, has determined that conditions warrant the imposition of emergency import restrictions on categories of archaeological and ethnological materials from Libya, which represent the cultural heritage of Libya. This document contains the Designated List of Archaeological and Ethnological Material of Libya that describes the types of objects or categories of archaeological or ethnological material to which the import restrictions apply. The emergency import restrictions imposed on certain archaeological and ethnological materials from Libya will be in effect for a five-year period. These restrictions are being imposed pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

DATES: Effective on December 5, 2017.

FOR FURTHER INFORMATION CONTACT: For regulatory aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0030, *ot-otrrculturalproperty@cbp.dhs.gov.* For operational aspects, William R. Scopa, Branch Chief, Partner Government Agencies Branch, Trade Policy and Programs, Office of Trade, (202) 863–6554, *William.R.Scopa@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The United States shares in the international concern for the need to protect endangered cultural property. The appearance in the United States of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the United States to join with other countries to control illegal trafficking of such articles in international commerce.

The United States joined international efforts and actively participated in deliberations resulting in the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter, ''1970 UNESCO Convention'' or ''the Convention'' (823 U.N.T.S. 231 (1972))). The United States implemented the Convention in U.S. law through the Convention on Cultural Property Implementation Act (hereafter,

''the Cultural Property Implementation Act'' or ''the Act'' (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*)). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from which they originate and contribute to greater international understanding of our common heritage.

Pursuant to the provisions of the Act, the United States may enter into international agreements with another State Party to the Convention to impose import restrictions on eligible archaeological and ethnological materials under procedures and requirements prescribed by the Act.

In certain limited circumstances, the Cultural Property Implementation Act authorizes the imposition of restrictions on an emergency basis (19 U.S.C. 2603). The emergency restrictions are effective for no more than five years from the date of the State Party's request and may be extended for three years where it is determined that the emergency condition continues to apply with respect to the covered materials (19 U.S.C. 2603(c)(3)). These restrictions may also be continued pursuant to an agreement concluded within the meaning of the Act (19 U.S.C. 2603(c)(4)).

Under Article 9 of the 1970 UNESCO Convention, as contemplated at 19 U.S.C. 2602(a), the Government of Libya, a State Party to the 1970 UNESCO Convention, requested that import restrictions be imposed on certain archaeological and ethnological material, the pillage of which jeopardizes the cultural heritage of Libya. The Act authorizes the President (or designee) to apply import restrictions on an emergency basis if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any requesting state (19 U.S.C. 2603).

On September 22, 2017, the Acting Under Secretary for Public Diplomacy and Public Affairs, acting pursuant to delegated authority, made the determinations necessary under the Act for the emergency implementation of import restrictions on categories of archaeological and ethnological material from Libya. The Designated List below sets forth the categories of material that the import restrictions apply to. Thus, CBP is amending 19 CFR 12.104g(b) accordingly.

Importation of covered materials from Libya will be restricted for a five-year period until May 30, 2022. Importation of such materials from Libya continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Designated List of Archaeological and Ethnological Material of Libya

The Designated List covers archaeological material of Libya and Ottoman ethnological material of Libya (as defined in section 302 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601)), including, but not limited to, the following types of material. The archaeological materials represent the following periods and cultures: Paleolithic, Neolithic, Punic, Greek, Roman, Byzantine, Islamic and Ottoman dating approximately 12,000 B.C. to 1750 A.D. The ethnological materials represent categories of Ottoman objects derived from sites of religious and cultural importance made from 1551 A.D. through 1911 A.D.

The Designated List set forth below is representative only. Any dimensions are approximate.

I. Archaeological Material

A. Stone

1. *Sculpture*

a. *Architectural Elements*—In marble, limestone, sandstone, and gypsum, in addition to porphyry and granite. From temples, forts, palaces, mosques, synagogues, churches, shrines, tombs, monuments, public buildings, and domestic dwellings, including doors, door frames, window fittings, columns, capitals, bases, lintels, jambs, friezes, pilasters, engaged columns, altars, mihrabs (prayer niches), screens, fountains, mosaics, inlays, and blocks from walls, floors, and ceilings. May be plain, molded, or carved. Often decorated with motifs and inscriptions. Approximate date: 1st millennium B.C. to 1750 A.D.

b. *Architectural and Non-Architectural Relief Sculpture*—In marble, limestone, sandstone, and other stone. Types include carved slabs with figural, vegetative, floral, geometric, or other decorative motifs, carved relief vases, stelae, and plaques, sometimes inscribed in Greek, Punic, Latin, or Arabic. Used for architectural decoration, funerary, votive, or commemorative monuments. Approximate date: 1st millennium B.C. to 1750 A.D.

c. *Monuments*—In marble, limestone, and other kinds of stone. Types include votive statues, funerary and votive stelae, and bases and base revetments. These may be painted, carved with relief sculpture, decorated with moldings, and/or carry dedicatory or funerary inscriptions in Greek, Punic, Latin, or Arabic. Approximate date: 1st millennium B.C. to 1750 A.D.

d. *Statuary*—Primarily in marble, but also in limestone and sandstone. Large- and small-scale, including deities, human, animal, and hybrid figures, as well as groups of figures in the round. Common types are large-scale and free-standing statuary from approximately 3 to 8 ft. in height, life-sized portrait or funerary busts (head and shoulders of an individual), waist-length female busts that are either faceless (aniconic) and/or veiled (head or face), and statuettes typically 1 to 3 ft. in height. Includes fragments of statues. Approximate date: 1st millennium B.C. to 1750 A.D.

e. *Sepulchers*—In marble, limestone, and other kinds of stone. Types of burial containers include sarcophagi, caskets, and chest urns. May be plain or have figural, geometric, or floral motifs painted on them, be carved in relief, and/or have decorative moldings. Approximate date: 1st millennium B.C. to 1750 A.D.

2. *Vessels and Containers*—In marble and other stone. Vessels may belong to conventional shapes such as bowls, cups, jars, jugs, lamps, and flasks, and also include smaller funerary urns. Funerary urns can be egg-shaped vases with button-topped covers and may have sculpted portraits, painted geometric motifs, inscriptions, scroll-like handles and/or be ribbed.

3. *Furniture*—In marble and other stone. Types include thrones, tables, and beds. May be funerary, but do not have to be. Approximate date: 1st millennium B.C. to 15th century A.D.

4. *Inscriptions*—Primarily in marble and limestone. Inscribed stone materials date from the late 7th century B.C. to 5th century A.D. May include funerary stelae, votive plaques, tombstones, mosaic floors, and building plaques in Greek, Punic, Latin, or Arabic. Approximate date: 1st millennium B.C. to 1750 A.D.

5. *Tools and Weapons*—In flint, chert, obsidian, and other hard stones. Prehistoric and Protohistoric microliths (small stone tools). Chipped stone types include blades, borers, scrapers, sickles, cores, and arrow heads. Ground stone types include grinders (*e.g.,* mortars, pestles, millstones, whetstones), choppers, axes, hammers, and mace heads. Approximate date: 12,000 B.C. to 1,400 B.C.

6. *Jewelry, Seals, and Beads*—In marble, limestone, and various semi-precious stones, including rock crystal, amethyst, jasper, agate, steatite, and carnelian. Approximate date: 1st millennium B.C. to 12th century A.D.

B. Metal

1. *Sculpture*

a. *Statuary*—Primarily in bronze, iron, silver, or gold, including fragments of statues. Large- and small-scale, including deities, human, and animal figures, as well as groups of figures in the round. Common types are large-scale, free-standing statuary from approximately 3 to 8 ft. in height and life-size busts (head and shoulders of an individual) and statuettes typically 1 to 3 ft. in height. Approximate date: 1st millennium B.C. to 324 A.D.

b. *Reliefs*—Relief sculpture, including plaques, appliques, stelae, and masks. Often in bronze. May include Greek, Punic, Latin, and Arabic inscriptions. Approximate date: 1st millennium B.C. to 324 A.D.

c. *Inscribed or Decorated Sheet*—In bronze or lead. Engraved inscriptions, ''curse tablets,'' and thin metal sheets with engraved or impressed designs often used as attachments to furniture. Approximate date: 1st millennium B.C. to 15th century A.D.

2. *Vessels and Containers*—In bronze, silver, and gold. These may belong to conventional shapes such as bowls, cups, jars, jugs, strainers, cauldrons, and oil lamps, or may occur in the shape of an animal or part of an animal. Also include scroll and manuscript containers for Islamic, Jewish, or Christian manuscripts. All can portray deities, humans or animals, as well as floral motifs in relief. Islamic Period objects may be inscribed in Arabic. Approximate date: 1st millennium B.C. to 15th century A.D.

3. *Jewelry and Other Items for Personal Adornment*—In iron, bronze, silver, and gold. Metal can be inlaid (with items such as red coral, colored stones, and glass). Types include necklaces, chokers, pectorals, rings, beads, pendants, belts, belt buckles, earrings, diadems, straight pins and fibulae, bracelets, anklets, girdles, belts, mirrors, wreaths and crowns, make-up accessories and tools, metal strigils (scrapers), crosses, and lamp-holders. Approximate date: 1st millennium B.C. to 15th century A.D.

4. *Seals*—In lead, tin, copper, bronze, silver, and gold. Types include rings, amulets, and seals with shank. Approximate date: 1st millennium B.C. to 15th century A.D.

5. *Tools*—In copper, bronze and iron. Types include hooks, weights, axes, scrapers, trowels, keys and the tools of crafts persons such as carpenters, masons and metal smiths. Approximate date: 1st millennium B.C. to 15th century A.D.

6. *Weapons and Armor*—Body armor, including helmets, cuirasses, shin guards, and shields, and horse armor often decorated with elaborate engraved, embossed, or perforated designs. Both launching weapons (spears and javelins) and weapons for hand to hand combat (swords, daggers, etc.). Approximate date: 8th century B.C. to 4th century A.D.

7. *Coins*

a. *General*—Examples of many of the coins found in ancient Libya may be found in: A. Burnett and others, Roman Provincial Coinage, multiple volumes (British Museum Press and the Bibliothèque Nationale de France, 1992–), R.S. Poole and others, Catalogue of Greek Coins in the British Museum, volumes 1–29 (British Museum Trustees 1873–1927) and H. Mattingly and others, Coins of the Roman Empire in the British Museum, volumes 1–6 (British Museum Trustees 1923–62). For Byzantine coins, *see* Grierson, Philip, Byzantine Coins, London, 1982. For publication of examples of coins circulating in archaeological sites, *see* La moneta di Cirene e della Cirenaica nel Mediterraneo. Problemi e Prospettive, Atti del V Congresso Internazionale di Numismatica e di Storia Monetaria, Padova, 17–19 marzo 2016, Padova 2016 (Numismatica Patavina, 13).

b. *Greek Bronze Coins*—Struck by city-states of the Pentapolis, Carthage and the Ptolemaic kingdom that operated in territory of the Cyrenaica in eastern Libya. Approximate date: 4th century B.C. to late 1st century B.C.

c. *Greek Silver and Gold Coins*—This category includes coins of the city-states of the Pentapolis in the Cyrenaica and the Ptolemaic Kingdom. Coins from the city-state of Cyrene often bear an image of the silphium plant. Such coins date from the late 6th century B.C. to late 1st century B.C.

d. *Roman Coins*—In silver and bronze, struck at Roman and Roman provincial mints including Apollonia, Barca, Balagrae, Berenice, Cyrene, Ptolemais, Leptis Magna, Oea, and Sabratha. Approximate date: late 3rd century B.C. to 1st century A.D.

e. *Byzantine Coins*—In bronze, silver, and gold by Byzantine emperors. Struck in Constantinople and other mints. From 4th century A.D. through 1396 A.D.

f. *Islamic Coins*—In bronze, silver, and gold. Dinars with Arabic inscriptions inside a circle or square, may be surrounded with symbols. Struck at mints in Libya (Barqa) and adjacent regions. From 642 A.D. to 15th century A.D.

g. *Ottoman*—Struck at mints in Istanbul and Libya's neighboring regions. Approximate date: 1551 A.D. through 1750 A.D.

C. Ceramic and Clay

1. *Sculpture*

a. *Architectural Elements*—Baked clay (terracotta) elements used to decorate buildings. Elements include acroteria, antefixes, painted and relief plaques, revetments. Approximate date: 1st millennium B.C. to 30 B.C.

b. *Architectural Decorations*—Including carved and molded brick, and tile wall ornaments and panels.

c. *Statuary*—Large- and small-scale. Subject matter is varied and includes deities, human and animal figures, human body parts, and groups of figures in the round. May be brightly colored. These range from approximately 4 to 40 in. in height. Approximate date: 1st millennium B.C. to 3rd century A.D.

d. *Terracotta Figurines*—Terracotta statues and statuettes, including deities, human, and animal figures, as well as groups of figures in the round. Late 7th century B.C. to 3rd century A.D.

2. *Vessels*

a. *Neolithic Pottery*—Handmade, often decorated with a lustrous burnish, decorated with applique´ and/or incision, sometimes with added paint. These come in a variety of shapes from simple bowls and vases to large storage jars. Approximate date: 10th millennium B.C. to 3rd millennium B.C.

b. *Greek Pottery*—Includes both local and imported fine and coarse wares and amphorae. Also imported Attic Black Figure, Red Figure and White Ground Pottery—these are made in a specific set of shapes (*e.g.,* amphorae, kraters, hydriae, oinochoi, kylikes) decorated with black painted figures on a clear clay ground (Black Figure), decorative elements in reserve with background fired black (Red Figure), and multi-colored figures painted on a white ground (White Ground). Corinthian Pottery—Imported painted pottery made in Corinth in a specific range of shapes for perfume and unguents and for drinking or pouring liquids. The very characteristic painted and incised designs depict human and animal figural scenes, rows of animals, and floral decoration. Approximate date: 8th century B.C. to 6th century B.C.

c. *Punic and Roman Pottery*—Includes fine and coarse wares, including terra sigillata and other red gloss wares, and cooking wares and mortaria, storage and shipping amphorae.

d. *Byzantine Pottery*—Includes undecorated plain wares, lamps, utilitarian, tableware, serving and storage jars, amphorae, special shapes such as pilgrim flasks. Can be matte

painted or glazed, including incised ''sgraffitto'' and stamped with elaborate polychrome decorations using floral, geometric, human, and animal motifs. Approximate date: 324 A.D. to 15th century A.D.

e. *Islamic and Ottoman Pottery*—Includes plain or utilitarian wares as well as painted wares.

f. *Oil Lamps and Molds*—Rounded bodies with a hole on the top and in the nozzle, handles or lugs and figural motifs (beading, rosette, silphium). Include glazed ceramic mosque lamps, which may have a straight or round bulbous body with flared top, and several branches. Approximate date: 1st millennium B.C. to 15th century A.D.

3. *Objects of Daily Use*—Including game pieces, loom weights, toys, and lamps.

D. Glass, Faience, and Semi-Precious Stone

1. *Architectural Elements*—Mosaics and glass windows.

2. *Vessels*—Shapes include small jars, bowls, animal shaped, goblet, spherical, candle holders, perfume jars (unguentaria), and mosque lamps. Those from prehistory and ancient history may be engraved and/or colorless or blue, green or orange, while those from the Islamic Period may include animal, floral, and/or geometric motifs. Approximate date: 1st millennium B.C. to 15th century A.D.

3. *Beads*—Shapes include small jars, bowls, animal shaped, goblet, spherical, candle holders, perfume jars (unguentaria). Approximate date: 1st millennium B.C. to 15th century A.D.

4. *Mosque Lamps*—May have a straight or round bulbous body with flared top, and several branches. Approximate date: 642 A.D. to 1750 A.D.

E. Mosaic

1. *Floor Mosaics*—Including landscapes, scenes of deities, humans, or animals, and activities such as hunting and fishing. There may also be vegetative, floral, or geometric motifs and imitations of stone. Often have religious imagery. They are made from stone cut into small bits (tesserae) and laid into a plaster matrix. Approximate date: 5th century B.C. to 4th century A.D.

2. *Wall and Ceiling Mosaics*—Generally portray similar motifs as seen in floor mosaics. Similar technique to floor mosaics, but may include tesserae of both stone and glass. Approximate date: 5th century B.C. to 4th century A.D.

F. Painting

1. *Rock Art*—Painted and incised drawings on natural rock surfaces. There may be human, animals, geometric and/or floral motifs. Include fragments. Approximate date: 12,000 B.C. to 100 A.D.

2. *Wall Painting*—With figurative (deities, humans, animals), floral, and/or geometric motifs, as well as funerary scenes. These are painted on stone, mud plaster, lime plaster (wet—buon fresco—and dry—secco fresco), sometimes to imitate marble. May be on domestic or public walls as well as in tombs. Approximate date: 1st millennium B.C. to 1551 A.D.

G. Plaster

Stucco reliefs, plaques, stelae, and inlays or other architectural decoration in stucco.

H. Textiles, Basketry, and Rope

1. *Textiles*—Linen cloth was used in Greco-Roman times for mummy wrapping, shrouds, garments, and sails. Islamic textiles in linen and wool, including garments and hangings.

2. *Basketry*—Plant fibers were used to make baskets and containers in a variety of shapes and sizes, as well as sandals and mats.

3. *Rope*—Rope and string were used for a great variety of purposes, including binding lifting water for irrigation, fishing nets, measuring, and stringing beads for jewelry and garments.

I. Bone, Ivory, Shell, and Other Organics

1. *Small Statuary and Figurines*—Subject matter includes human, animal, and hybrid figures, and parts thereof as well as groups of figures in the round. These range from approximately 4 to 40 in. in height. Approximate date: 1st millennium B.C. to 15th century A.D.

2. *Reliefs, Plaques, Stelae, and Inlays*—Carved and sculpted. May have figurative, floral and/or geometric motifs.

3. *Personal Ornaments and Objects of Daily Use*—In bone, ivory, and spondylus shell. Types include amulets, combs, pins, spoons, small containers, bracelets, buckles, and beads. Approximate date: 1st millennium B.C. to 15th century A.D.

4. *Seals and Stamps*—Small devices with at least one side engraved with a design for stamping or sealing; they can be discoid, cuboid, conoid, or in the shape and animals or fantastic creatures (*e.g.,* a scarab). Approximate date: 1st millennium B.C. to 2nd millennium B.C.

5. *Luxury Objects*—Ivory, bone, and shell were used either alone or as inlays in luxury objects including furniture, chests and boxes, writing and painting equipment, musical instruments, games, cosmetic containers, combs, jewelry, amulets, seals, and vessels made of ostrich egg shell.

J. Wood

Items such as tablets (tabulae), sometimes pierced with holes on the borders and with text written in ink on one or both faces, typically small in size (4 to 12 in. in length), recording sales of property (such as slaves, animals, grain) and other legal documents such as testaments. Approximate date: late 2nd to 4th centuries A.D.

II. Ottoman Ethnological Material

A. Stone

1. *Architectural Elements*—The most common stones are marble, limestone, and sandstone. From sites such as forts, palaces, mosques, shrines, tombs, and monuments, including doors, door frames, window fittings, columns, capitals, bases, lintels, jambs, friezes, pilasters, engaged columns, altars, mihrabs (prayer niches), screens, fountains, mosaics, inlays, and blocks from walls, floors, and ceilings. Often decorated in relief with religious motifs.

2. *Architectural and Non-Architectural Relief Sculpture*—In marble, limestone, and sandstone. Types include carved slabs with religious, figural, floral, or geometric motifs, as well as plaques and stelae, sometimes inscribed.

3. *Statuary*—Primarily in marble, but also in limestone and sandstone. Large- and small-scale, such as human (including historical portraits or busts) and animal figures.

4. *Sepulchers*—In marble, limestone, and other kinds of stone. Types of burial containers include sarcophagi, caskets, coffins, and chest urns. May be plain or have figural, geometric, or floral motifs painted on them, be carved in relief, and/or have decorative moldings.

5. *Inscriptions, Memorial Stones, and Tombstones*—Primarily in marble, most frequently engraved with Arabic script.

6. *Vessels and Containers*—Include stone lamps and containers such as those used in religious services, as well as smaller funerary urns.

B. Metal

1. *Architectural Elements*—Primarily copper, brass, lead, and alloys. From sites such as forts, palaces, mosques, shrines, tombs, and monuments, including doors, door fixtures, other lathes, chandeliers, screens, and sheets to protect domes.

2. *Architectural and Non-Architectural Relief Sculpture*—

Primarily bronze and brass. Includes appliques, plaques, and stelae. Often with religious, figural, floral, or geometric motifs. May have inscriptions in Arabic.

3. *Vessels and Containers*—In brass, copper, silver, or gold, plain, engraved, or hammered. Types include jugs, pitchers, plates, cups, lamps, and containers used for religious services (like Koran boxes). Often engraved or otherwise decorated.

4. *Jewelry and Personal Adornments*—In a wide variety of metals such as iron, brass, copper, silver, and gold. Includes rings and ring seals, head ornaments, earrings, pendants, amulets, bracelets, talismans, and belt buckles. May be adorned with inlaid beads, gemstones, and leather.

5. *Weapons and Armor*—Often in iron or steel. Includes daggers, swords, saifs, scimitars, other blades, with or without sheaths, as well as spears, firearms, and cannons. Ottoman types may be inlaid with gemstones, embellished with silver or gold, or engraved with floral or geometric motifs and inscriptions. Grips or hilts may be made of metal, wood, or even semi-precious stones such as agate, and bound with leather. Armor consisting of small metal scales, originally sewn to a backing of cloth or leather, and augmented by helmets, body armor, shields, and horse armor.

6. *Ceremonial Paraphernalia*—Including boxes (such as Koran boxes), plaques, pendants, candelabra, stamp and seal rings.

7. *Musical Instruments*—In a wide variety of metals. Includes cymbals and trumpets.

C. Ceramic and Clay

1. *Architectural Decorations*—Including carved and molded brick, and engraved and/or painted tile wall ornaments and panels, sometimes with Arabic script. May be from forts, palaces, mosques, shrines, tombs, or monuments.

2. *Vessels and Containers*—Includes glazed, molded, and painted ceramics. Types include boxes, plates, lamps, jars, and flasks. May be plain or decorated with floral or geometric patterns, or Arabic script, primarily using blue, green, brown, black, or yellow colors.

D. Wood

1. *Architectural Elements*—From sites such as forts, palaces, mosques, shrines, tombs, monuments, and madrassas, including doors, door fixtures, panels, beams, balconies, stages, screens, ceilings, and tent posts. Types include doors, door frames, windows, window frames, walls, panels, beams, ceilings, and balconies. May be decorated with religious, geometric or floral motifs or Arabic script.

2. *Architectural and Non-Architectural Relief Sculpture*—Carved and inlaid wood panels, rooms, beams, balconies, stages, panels, ceilings, and doors, frequently decorated with religious, floral, or geometric motifs. May have script in Arabic or other languages.

3. *Koran Boxes*—May be carved and inlaid, with decorations in religious, floral, or geometric motifs, or Arabic script.

4. *Study Tablets*—Arabic inscribed training boards for teaching the Quran.

E. Bone and Ivory

1. *Ceremonial Paraphernalia*—Types include boxes, reliquaries (and their contents), plaques, pendants, candelabra, stamp and seal rings.

2. *Inlays*—For religious decorative and architectural elements.

F. Glass

Vessels and containers in glass from mosques, shrines, tombs, and monuments, including glass and enamel mosque lamps and ritual vessels.

G. Textiles

In linen, silk, and wool. Religious textiles and fragments from mosques, shrines, tombs, and monuments, including garments, hangings, prayer rugs, and shrine covers.

H. Leather and Parchment

1. *Books and Manuscripts*—Either as sheets or bound volumes. Text is often written on vellum or other parchment (cattle, sheep, goat, or camel) and then gathered in leather bindings. Paper may also be used. Types include the Koran and other Islamic books and manuscripts, often written in brown ink, and then further embellished with colorful floral or geometric motifs.

2. *Musical Instruments*—Leather drums of various sizes (*e.g.,* bendir drums used in Sufi rituals, wedding processions and Mal'uf performances).

I. Painting and Drawing

Ottoman Period paintings may depict courtly themes (*e.g.,* rulers, musicians, riders on horses) and city views, among other topics.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under section 553(a)(1) of the Administrative Procedure Act (''APA'') (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to implement emergency import restrictions (5 U.S.C. 553(b)(B)). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Orders 12866 and 13771

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 or Executive Order 13771 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866 and section 4(a) of Executive Order 13771.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury's authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue 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 (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g, paragraph (b), the table is amended by:

■ a. Adding ''Libya'' in the column headed ''State party'',

■ b. Adding the words ''Archaeological material and ethnological material from

Libya'' in the column headed ''Cultural property'', and

■ c. Adding ''CBP Dec. 17–19 '' in the column headed ''Decision No.''.

Dated: December 1, 2017.

Kevin K. McAleenan,

Acting Commissioner, U.S. Customs and Border Protection.

Approved:

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2017–26278 Filed 12–1–17; 4:15 pm]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 24 and 27

[Docket No. TTB–2016–0016; T.D. TTB–147A; Re: T.D. TTB–145, T.D. TTB–146, T.D. TTB–147, Notice No. 168, and Notice No. 168A]

RIN 1513–AC31

Implementation of Statutory Amendments Requiring the Modification of the Definition of Hard Cider; Delayed Compliance Date of the Hard Cider Tax Class Labeling Statement Requirement

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Temporary rule; delay of compliance date.

SUMMARY: This temporary rule delays the compliance date of a wine labeling requirement that was established by T.D. TTB–147, a temporary rule published on January 23, 2017. In that rule, TTB required the statement ''Tax class 5041(b)(6)'' to appear on the container of any wine for which the hard cider tax rate is claimed if it is removed from wine premises or customs custody on or after January 1, 2018. This temporary rule delays the compliance date for that requirement by one year. Specifically, the tax class statement ''Tax Class 5041(b)(6)'' will not be required to appear on containers of wine that are taxed at the hard cider tax rate until January 1, 2019. Through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**, TTB is soliciting comments from all interested parties on this delay of the compliance date for the wine labeling requirement, and, also in that document, TTB is reopening for 60 days the comment period for Notice No 168, the notice of proposed rulemaking that published concurrently with T.D. TTB–147 on January 23, 2017.

DATES: This temporary rule is effective December 5, 2017 through January 23, 2020.

FOR FURTHER INFORMATION CONTACT: Kara Fontaine, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone (202) 453–1039 ext. 103.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

The Alcohol and Tobacco Tax and Trade Bureau (TTB) of the Department of the Treasury administers chapter 51 of the Internal Revenue Code (IRC), which sets forth the Federal excise taxes on wine and related provisions, including provisions addressing the production and marking of wine (see 26 U.S.C. chapter 51). Section 5041 of the IRC (26 U.S.C. 5041) imposes six excise tax rates, including the hard cider tax rate, on wines. These tax rates are associated with six tax classes that correspond to section 5041(b), subparagraphs (1) through (6). The tax on wine is determined at the time of removal (generally, removal from a bonded wine premises or release from customs custody) for consumption or sale (26 U.S.C. 5041(a)). Wine so removed must be in containers bearing marks and labels evidencing compliance with the IRC as the Secretary of the Treasury may by regulations prescribe (26 U.S.C. 5368(b)).

TTB administers chapter 51 of the IRC and its implementing regulations pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws. The TTB regulations that implement the provisions of the IRC, as they relate to wine, include regulations in 27 CFR part 24 for domestic wine and 27 CFR part 27 for imported wine.

PATH Act's Modification of the IRC Definition of Hard Cider

On December 18, 2015, the President signed into law the Consolidated Appropriations Act, 2016 (Pub. L. 114–113). Division Q of this Act is titled the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). Section 335(a) of the PATH Act amended the IRC at 26 U.S.C. 5041 by modifying the definition of ''hard cider'' for excise tax classification purposes. Pursuant to section 335(b) of the PATH Act, the amended definition applies to hard cider removed on or after January 1, 2017. This allowed a broader range of products to be eligible for the hard cider tax rate. Effective January 1, 2017, a wine removed from wine premises or customs custody is eligible for the hard cider tax rate of 22.6 cents per gallon if it:

- Contains no more than 0.64 gram of carbon dioxide per 100 milliliters of wine;
- Is derived primarily from apples or pears, or from apple juice concentrate or pear juice concentrate and water;
- Contains no fruit product or fruit flavoring other than apple or pear; and
- Contains at least one-half of 1 percent and less than 8.5 percent alcohol by volume.

Publication of Temporary Rule and Notice for Comment

In response to the PATH Act, TTB published in the **Federal Register** on January 23, 2017, a temporary rule, T.D. TTB–147 (82 FR 7653), to amend its regulations in 27 CFR parts 24 and 27 pertaining to the modified definition of ''hard cider'' for tax purposes. In addition, TTB solicited comments from the public on the temporary regulations implementing the PATH Act through a notice of proposed rulemaking (NPRM), Notice No. 168 (82 FR 7753), published in the **Federal Register** concurrently with the temporary rule. The temporary rule, the notice of proposed rulemaking, and the comments regarding the temporary regulations received in response to the NPRM may be viewed in their entirety within Docket No. TTB–2016–0014 at the *Regulations .gov* Web site at *https://www.regulations.gov/.*

Current Requirement for Tax Class Statement To Appear on Containers of Wine Taxed at the Hard Cider Tax Rate

In T.D. TTB–147, TTB amended its regulations in parts 24 and 27 to require the statement ''Tax class 5041(b)(6)'' to appear on the container of any wine for which the hard cider tax rate is claimed; see §§ 24.257(a)(4) and 27.59(b). In issuing the temporary rule, TTB recognized that industry members who produce and import hard cider would need time to comply with this requirement. Therefore, in § 24.257(a)(4), TTB provided a one-year grace period before the tax class labeling requirement would go into effect, and, as set forth in T.D. TTB–147, this grace period applies to products removed prior to January 1, 2018. As such, T.D. TTB–147 requires that for wine removed

on or after January 1, 2018, the tax class statement ''Tax Class 5041(b)(6)'' must appear on the container of any wine for which the hard cider tax rate is claimed.

Requests for Delay of the Tax Class Statement Compliance Date

In response to the request for comments on T.D. TTB–147, TTB received a comment, posted on February 15, 2017, from Ian Flom of Mercier Orchards, indicating that the timeframe to implement the new ''Tax Class 5041(b)(6)'' labeling statement requirement is insufficient because he buys labels in bulk and has a supply of labels that do not bear the tax class statement that he will not be able to use up before January 1, 2018. Mr. Flom also submitted other comments for TTB consideration.

TTB also was copied on a letter addressed to Steven T. Mnuchin, Secretary of the Treasury, dated August 1, 2017, from the United States Association of Cider Makers (USACM), which represents approximately one-half of the cider makers in the United States. In its letter, USACM requested a one year delay of the requirement to place the hard cider tax class labeling statement on products claiming the hard cider tax rate removed from wine premises or customs custody after January 1, 2018.

In light of this comment and request, TTB is delaying the compliance date for the labeling statement requirement.

Requests for Extension of and Reopening of the Comment Period

In a February 23, 2017 comment in response to Notice No. 168, USACM formally requested a 60-day extension of the public comment period in order to give its members more time to properly address any of their concerns with the regulatory changes. USACM referred to the outstanding extension request in their August 1, 2017 letter.

Through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**, TTB is reopening for 60 days the comment period for Notice No 168. TTB will consider any new comments submitted in response to the reopening of the comment period on T.D. TTB–147 along with any comments received on this Temporary Rule, T.D. TTB–147A, and the suggestions that have already been received from Mr. Flom.

Delayed Compliance Date of the Tax Class Labeling Statement Requirement for Hard Cider

Through publication of this new temporary rule, TTB is amending 27 CFR 24.257(a)(4) to delay until January 1, 2019, the requirement that the tax class statement ''Tax class 5041(b)(6)'' appear on any container of wine removed from wine premises or customs custody for which the hard cider tax rate is claimed. Because the tax class labeling requirement for imported wine claiming the hard cider tax rate contained in 27 CFR 27.59(b) is a cross-reference to § 24.257(a)(4), no change to the regulatory text in § 27.59(b) is required.

Updating OMB Control Numbers

In addition, TTB notes that, under the requirements of the Paperwork Reduction Act, the Office of Management and Budget (OMB) approved the hard cider tax class labeling statement information collection requirement under OMB control number 1513–0138. Therefore, TTB is amending §§ 24.257 and 27.59 in this temporary rule to reflect that control number. TTB also is correcting the OMB control number statement in § 24.257 to reflect that the IRC-based wine labeling requirements are covered under OMB control number 1513–0092, Marks on Wine Containers, and not the labeling-related recordkeeping requirements covered under 1513–0115, Usual and Customary Business Records Relating to Wine.

Correction to Authority Citation for 27 CFR Part 27

TTB notes that several rule documents published in late 2016 and early 2017 affected 27 CFR part 27, including the authority citation list set out at the beginning of that part. Specifically, T.D. TTB–145, Amendments To Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System, published on December 22, 2016, at 81 FR 94186, revised the part 27 authority citation list to add 26 U.S.C. 5382 (Cellar Treatment of Natural Wine) and 26 U.S.C. 6109 (Identifying Numbers). However, T.D. TTB–146, Changes to Certain Alcohol-Related Regulations Governing Bond Requirements and Tax Return Filing Periods, published on January 4, 2017, at 82 FR 1108, also revised the part 27 authority citation list to add 26 U.S.C. 6109 but not 26 U.S.C. 5382, resulting in the inadvertent removal of 26 U.S.C. 5382 from the list, and this error was not corrected in T.D. TTB–147. Therefore, in this temporary rule, TTB is correcting the authority citation for 27 CFR part 27 to return 26 U.S.C. 5382 to that part's list of authorities.

Regulatory Analysis and Notices

Public Participation

To submit comments on the delayed compliance date for the hard cider tax class labeling statement described in this temporary rule, or to submit new comments on any of the hard cider regulations contained in T.D. TTB–147, published in the **Federal Register** on January 23, 2017, at *82 FR 7653,* please refer to Notice No. 168A, published in the ''Proposed Rules'' section of this issue of the **Federal Register**.

Executive Order 12866

Certain TTB regulations issued under the IRC, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), TTB certifies that this temporary rule will not have a significant economic impact on a substantial number of small entities. The temporary rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Rather, this temporary rule decreases burden on impacted entities by delaying the compliance date for a TTB labeling requirement that implements certain changes to the Internal Revenue Code of 1986 made by the Protecting Americans from Tax Hikes Act of 2015 (see Pub. L. 114–113, Division Q, section 335).

Paperwork Reduction Act

The regulatory sections addressed in this temporary rule (27 CFR 24.257 and 27.59) contain collections of information that have been previously reviewed and approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned control numbers 1513–0092 and 1513–0138. No changes are being made to the existing approved information collections.

Inapplicability of Prior Notice and Public Comment and Delayed Effective Date Procedures

TTB is issuing this temporary rule without prior notice and comment pursuant to authority under section 4(a) of the Administrative Procedure Act, as amended (APA; 5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and comment when the agency for good cause finds that those procedures are

''impracticable, unnecessary, or contrary to the public interest.''

In this temporary rule, TTB is delaying the compliance date for the requirement that the tax class statement ''Tax class 5041(b)(6)'' appear on containers of wine for which the hard cider tax class is claimed, from January 1, 2018, to January 1, 2019. TTB finds that prior notice and comment is unnecessary because a delayed compliance date will provide additional time to industry members to comply with that labeling requirement.

TTB is issuing this temporary rule without a delayed effective date pursuant to authority under section 4(c) of the APA (5 U.S.C. 553(d)). TTB finds good cause under 5 U.S.C. 553(d)(1) to dispense with the effective date limitation in 5 U.S.C. 553(d). This temporary rule grants a one-year exemption by delaying the compliance date for a labeling statement requirement that would otherwise become effective on January 1, 2018. Accordingly, the effective date of this temporary rule is December 5, 2017.

Drafting Information

Kara Fontaine of the Regulations and Rulings Division drafted this document with the assistance of other Alcohol and Tobacco Tax and Trade Bureau personnel.

List of Subjects

27 CFR Part 24

Administrative practice and procedure, Cider, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Hard Cider, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspections, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and Recordkeeping requirements, Wine.

Amendments to the Regulations

For the reasons discussed in the preamble, TTB is amending 27 CFR chapter I, parts 24 and 27 as follows:

PART 24—WINE

■ 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121, 5122–5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 24.257 [Amended]

■ 2. In § 24.257:

■ a. Paragraph (a)(4) is amended by removing the date ''January 1, 2018'' each place it appears and adding in its place the date ''January 1, 2019''; and

■ b. The Office of Management and Budget control number reference at the end of the section is amended by removing the phrase ''1513–0115 and 1513–XXXX'' and adding in its place the phrase ''1513–0092 and 1513–0138''.

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

■ 3. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5382, 5555, 6109, 6302, 7805.

§ 27.59 [Amended]

■ 4. In § 27.59, the Office of Management and Budget control number reference at the end of the section is amended by removing the phrase ''number 1513–XXXX'' and adding in its place the phrase ''numbers 1513–0092 and 1513–0138''.

Signed: October 30, 2017.

John J. Manfreda,

Administrator.

Approved: November 30, 2017.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade and Tariff Policy).

[FR Doc. 2017–26281 Filed 12–4–17; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1038]

Drawbridge Operation Regulation; Rigolets Pass, Slidell, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the CSX Railroad Bridge across the Rigolets Pass, mile 0.0, St. Tammany Parish, Louisiana. This deviation is necessary to perform maintenance for the continued safe operation of the bridge. This deviation allows for the bridge to remain in the closed-to-navigation position on December 12, 2017, through December 15, 2017. It further requires a one-hour advance notice for openings to facilitate passage of vessel traffic from 7 a.m. to 5 p.m. on certain dates from December 18, 2017 through January 12, 2018.

DATES: This deviation is effective from 4 a.m. on December 12, 2017, through 5 p.m. on January 12, 2018.

ADDRESSES: The docket for this deviation, [USCG–2017–1038] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Giselle T. MacDonald, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *Giselle.T.MacDonald@uscg.mil*.

SUPPLEMENTARY INFORMATION: The CSX Transportation requested a temporary deviation from the operating schedule of the CSX Railroad Swing Bridge across Rigolets Pass, mile 0.0, near Slidell, St. Tammany Parish, Louisiana. This deviation is necessary to replace the center pivot bearing and the wedge machinery on the south center and southwest end of the swing span.

For the purposes of this deviation, the bridge will be allowed to remain in the closed-to-navigation position from 4 a.m. on Tuesday, December 12, 2017, through 4 a.m. on Friday, December 15, 2017, and a one-hour advance notice for openings to facilitate passage of vessel traffic from 7 a.m. to 5 p.m., each day, on December 18, 2017, through December 22, 2017, and from January 2, 2018 through January 12, 2018. At all other times the bridge will operate in accordance with 33 CFR 117.5.

The vertical clearance of the bridge is 14.5 feet above mean low water (MLW), elevation 11.9 feet above mean high water (MHW) in the closed-to-navigation position. Navigation on the waterway consists of tugs with tows, commercial fishing vessels and some recreational crafts.

For the duration of the repair work, vessels will not be allowed to pass through the bridge in the closed-to-navigation position and will not be able to open for emergencies. The alternate route for vessels to pass is the Pearl

River. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: November 29, 2017.

Douglas A. Blakemore,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2017–26094 Filed 12–4–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0982]

RIN 1625–AA00

Safety Zone; Mamala Bay, Oahu, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: On October 10, 2017, the commercial fishing vessel PACIFIC PARADISE ran aground approximately 400 yards southwest of Kaimana Beach, in the navigable waters of Mamala Bay, Oahu, Hawaii. The Coast Guard established a temporary safety zone extending 500 yards in all directions around the grounded vessel to facilitate vessel salvage operations. To date, the vessel remains aground. Accordingly, effective December 1, 2017, the Coast Guard hereby extends the temporary safety zone for an additional thirty days to facilitate ongoing salvage and subsequent removal operations. The extension of this temporary safety zone is necessary to protect personnel, vessels and the marine environmental from potential hazards associated with ongoing operations to salvage and remove a grounded vessel in this area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu.

DATES: This rule is effective without actual notice from December 5, 2017 until 8:00 a.m. on December 31, 2017. For the purposes of enforcement, actual notice will be used from 8:00 a.m. on December 1, 2017 until December 5, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0982 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 Lieutenant Commander John Bannon, Waterways Management Division, U.S. Coast Guard Sector Honolulu at (808) 541–4359 or *john.e.bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On October 10, 2017, the commercial fishing vessel PACIFIC PARADISE ran aground approximately 400 yards southwest of Kaimana Beach, in the navigable waters of Mamala Bay, Oahu, Hawaii at position 21°15.69′ N.; 157°49.49′ W. On October 11, 2017, the Coast Guard established a seven-day temporary safety zone encompassing all waters extending 500 yards in all directions around the grounded vessel to facilitate vessel salvage operations and protect personnel, vessels and the marine environment from the hazards associated with them. Due to the emergent nature of the grounding and subsequent removal operations, the temporary final rule (TFR) was not initially published in the **Federal Register**. On October 18, 2017, the temporary safety zone was extended for two additional weeks to account for delays in salvage operations due to ocean and weather conditions. The extension of the temporary safety zone was published in the **Federal Register** (82 FR 49111) on October 24, 2017. On November 1, 2017, the safety zone was extended for one additional month to account for delays in salvage operations due to ocean and weather conditions. The safety zone extension was published in the **Federal Register** (82 FR 51767) on November 8, 2017. Ongoing challenges with the salvage efforts and weather necessitate a third extension of the temporary safety zone for an additional thirty days.

The temporary safety zone continues to encompass all waters extending 500 yards in all directions around the grounded fishing vessel located approximately 400 yards southwest of Kaimana Beach at position 21°15.69′ N.; 157°49.49′ W. When the vessel is off the reef, the stationary safety zone will shift to a moving safety zone extending 500 yards in all directions around the vessel and continue until December 31, 2017 at 8:00 a.m. or until the removal operation is complete, whichever is earlier.

The Coast Guard is extending the existing temporary safety zone without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the initial estimate to salvage the vessel from the grounding was estimated at one week or less. Immediate action remains needed to respond to the safety hazards associated with this fishing vessel salvage effort for an estimated additional thirty days. Therefore, publishing an NPRM is impracticable and contrary to public interest.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. For the same reasons stated in the preceding paragraph, delaying the effective period of this temporary safety zone would be impracticable and contrary to the public interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule pursuant to 33 U.S.C. 1231. On October 10, 2017, the Coast Guard was informed the commercial fishing vessel PACIFIC PARADISE ran aground in Mamala Bay, Oahu, Hawaii, near Waikiki's Kaimana Beach. The COTP Honolulu determined that potential hazards associated with the salvage and removal operations, including high winds and seas, constituted a safety concern. Accordingly, the COTP Honolulu established a temporary safety zone extending 500 yards in all directions around the grounded vessel to protect personnel, vessels, and the marine environment during ongoing salvage and removal operations.

IV. Discussion of the Rule

This rule extends an existing temporary safety zone. This rule is effective from 8:00 a.m. on December 1, 2017 through 8:00 a.m. on December 31, 2017, or until salvage operations are complete, whichever is earlier. If the temporary safety zone is terminated prior to 8:00 a.m. on December 1, 2017, the Coast Guard will provide notice via a broadcast notice to mariners.

The temporary safety zone encompasses all waters from the surface of the water to the ocean floor extending 500 yards in all directions around the commercial fishing vessel 400 yards southwest of Kaimana Beach near position 21°15.69′ N.; 157°49.49′ W. The temporary safety zone is currently stationary around the grounded vessel. When the vessel is removed from the reef, it will be towed to a disposal site, at which time the stationary safety zone will shift to a moving safety zone. The zone shall continue to encompass 500 yards in all directions around the commercial fishing vessel PACIFIC PARADISE and remain in effect until December 31, 2017 at 8:00 a.m. or until the disposal operation is complete, whichever is earlier. When the vessel is off the reef and removal operations commence, the Coast Guard will provide notice of the moving safety zone via a broadcast notice to mariners. No vessel or person will be permitted to enter the safety zone absent the express authorization of the COTP Honolulu or his designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location and duration of the temporary safety zone. Vessel traffic will be able to safely transit around this temporary safety zone away from the reef or during the salvage tow, which would impact only a small designated area of the waters off Kaimana Beach and Waikiki where vessel traffic is normally low. Closer to shore, the waterway is used primarily for beach recreation activities. Offshore of the beach, waterway traffic is primarily tourism related operations which will not be affected by the tow due to the open space in the area. Moreover, vessels wishing to enter the zone may seek permission as set forth below.

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 temporary 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. The temporary safety zone is limited in size and duration, and the grounded vessel is not in an actively used navigable waterway. When the vessel is removed from the reef, it will be towed to a disposal site. The tow evolution will not have a significant impact on existing waterway users. Mariners may request to enter the zone by contacting the COTP, as described below.

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.

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 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 the extension of a temporary safety zone extension for thirty days, or until the salvage and removal operations are suspended. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–0982 to read as follows:

§ 165.T14–0982 Safety Zone; Mamala Bay, Oahu, HI.

(a) *Location.* The temporary safety zone is located within the COTP Honolulu Zone (See 33 CFR 3.70–10) and will encompass all navigable waters extending 500 yards in all directions from the commercial fishing vessel PACIFIC PARADISE, which is currently aground on a reef approximately 400 yards southwest of Kaimana Beach near position 21°15.69′ N.; 157°49.49′ W. When the commercial fishing vessel PACIFIC PARADISE is removed from the reef, the temporary safety zone will become a moving safety zone extending 500 yards in all directions from the PACIFIC PARADISE to facilitate the towing and subsequent disposal of the vessel. The temporary safety zone will be enforced throughout the salvage, transit and removal operations within and offshore of Mamala Bay. This zone extends from the surface of the water to the ocean floor.

(b) *Enforcement period.* This rule is effective from 8:00 a.m. on December 1, 2017 through 8:00 a.m. on December 31, 2017, or until salvage recovery operations are complete, whichever is earlier. If the temporary safety zone is terminated prior to 8:00 a.m. on December 31, 2017, the Coast Guard will provide notice via a broadcast notice to mariners.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to the safety zone created by this temporary final rule.

(1) All persons are required to comply with the general regulations governing safety zones found in this part.

(2) Entry into, or remaining in, this zone is prohibited unless expressly authorized by the COTP Honolulu or his designated representative.

(3) Persons desiring to transit the temporary stationary or moving safety zone identified in paragraph (a) of this section may contact the COTP at the Command Center telephone number (808) 842–2600 and (808) 842–2601, fax (808) 842–2642 or on VHF channel 16 (156.8 Mhz) to seek permission to transit the zone. If permission is granted, all persons and vessels must comply with the instructions of the COTP Honolulu or his designated representative and proceed at the minimum speed necessary to maintain a safe course while in the zone.

(4) The U.S. Coast Guard may be assisted in the patrol and enforcement of the temporary safety zone by Federal, State, and local agencies.

(d) *Notice of enforcement.* The COTP will provide notice of enforcement of the temporary safety zone described in this section via verbal broadcasts and written notice to mariners and the general public.

(e) *Definitions.* As used in this section, ''designated representative'' means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP to assist in enforcing the temporary safety zone described in paragraph (a) of this section.

Dated: November 29, 2017.

M.C. Long,

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

[FR Doc. 2017–26142 Filed 12–4–17; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 20

International Mailing Services: Mailing Services Product and Price Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: On October 24, 2017, the Postal Service published proposed product and price changes to reflect a notice of price adjustments filed with the Postal Regulatory Commission (PRC). The PRC has found that price adjustments and product changes contained in the Postal Service's notice may go into effect on January 21, 2018. The Postal Service will revise Notice 123, *Price List* to reflect the new prices and *Mailing Standards of the United States Postal* Service, International Mail Manual (IMM®) to reflect the product changes.

DATES: *Effective:* January 21, 2018.

FOR FURTHER INFORMATION CONTACT: Paula Rabkin at 202–268–2537.

SUPPLEMENTARY INFORMATION:

I. Proposed Rule and Response

In October 2017, the Postal Service filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC) for products and services covered by *Mailing Standards of the United States Postal* Service, International Mail Manual (IMM®), to be effective on January 21, 2018. On October 24, 2017, the USPS™ published a notice of proposed product and price changes in the **Federal Register** entitled ''International Mailing Services: Proposed Product and Price Changes—CPI'' (82 FR 49160). The document included price changes that the Postal Service would adopt for products and services covered by *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®) and publish in Notice 123, *Price List,* on *Postal Explorer*® at *pe.usps.com.* The Postal Service received no comments.

II. Decision of the Postal Regulatory Commission

As stated in the PRC's Order No. 4215, issued on November 9, 2017, the PRC found that the prices in the Postal Service's Notice may go into effect on

January 21, 2018. The new prices will accordingly be posted in Notice 123, on *Postal Explorer* at *pe.usps.com.*

The following product changes to the IMM, conforming to the requirements of the Universal Postal Convention limiting the contents of First-Class Mail International postcard, letter, and large envelope (flat) mail to personal correspondence and non-dutiable documents, were also accepted without comment and will accordingly be posted in the January 21, 2018, revision of the IMM on *Postal Explorer* at *pe.usps.com.*

The Postal Service hereby adopts the following changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

1 International Mail Services

* * * * *

120 Preparation for Mailing

* * * * *

123 Customs Forms and Online Shipping Labels

123.6 Required Usage

123.61 Conditions

* * * * *

Exhibit 123.61

Customs Declaration Form Usage by Mail Category

* * * * *

[Revise the heading and text for the First-Class Mail International section to read as follows:]

Type of item	Declared value, weight, or physical characteristic	Required PS form	Comment (if applicable)
*	*	*	* * * *
First-Class Mail International Letters and Large Envelopes (Flats), as well as International Priority Airmail (IPA) Letters and Large Envelopes (Flats) and International Surface Air Lift (ISAL) Envelopes (Flats)			
All letter-size and flat-size items, as defined in *241.2,* containing only nondutiable documents.	Under 16 ounces 16 ounces or more.	None ..... 2976.	See *123.63* for additional information concerning ''documents.'' Items containing merchandise must be mailed using Global Express Guaranteed service, Priority Mail Express International service, Priority Mail International service, or First-Class Package International Service; commercial mailers may also use IPA packages (small packets) and ISAL packages (small packets) to mail merchandise. Certain documents controlled by export regulatory agencies may also require customs documentation. See 510–590 and Publication 699 for additional information.
All items containing any goods, regardless of weight.	Prohibited	Prohibited	See *123.63* for additional information concerning ''documents'' and merchandise. Items containing merchandise must be mailed using Global Express Guaranteed service, Priority Mail Express International service, Priority Mail International service, or First-Class Package International Service; commercial mailers may also use IPA packages (small packets) and ISAL packages (small packets) to mail merchandise.
*	*	*	* * * *

[Delete the footnote]

* * * * *

[Revise the heading of 123.63 to read as follows (indicating a separation of documents and merchandise):]

123.63 Separation of Documents and Merchandise

[Revise the text to read as follows (dividing the section into subsections, with 123.631 containing new text that explains the separation between documents and merchandise, 123.632 based on the first part of the previous 123.63, and 123.633 based on the second part of the previous 123.63):]

123.631 Explanation of Separation

Letter-post mail (First-Class Mail International, IPA and ISAL items, and First-Class Package International Service) must be separated based on contents into Documents and Merchandise categories. Merchandise consists of items other than documents that are considered potentially dutiable, as well as documents that may be subject to customs duties. Mailers must declare a value and place a customs form on each merchandise item. If any item (merchandise or document) weighs more than 16 ounces, a mailer must place a customs form on it, regardless of the content.

123.632 Documents

In Exhibit 123.61, the ''Type of Item'' column has several references to ''documents.'' For this purpose, ''documents'' refers only to any piece of written, drawn, or printed information, excluding objects of merchandise. Documents do not include digital and electronic storage media or devices such

as CDs, DVDs, or flash drives. Examples of documents include the following:

a. Audit and business records.

b. Personal correspondence.

c. Circulars.

d. Pamphlets.

e. Advertisements.

f. Written instruments not intended to be resold.

g. Money orders, checks, and similar items that cannot be negotiated or converted into cash without forgery.

123.633 Customs Forms Required

The following are examples of items that are required to bear a customs declaration form and to declare a value:

a. CDs, DVDs, flash drives, video and cassette tapes, and other digital and electronic storage media—regardless of whether they are blank or contain electronic documents or other prerecorded media.

b. Artwork.

c. Collector or antique document items.

d. Books.

e. Periodicals.

f. Printed music.

g. Printed educational or test material.

h. Player piano rolls.

i. Commercial engineering drawings.

j. Commercial blueprints.

k. Film.

l. Negatives.

m. X-rays.

n. Separation negatives.

o. Commercial photographs.

* * * * *

141.5 First-Class Mail International

[Revise the first two sentences to read as follows:]

First-Class Mail International is a generic term for mailpieces that are postcard size, letter-size or flat-size and weigh 4 pounds or less. First-Class Mail International items may contain any letter-size or flat-size mailable correspondence or nondutiable documents that are not prohibited by the destination country. * * *

* * * * *

141.6 First-Class Package International Service

[Revise the second sentence to replace ''registry'' with ''Registered Mail,'' to read as follows:]

At the sender's option, extra services, such as Registered Mail and return receipt, may be added on a country-specific basis.

* * * * *

240 First-Class Mail International

* * * * *

242 Eligibility

242.1 Content Eligibility

[Revise text to read as follows (indicating that only correspondence and nondutiable documents may be sent by FCMI)]:

Subject to applicable weight and size limits, only correspondence and nondutiable documents that are otherwise acceptable and not prohibited by the Postal Service or the country of destination may be mailed at the First-Class Mail International price.

[Revise the heading of 242.2 to read as follows:]

242.2 Merchandise

[Replace subsections 242.21 and 242.22 with text to read as follows (because no merchandise, neither dutiable as in the previous 242.21 nor nondutiable as in the previous 242.22, may be mailed with First-Class Mail International service):]

No merchandise, whether dutiable or nondutiable, may be mailed using First-Class Mail International Service. Items containing merchandise may be sent by Global Express Guaranteed service, Priority Mail Express International service, Priority Mail International service, or First-Class Package International Service; commercial mailers may also use IPA packages (small packets) and ISAL packages (small packets).

* * * * *

243 Prices and Postage Payment Methods

* * * * *

243.3 Permit Imprint—General

[Revise the fourth sentence to read as follows (specifying that the only First-Class Mail International items that require customs forms are letters and flats that weigh more than 16 ounces):]

Mailers may use a permit imprint for mailing identical- or nonidentical-weight First-Class Mail International items. Any of the First-Class Mail International permit imprint formats shown in Exhibit 152.64 is acceptable. Permit imprints must not denote ''bulk mail,'' ''nonprofit,'' or other domestic or special mail markings. For items requiring a customs form (First-Class Mail International letter-size and flat-size mailpieces weighing more than 16 ounces), mailers must also meet the following requirements: * * *

* * * * *

Individual Country Listings

* * * * *

[For every country that accepts Free Matter for the Blind service, revise the first paragraph of the ''Free Matter for the Blind'' text to read as follows (noting that First-Class Mail International service is limited to documents only):]

Free Matter for the Blind (270)

Free when sent as First-Class Mail International (documents only), First-Class Package International Service, Priority Mail International Flat Rate Envelopes, or Priority Mail International Small Flat Rate Priced Boxes. Weight limit: 4 pounds.

* * * * *

[For the following countries, revise the applicable text as noted:]

Afghanistan

* * * * *

Restrictions

[Revise the entry to read as follows:]

Traveler's checks, precious stones, jewelry, and other valuable articles are admitted only in registered First-Class Package International Service shipments.

* * * * *

Aruba

Prohibitions (130)

[Revise the first entry to read as follows:]

Coins; banknotes; currency; securities of any kind payable to bearer; traveler's checks; platinum, gold, and silver (manufactured or not); precious stones; jewelry; and other valuable articles, unless they are sent by First-Class Package International Service with Registered Mail Service.

* * * * *

Benin

* * * * *

Observations

[Revise the first entry to read as follows:]

1. First-Class Package International Service items containing dutiable articles must be registered.

* * * * *

Bonaire, Sint Eustatius, and Saba

Prohibitions (130)

[Revise the first entry to read as follows:]

Coins; banknotes; currency; securities of any kind payable to bearer; traveler's checks; platinum, gold, and silver (manufactured or not); precious stones; jewelry; and other valuable articles, unless they are sent in First-Class

Package International Service with Registered Mail service.

* * * * *

Brazil

* * * * *

Restrictions

[Revise the second entry to read as follows:]

Postage stamps are admitted only in First-Class Package International Service with Registered Mail service shipments.

* * * * *

Burkina Faso

* * * * *

Observations

[Revise the entry to read as follows:]

1. First-Class Package International Service items containing dutiable articles must be registered.

* * * * *

Burma

(Myanmar)

* * * * *

Observations

[Revise the first entry to read as follows;]

1. The following may not be sent as merchandise with First-Class Package International Service if they are liable to customs duty: Works of art (including photographs), printed forms, account books, manuscript books, labels, advertising matter (except trade catalogs and circulars), picture books, almanacs, maps, old paper, and old newspapers serving as packing paper.

* * * * *

Cameroon

* * * * *

Restrictions

[Revise the entry to read as follows:]

Banknotes; currency notes; and securities payable to bearer may be sent only as First-Class Package International Service with Registered Mail service.

* * * * *

Canada

Restrictions

[Revise the first entry to read as follows:]

Coins; banknotes; currency notes; securities payable to bearer; traveler's checks; gold, silver, platinum, manufactured or not; jewelry; and other valuable articles may be sent only by First-Class Package International Service with Registered Mail service.

Exceptions

Coins sent to or from collectors or dealers may be mailed in ordinary (uninsured) parcels.

* * * * *

Cote d'Ivoire (Ivory Coast)

* * * * *

Observations

[Revise the first entry to read as follows:]

1. First-Class Package International Service items containing dutiable articles must be registered.

* * * * *

Curacao

Prohibitions (130)

[Revise the first entry to read as follows:]

Coins; banknotes; currency; securities of any kind payable to bearer; traveler's checks; platinum, gold, and silver (manufactured or not); precious stones; jewelry; and other valuable articles, unless they are sent in registered First-Class Package International Service.

* * * * *

Faroe Islands

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Coins; banknotes; currency notes (paper money); securities payable to bearer; traveler's checks; manufactured and unmanufactured platinum, gold, silver; precious stones; jewelry; and other valuable articles, may only be sent in registered First-Class Package International Service or insured parcels.

* * * * *

French Guiana

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Coins; banknotes; currency notes (paper money); securities payable to bearer; traveler's checks; manufactured and unmanufactured platinum, gold, silver; precious stones; jewelry; and other valuable articles, may only be sent in registered First-Class Package International Service shipments.

* * * * *

French Polynesia (Includes Tahiti)

* * * * *

Restrictions

[Revise the entry to read as follows:]

Banknotes admitted only in registered First-Class Package International Service.

* * * * *

Gambia

* * * * *

Restrictions

[Revise the entry to read as follows:]

Banknotes; currency notes; securities payable to bearer; traveler's checks; manufactured and unmanufactured platinum, gold, silver; precious stones; jewelry; and other valuable articles may be sent only in registered First-Class Package International Service shipments.

* * * * *

Ghana

* * * * *

Restrictions

[Revise the entry to read as follows:]

Banknotes, treasury notes, currency notes, and coins may only be sent in registered First-Class Package International Service shipments from one bank to another.

* * * * *

Greece

Prohibitions

* * * * *

[Revise the third entry to read as follows:]

Coins; traveler's checks; platinum, gold or silver, manufactured or not; precious stones; jewelry; and other valuable articles, except banknotes, currency notes (paper money), and securities payable to bearer may be sent in registered First-Class Package International Service shipments.

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Banknotes, currency notes; and securities payable to bearer may only be sent in registered First-Class Package International Service shipments.

* * * * *

Guadeloupe (Includes Saint Bartholomew and Saint Martin)

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Coins; banknotes; currency notes; securities payable to bearer; traveler's

checks; manufactured and unmanufactured platinum, gold, and silver; precious stones; jewels; expensive jewelry; and other valuable articles may only be sent in registered First-Class Package International Service shipments.

* * * * *

Israel

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Coins; banknotes; currency notes (paper money); securities payable to bearer; traveler's checks; platinum, gold or silver, manufactured or not; precious stones; jewelry; and other valuable articles may only be sent in registered First-Class Package International Service shipments.

* * * * *

[Revise the fifth entry to read as follows:]

Records, films, recording wire, computer cards, QSL cards, and magnetic film are admitted only if sent in First-Class Package International Service shipments.

* * * * *

Italy

* * * * *

Restrictions

* * * * *

[Revise the second entry to read as follows:]

Postage stamps for philatelic purposes are admitted in registered First-Class Package International Service shipments on condition that the package bears a completed PS Form 2976 and the addressee complies with the Italian financial regulations.

* * * * *

Japan

* * * * *

Restrictions

* * * * *

[Revise the second entry to read as follows:]

Coins; banknotes; currency notes (paper money); securities payable to bearer; traveler's checks; platinum, gold or silver, manufactured or not; precious stones; jewelry; and other valuable articles may only be sent in registered First-Class Package International Service shipments or insured Priority Mail International parcels.

* * * * *

Korea, Republic of (South Korea)

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Coins; paper currency; banknotes; currency notes; securities payable to bearer; jewelry; manufactured and unmanufactured platinum, gold, and silver; precious stones; and other valuable articles are admitted only if sent in registered First-Class Package International Service shipments.

* * * * *

Libya

* * * * *

Observations

* * * * *

[Revise the third entry to read as follows:]

3. In accordance with Executive Order 12543 of January 7, 1986, merchandise is limited to donations of articles of food, clothing, medicines, and medical supplies that are intended strictly for medical purposes. First-Class Package International Service items and International Priority Airmail (IPA) items are subject to the content restriction. ISAL service is suspended because transportation is not available.

* * * * *

Macao

* * * * *

Restrictions

[Revise the entry to read as follows:]

Coins; banknotes; currency notes; traveler's checks; securities payable to bearer; platinum, gold or silver, manufactured or not; precious stones; jewelry; and other valuable articles may only be sent in registered First-Class Package International Service shipments.

* * * * *

Mali

* * * * *

Observations

[Revise the first entry to read as follows:]

1. First-Class Package International Service items and Priority Mail International Flat Rate Envelopes containing dutiable articles must be registered.

* * * * *

Namibia

Prohibitions

* * * * *

[Revise the fourth entry to read as follows:]

Diamonds or precious stones except in registered First-Class Package International Service shipments.

* * * * *

Niger

* * * * *

Observations

[Revise the entry to read as follows:]

First-Class Package International Service items containing dutiable articles must be registered.

* * * * *

Oman

* * * * *

Observations

[Revise the entry to read as follows:]

First-Class Package International Service items containing dutiable articles must be registered.

* * * * *

Reunion

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Banknotes; currency notes; and securities payable to bearer may only be sent in registered First-Class Package International Service shipments.

* * * * *

Rwanda

Prohibitions (130)

[Revise the first entry to read as follows:]

Coins, banknotes, currency notes (paper money), traveler's checks, and securities payable to bearer except in registered First-Class Package International Service shipments.

* * * * *

San Marino

* * * * *

Restrictions

[Revise the entry to read as follows:]

Postage stamps for philatelic purposes are admitted in registered First-Class Package International Service shipments on condition that the package bears a completed PS Form 2976 and the addressee complies with the Italian financial regulations.

* * * * *

Senegal

* * * * *

Observations

[Revise the entry to read as follows:]

First-Class Package International Service items containing dutiable articles must be registered.

* * * * *

Sierra Leone

Prohibitions (130)

[Revise the first entry to read as follows:]

Postage stamps, whether used or not, except in registered First-Class Package International Service shipments.

* * * * *

Restrictions

* * * * *

[Revise the second entry to read as follows:]

Coins or precious metal sent in registered First-Class Package International Service shipments may not exceed L5 in value.

* * * * *

Singapore

Prohibitions (130)

* * * * *

[Revise the fifth entry to read as follows:]

Coins except coins for purposes of ornament; banknotes; currency notes; traveler's checks; securities payable to bearer; precious stones; jewelry; and other valuable articles. However, unmounted precious stones may be sent in registered First-Class Package International Service shipments if authorization is obtained from the Postmaster General of Singapore.

* * * * *

Sint Maarten

Prohibitions (130)

[Revise the first entry to read as follows:]

Coins; banknotes; currency; securities of any kind payable to bearer; traveler's checks; platinum, gold, and silver (manufactured or not); precious stones; jewelry; and other valuable articles, unless they are sent in registered First-Class Package International Service.

* * * * *

Somalia

Prohibitions (130)

* * * * *

[Revise the second entry to read as follows:]

Coins; banknotes; currency; securities of any kind payable to bearer; traveler's checks; platinum, gold, and silver (manufactured or not); precious stones; jewelry; and other valuable articles.

* * * * *

South Africa

Prohibitions (130)

* * * * *

[Revise the fourth entry to read as follows:]

Diamonds or precious stones except in registered First-Class Package International Service shipments.

* * * * *

Observations

* * * * *

[Revise the third entry to read as follows (specifying that only FCPIS with Registered Mail service may be used):]

3. Coins; banknotes; currency notes (paper money); traveler's checks; platinum, gold, and silver (manufactured or not); precious stones; jewelry; and other valuable articles are admitted only in First-Class Package International Service with Registered Mail service shipments.

* * * * *

Sudan

* * * * *

Restrictions

[Revise the entry to read as follows:]

Banknotes greater than 2 Sudanese pounds in value are admitted ONLY in registered First-Class Package International Service shipments.

* * * * *

Taiwan

* * * * *

Observations

[Revise the first entry to read as follows:]

1. First-Class Package International Service items containing dutiable articles must be registered.

* * * * *

Tanzania

* * * * *

Restrictions

[Revise the entry to read as follows:]

Coins must not exceed 100 shillings in value and must be sent in registered First-Class Package International Service shipments.

* * * * *

Togo

Prohibitions (130)

* * * * *

[Revise the third entry to read as follows:]

Banknotes, currency notes, securities payable to bearer, traveler's checks, may only be sent in registered First-Class Package International Service shipments.

* * * * *

* * * * *

Uganda

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Coins; banknotes; currency notes (paper money); securities payable to bearer; traveler checks; platinum, gold or silver, manufactured or not; precious stones, jewelry; and other valuable articles, may only be sent in registered First-Class Package International Service shipments.

* * * * *

Ukraine

* * * * *

Restrictions

[In the first entry, revise item e to read as follows:]

1. In order to be admissible, the food items listed below must * * * (e) be shipped in quantities not to exceed 2 kilograms (4 pounds) when enclosed in a First-Class Package International Service shipment * * *.

* * * * *

Yemen

* * * * *

Restrictions

* * * * *

[Revise the second entry to read as follows:]

Coins, banknotes, currency notes, securities payable to bearer, and traveler's checks may only be sent in registered First-Class Package International Service shipments.

* * * * *

Zambia

* * * * *

Restrictions

[Revise the first entry to read as follows:]

Coins; paper currency; banknotes; currency notes; securities payable to bearer; jewelry; manufactured and unmanufactured platinum, gold, and silver; precious stones; and other valuable articles are admitted only if

sent in registered First-Class Package International Service shipments.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–26143 Filed 12–4–17; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0413; FRL–9971–40–Region 3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of adverse comment, the Environmental Protection Agency (EPA) is withdrawing the direct final rule published on Monday, October 16, 2017, to approve revisions to the West Virginia state implementation plan (SIP). The revisions updated the effective date by which the West Virginia regulations incorporate by reference the national ambient air quality standards (NAAQS), additional monitoring methods, and additional equivalent monitoring methods.

DATES: The direct final rule published at 82 FR 47981, on October 16, 2017, is withdrawn as of December 5, 2017.

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

SUPPLEMENTARY INFORMATION: On June 13, 2017, West Virginia submitted a SIP revision to update the State's incorporation by reference of federal standards, ambient air monitoring reference methods, and equivalent monitoring reference methods. The SIP revisions updated the effective date by which the West Virginia regulations incorporate by reference the national ambient air quality standards (NAAQS), additional monitoring methods, and additional equivalent monitoring methods. This update was intended to add effectively the following to the West Virginia SIP: The 2015 ozone NAAQS; monitoring reference and equivalent methods pertaining to fine particulate matter ($PM_{2.5}$), carbon monoxide (CO), and coarse particulate matter (PM_{10}); a revised ozone monitoring season; the Federal Reference Method (FRM); the Federal Equivalent Method (FEM); and the Photochemical Assessment Monitoring Stations (PAMS) network. The effective date of the incorporation by reference changed from June 1, 2013 to June 1, 2017. The SIP revision also sought to change a reference from the ''West Virginia Department of Environmental Protection,'' to the ''Division of Air Quality.''

In the direct final rule published on Monday, October 16, 2017 (82 FR 47981), EPA stated that if we received adverse comment by November 15, 2017, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comments received in a subsequent final rulemaking action based upon the proposed action, also published on Monday, October 16, 2017 (82 FR 48033). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

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

Dated: November 17, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

■ Accordingly, the amendments to 40 CFR 52.2520(c) published on October 16, 2017 (82 FR 47981) are withdrawn as of December 5, 2017.

[FR Doc. 2017–26077 Filed 12–4–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2017–0425, FRL–9971–25–Region 2]

Approval of Air Quality Implementation Plans; New York; Cross-State Air Pollution Rule; NO_X Annual and SO_2 Group 1 Trading Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is conditionally approving a revision to the New York State Implementation Plan (SIP) addressing requirements of the Cross-State Air Pollution Rule (CSAPR). Under the CSAPR, large electricity generating units in New York are subject to Federal Implementation Plans (FIPs) requiring the units to participate in CSAPR federal trading programs for annual emissions of nitrogen oxides (NO_X), ozone season emissions of NO_X, and annual emissions of sulfur dioxide (SO_2). This action conditionally approves into New York's SIP the State's regulations that replace the default allowance allocation provisions of the CSAPR federal trading programs for annual NO_X and SO_2 emissions. EPA is conditionally approving New York's regulations for annual NO_X and SO_2 emissions because, while the submitted rules do not fully conform to CSAPR, New York is in the process of making further revisions to its rules and has provided a commitment to finalize and submit them by December 29, 2017. Upon timely meeting of this commitment, EPA will propose to convert the conditional approval of the SIP revision to a full approval.

DATES: This rule is effective December 5, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID number EPA–R02–OAR–2017–0425. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kenneth Fradkin, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3702, or by email at *fradkin.kenneth@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. What action is EPA taking?
II. Background on CSAPR and CSAPR-Related SIP Revisions
III. What comments were received in response to EPA's proposed action?
IV. What is EPA's conclusion?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is conditionally approving portions of New York's December 1,

2015 SIP submittal concerning CSAPR [1] trading programs for annual emissions of NO_X and SO_2.

Large Electric Generating Units (EGUs) in New York are subject to CSAPR FIPs that require the units to participate in the federal CSAPR NO_X Annual Trading Program and the federal CSAPR SO_2 Group 1 Trading Program. CSAPR provides a process for the submission and approval of SIP revisions to replace certain provisions of the CSAPR FIPs while the remaining FIP provisions continue to apply. This type of CSAPR SIP is termed an abbreviated SIP. EPA proposed to conditionally approve New York's submittal on August 29, 2017 (82 FR 40963).

The New York State Department of Environmental Conservation (DEC) amended portions of Title 6 of the New York Codes, Rules and Regulations (6 NYCRR) in order to incorporate CSAPR requirements into the State's rules and allow the DEC to allocate CSAPR allowances to regulated entities in New York. 6 NYCRR Part 244, ''CAIR NO_X Annual Trading Program,'' has been repealed and replaced in its entirety with a new rule, 6 NYCRR Part 244, ''Transport Rule NO_X Annual Trading Program.'' 6 NYCRR Part 245, ''CAIR SO_2 Trading Program,'' has also been repealed and replaced in its entirety with a new rule, 6 NYCRR Part 245, ''Transport Rule SO_2 Group 1 Trading Program.'' Attendant revisions were made to 6 NYCRR Part 200, ''General Provisions,'' to update the list of referenced materials that are cited in the amended New York regulations. EPA is conditionally approving into the SIP the revised versions of 6 NYCRR Parts 200, 244 and 245.

EPA is conditionally approving this SIP revision, as opposed to fully approving it, because of several deficiencies that New York must address. The conditional approval of portions of New York's SIP submittal is conditioned on New York meeting the commitment, articulated in its letters to EPA dated July 14, 2016, March 4, 2017, and July 6, 2017, to make the necessary changes to 6 NYCRR Parts 200, 244, and 245 to meet the requirements of the Clean Air Act (CAA) and EPA's regulations for approval of an abbreviated SIP revision to replace EPA's default allocations of CSAPR emission allowances with state-determined allocations. In a July 6, 2017 letter to EPA, the DEC committed to submitting a SIP revision that addresses EPA identified deficiencies by December 29, 2017.[2] Once EPA determines that the DEC has satisfied these conditions and EPA approves the revisions (after EPA notice and comment), EPA shall remove the conditional approval and this SIP revision will at that time receive full approval status. The conditionally approved SIP submission will remain part of the SIP until EPA takes further action. If New York fails to meet its commitment to submit a revised SIP by December 29, 2017 [*i.e.,* the date of commitment from the state's July 6, 2017 letter], the conditional approval will revert to a disapproval.

This action conditionally approves into New York's SIP state-determined allowance allocation procedures for annual NO_X and SO_2 allowances that would replace EPA's default allocation procedures for the control periods in 2017 and beyond. The conditional approval of this SIP revision does not alter any provision of either the CSAPR NO_X Annual Trading Program or the CSAPR SO_2 Group 1 Trading Program as applied to New York units other than the allowance allocation provisions, and the FIP provisions requiring those units to participate in the programs (as modified by this SIP revision) remain in place.

New York also repealed 6 NYCRR Part 243, ''CAIR NO_X Ozone Season Trading Program,'' and replaced it in its entirety with a new rule, 6 NYCRR Part 243, ''Transport Rule NO_X Ozone Season Trading Program,'' which was included in New York's December 1, 2015 SIP submittal. EPA is not acting at this time on the portion of New York's SIP submittal addressing 6 NYCRR Part 243. Since New York's December 1, 2015 submission, EPA has finalized the CSAPR Update rule [3] to address Eastern states' interstate air pollution mitigation obligations with regard to the 2008 Ozone National Ambient Air Quality Standard (NAAQS). Among other things, starting in 2017 the CSAPR Update requires New York EGUs to participate in the new CSAPR NO_X Ozone Season Group 2 Trading Program instead of the earlier CSAPR NO_X Ozone Season Trading Program (now renamed the ''Group 1'' program) and replaces the ozone season budget for New York with a lower budget developed to address the revised and more stringent 2008 Ozone NAAQS. In DEC's July 14, 2016 commitment letter to EPA, New York indicated that the State would revise 6 NYCRR Part 243 to conform with the final CSAPR Update. For this reason, EPA is acting at this time only on 6 NYCRR Parts 200, 244 and 245.

This conditional final rule is effective immediately upon publication in the **Federal Register**. Section 553(d) of the Administrative Procedure Act (5 U.S.C. 553(d)), which generally provides that final rules may not take effect earlier than 30 days after publication in the **Federal Register** but allows exceptions where an agency finds good cause and publishes its finding with the rule, applies to this action. Ordinarily, a 30-day transition period before a new rule takes effect would give affected parties an opportunity to adjust their behavior and prepare for compliance. However, in this instance no transition period is necessary because this rule does not impose new requirements. Under CSAPR's existing requirements, on March 1 of each year affected sources must hold quantities of emissions allowances not less than their emissions during the prior year's control period. The CSAPR regulations provide for default allocations to affected sources of allowances eligible for use in meeting this requirement. In this rule, in accordance with options CSAPR makes available to States, EPA is conditionally approving into New York's SIP the State's allocation rules to replace the default federally-established allocations. The sooner this rule is effective, the sooner allowances eligible for use for the 2017 control period can be issued to affected sources in New York in the amounts determined under New York's rules, which will assist the sources in planning to meet their March 1, 2018, compliance requirement. EPA therefore finds good cause to make this conditional final rule effective immediately upon publication in the **Federal Register**.

II. Background on CSAPR and CSAPR-Related SIP Revisions

EPA issued CSAPR in July 2011 to address the requirements of CAA section 110(a)(2)(D)(i)(I) concerning interstate transport of air pollution. As amended (including the 2016 CSAPR Update), CSAPR requires 27 Eastern states to limit their statewide emissions of SO_2 and/or NO_X in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1997 Ozone NAAQS, and the 2008 Ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide ''budgets'' for emissions of annual SO_2, annual NO_X, and/or ozone-season NO_X

[1] Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and 40 CFR part 97).

[2] The date supersedes the dates identified in the July 14, 2016, and March 24, 2017 letters.

[3] 81 FR 74504 (October 26, 2016).

by each covered state's large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 (and CSAPR Update) budgets applying to emissions in 2017 and later years. As a mechanism for achieving compliance with the emissions limitations, CSAPR establishes five federal emissions trading programs: A program for annual NO_X emissions, two geographically separate programs for annual SO_2 emissions, and two geographically separate programs for ozone-season NO_X emissions. CSAPR also establishes FIP requirements applicable to the large EGUs in each covered state. The CSAPR FIP provisions require each state's EGUs to participate in up to three of the five CSAPR trading programs.

CSAPR includes provisions under which states may submit and EPA will approve SIP revisions to modify or replace the CSAPR FIP requirements while allowing states to continue to meet their transport-related obligations using either CSAPR's federal emissions trading programs or state emissions trading programs integrated with the federal programs.[4] Through such a SIP revision, a state may replace EPA's default provisions for allocating emission allowances among the state's units, employing any state-selected methodology to allocate or auction the allowances, subject to timing criteria and limits on overall allowance quantities. In the case of CSAPR's federal trading programs for ozone-season NO_X emissions (or integrated state trading programs), a state may also expand trading program applicability to include certain smaller EGUs.[5] If a state wants to replace CSAPR FIP requirements with SIP requirements under which the state's units participate in a state trading program that is integrated with and identical to the federal trading program even as to the allocation and applicability provisions, the state may submit a SIP revision for that purpose as well. However, no emissions budget increases or other substantive changes to the trading program provisions are allowed. A state whose units are subject to multiple CSAPR FIPs and federal trading programs may submit SIP revisions to modify or replace either some or all of those FIP requirements.

States can submit two basic forms of CSAPR-related SIP revisions effective for emissions control periods in 2017 or later years.[6] Specific criteria for approval of each form of SIP revision are set forth in the CSAPR regulations. Under the first alternative—an ''abbreviated'' SIP revision—a state may submit a SIP revision that upon approval replaces the default allowance allocation and/or applicability provisions of a CSAPR federal trading program for the state.[7] Approval of an abbreviated SIP revision leaves the corresponding CSAPR FIP and all other provisions of the relevant federal trading program in place for the state's units.

Under the second alternative—a ''full'' SIP revision—a state may submit a SIP revision that upon approval replaces a CSAPR federal trading program for the state with a state trading program integrated with the federal trading program, so long as the state trading program is substantively identical to the federal trading program or does not substantively differ from the federal trading program except as discussed above with regard to the allowance allocation and/or applicability provisions.[8] For purposes of a full SIP revision, a state may either adopt state rules with complete trading program language, incorporate the federal trading program language into its state rules by reference (with appropriate conforming changes), or employ a combination of these approaches.

The CSAPR regulations identify several important consequences and limitations associated with approval of a full SIP revision. First, upon EPA's approval of a full SIP revision as correcting the deficiency in the state's SIP that was the basis for a particular set of CSAPR FIP requirements, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction without the need for a separate EPA withdrawal action, so long as EPA's approval of the SIP is full and unconditional.[9] Second, approval of a full SIP revision does not terminate the obligation to participate in the corresponding CSAPR federal trading program for any units located in any Indian country within the borders of the state, and if and when a unit is located in Indian country within a state's borders, EPA may modify the SIP approval to exclude from the SIP, and include in the surviving CSAPR FIP instead, certain trading program provisions that apply jointly to units in the state and to units in Indian country within the state's borders.[10] Finally, if at the time a full SIP revision is approved EPA has already started recording allocations of allowances for a given control period to a state's units, the federal trading program provisions authorizing EPA to complete the process of allocating and recording allowances for that control period to those units will continue to apply, unless EPA's approval of the SIP revision provides otherwise.[11]

On December 1, 2015, New York submitted to EPA an abbreviated SIP revision that, if approved, would replace the default allowance allocation provisions of the CSAPR SO_2 Group 1, CSAPR NO_X Annual, and CSAPR NO_X Ozone Season Trading Programs for the state's EGUs for the control periods in 2017 and beyond with provisions establishing state-determined allocations for those control periods but would leave the corresponding CSAPR FIPs and all other provisions of the trading programs in place.

The SIP submittal includes the following adopted state rules: 6 NYCRR Part 243, ''Transport Rule NO_X Ozone Season Trading Program,'' 6 NYCRR Part 244, ''Transport Rule NO_X Annual Trading Program,'' and 6 NYCRR Part 245, ''Transport Rule SO_2 Trading Program.'' Previous versions of the rules developed for state participation in the Clean Air Interstate Rule[12] (CAIR), *i.e.,* 6 NYCRR Part 243, ''CAIR NO_X Ozone Season Trading Program,'' 6 NYCRR Part 244, ''CAIR NO_X Annual Trading Program,'' and 6 NYCRR Part 245, ''CAIR SO_2 Trading Program,'' have been repealed and replaced in their entirety with the new rules. Attendant revisions were made to 6 NYCRR Part 200, ''General Provisions,'' to update the list of referenced material that are cited in the amended New York regulations. The regulations were adopted on November 10, 2015, and effective on December 12, 2015.

As discussed in section I, EPA is not acting at this time on the portion of New York's SIP submittal addressing 6

[4] *See* 40 CFR 52.38, 52.39. States also retain the ability to submit SIP revisions to meet their transport-related obligations using mechanisms other than the CSAPR federal trading programs or integrated state trading programs.

[5] States covered by both the CSAPR Update and the NO_X SIP Call have the additional option to expand applicability under the CSAPR NO_X Ozone Season Group 2 Trading Program to include non-EGUs that would have participated in the former NO_X Budget Trading Program.

[6] CSAPR also provides for a third, more streamlined form of SIP revision that is effective only for control periods in 2016 and is not relevant here. *See* § 52.38(a)(3), (b)(3), (b)(7); § 52.39(d), (g).

[7] § 52.38(a)(4), (b)(4), (b)(8); § 52.39(e), (h).

[8] § 52.38(a)(5), (b)(5), (b)(9); § 52.39(f), (i).

[9] § 52.38(a)(6), (b)(10(i); § 52.39(j).

[10] § 52.38(a)(5)(iv)–(v), (a)(6), (b)(5)(v)–(vi), (b)(9)(vi)–(vii), (b)(10)(i); § 52.39(f)(4)–(5), (i)(4)–(5), (j).

[11] § 52.38(a)(7), (b)(11)(i); § 52.39(k).

[12] 70 FR 25162 (May 12, 2005).

NYCRR Part 243, which will be addressed in another rulemaking at a later date. In this rulemaking, EPA is addressing NYCRR Parts 244, 245, and 200.

In a notice of proposed rulemaking (NPRM) published on August 29, 2017 (82 FR 40963), EPA proposed to conditionally approve the portion of New York's submittal designed to replace the federal CSAPR SO_2 Group 1, and CSAPR NO_X Annual Trading Programs. The NPRM provides additional detail regarding the background and rationale for EPA's conditional approval.

III. What comments were received in response to EPA's proposed action?

Comments on the NPRM were due on September 28, 2017. EPA received no comments on the proposed action.

IV. What is EPA's conclusion?

The EPA is conditionally approving the New York SIP revision submitted on December 1, 2015 concerning allocations to New York units of CSAPR NO_X Annual allowances and CSAPR SO_2 Group 1 allowances for the control periods in 2017 and 2018, and future control periods beyond 2018. This rule conditionally approves into the New York SIP amendments to 6 NYCRR Parts 244 and 245 that incorporate CSAPR requirements into the State rules, and allows the DEC to allocate CSAPR allowances to regulated entities in New York. EPA is also conditionally approving the attendant revisions to 6 NYCRR Part 200 to update the list of referenced materials cited in the amended New York regulations.

The conditional approval of Parts 200, 244, and 245 is based upon DEC's commitment to make the necessary changes, identified in the July 14, 2016, March 4, 2017, and July 6, 2017 commitment letters, to New York's 6 NYCRR Part 244, ''Transport Rule NO_X Annual Trading Program,'' Part 245, ''Transport Rule SO_2 Group 1 Trading Program,'' and Part 200, ''General Provisions.'' See section IV B. of the NPRM published on August 29, 2017 (82 FR 40967) concerning EPA's analysis of New York's budget, allowance allocation methodology, timing of submission of allocations, replaceable provisions of a CSAPR federal trading program under an abbreviated SIP, applicability determinations, and other substantive changes to the CSAPR federal trading program regulations.

Following the conditional approval of Part 200, Part 244, and Part 245, allocations of CSAPR NO_X Annual allowances and CSAPR SO_2 Group 1 allowances will be made according to the provisions of New York's SIP (as modified by the DEC's July 14, 2016, March 24, 2017, and July 6, 2017 commitment letters to EPA) instead of 40 CFR 97.411(a), 97.411(b)(1), 97.412(a), 97.611(a), 97.611(b)(1), and 97.612(a). EPA's action on this SIP revision does not alter any provisions of the federal CSAPR NO_X Annual Trading Program and the federal CSAPR SO_2 Group 1 Trading Program as applied to New York units other than the allowance allocation provisions, and the FIPs requiring the units to participate in the programs (as modified by this SIP revision) remain in place. EPA is finalizing the conditional approval of Part 200, Part 244 and Part 245 because New York's rules (when modified by the DEC as indicated in its July 14, 2016, March 24, 2017, and July 6, 2017 commitment letters to EPA) will meet the requirements of the CAA and EPA's regulations for an abbreviated SIP revision and will replace EPA's default allocations of CSAPR emission allowances with state-determined allocations, as discussed in section IV.B of the NPRM.

Under CAA section 110(k)(4), the EPA may approve a SIP revision based on a commitment by a state to adopt specific enforceable measures by a date certain, but not later than one year after the date of final conditional approval. If the state fails to meet its commitment to submit a revised SIP by December 29, 2017 [*i.e.,* the date of commitment from the state's July 6, 2017 letter], or if the EPA finds the state's revisions to be incomplete, or the EPA disapproves the state's revisions, the conditional approval will, by operation of law, become a disapproval. EPA would notify the state by letter that such action has occurred. At that time, the SIP revisions in question would not be part of the approved SIP. If that were to occur, EPA would subsequently publish a document in the **Federal Register** notifying the public that the conditional approval automatically converts to a disapproval.[13] If, however, the state meets its commitment within the applicable timeframe, EPA would subsequently publish in the **Federal Register** a document notifying the public that EPA intends to convert the conditional approval to a full approval.

Because a FIP already in place satisfies New York's obligations to mitigate interstate transport air pollution, should a disapproval become finalized as noted above, the EPA will not be required to take further action. Additionally, since the SIP submission is not required in response to a SIP call under CAA section 110(k)(5), mandatory sanctions under CAA section 179 would not apply because the deficiencies are not with respect to a submission that is required under CAA title I part D.

[13] In the event the conditional approval automatically reverts to a disapproval, the validity of allocations made pursuant to the SIP revision before the date of such reversion would not be affected.

V. Incorporation by Reference

In this rule, with our conditional approval, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing, with our conditional approval, the incorporation by reference revisions to 6 NYCRR Parts 200, entitled ''General Provisions'', adopted November 10, 2015, 6 NYCRR Part 244, entitled ''Transport Rule NO_X Annual Trading Program'', adopted November 10, 2015, and NYCRR Part 245, entitled ''Transport Rule SO_2 Group 1 Trading Program, adopted November 10, 2015. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* and/or at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been conditionally approved by EPA for inclusion in the SIP, have been incorporated by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update of the SIP compilation.[14]

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

[14] 62 FR 27968 (May 22, 1997)

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 5, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen Dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: November 20, 2017.

Peter D. Lopez,

Regional Administrator, Region 2.

Part 52 chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

§ 52.38 [Amended]

■ 2. In § 52.38, paragraph (a)(8)(ii) is amended by removing ''Kansas and Missouri'' and adding in its place ''Kansas, Missouri, and New York''.

§ 52.39 [Amended]

■ 3. In § 52.39, paragraph (l)(2) is amended by adding ''and New York'' after ''Missouri''.

Subpart HH—New York

■ 4. In § 52.1670, paragraph (c) is amended by revising the table entries ''Title 6, Part 200, Subpart 200.9'', ''Title 6, Part 244'', and ''Title 6, Part 245'' to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEW YORK STATE REGULATIONS AND LAWS

State citation	Title/subject	State effective date	EPA approval date	Comments
* *	* *	*	*	*
Title 6, Part 200, Subpart 200.9	General Provisions, Referenced Material.	12/17/15	12/5/17	• EPA is approving reference documents that are not Federally enforceable. • EPA approval finalized at [insert **Federal Register** citation]. • Conditional Approval.
* *	* *	*	*	*
Title 6, Part 244	Transport Rule NO_X Annual Trading Program.	12/17/15	12/5/17	• EPA approval finalized at [insert **Federal Register** citation]. • Conditional Approval.

EPA-APPROVED NEW YORK STATE REGULATIONS AND LAWS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Title 6, Part 245	Transport Rule SO_2 Group 1 Trading Program.	12/17/15	12/5/17	• EPA approval finalized at [insert **Federal Register** citation]. • Conditional Approval.
*	*	*	*	*

* * * * *

[FR Doc. 2017–26079 Filed 12–4–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–1033; FRL–9968–30]

1,3-dibromo-5,5-dimethylhydantoin; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 1,3-dibromo-5,5-dimethylhydantoin in or on food when used in antimicrobial pesticide formulations applied to food contact surfaces in public eating places, dairy processing equipment, and/or food processing equipment and utensils. In addition, this regulation establishes an exemption from the requirement of a tolerance for residues of 1,3-dibromo-5,5-dimethylhydantoin when used as an antimicrobial pesticide treatment solution. Albemarle Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting exemptions from the requirement of a tolerance for residues of 1,3-dibromo-5,5-dimethylhydantoin in end-use products applied to food contact surfaces and used for washing raw agricultural commodities. This regulation eliminates the need to establish a maximum permissible level of residues of 1,3-dibromo-5,5-dimethylhydantoin resulting from uses consistent with the terms of these exemptions.

DATES: This regulation is effective December 5, 2017. Objections and requests for hearings must be received on or before February 5, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–1033, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Steven H. Weiss, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 308–6411; email address: *ADFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111), *e.g.,* agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), *e.g.,* cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), *e.g.,* agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), *e.g.,* agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OSCPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–1033 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 5, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–1033, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Exemption

In the **Federal Register** of March 14, 2012 (77 FR 15012) (FRL–9335–9), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 1F7914) by Albemarle Corporation, 451 Florida Street, Baton Rouge, LA 70801. The petition requested that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of the antimicrobial 1,3-dibromo-5,5-dimethylhydantoin resulting from the use of this antimicrobial in food contact surface sanitizing solutions applied to food contact surfaces in public eating places, dairy processing equipment, and food-processing equipment and utensils at concentrations not to exceed 500 parts per million (ppm) of total bromine. The petition also requested establishment of an exemption from the requirement of a tolerance for residues of the antimicrobial 1,3-dibromo-5,5-dimethylhydantoin in or on all raw agricultural commodities resulting from the use of 1,3-dibromo-5,5-dimethylhydantoin as an antimicrobial treatment in solutions containing a diluted end-use concentration of all bromide-producing chemicals in the solution not to exceed 900 ppm of total bromine. That document referenced a summary of the petition prepared by Albemarle Corporation, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for 1,3-dibromo-5,5-dimethylhydantoin including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with 1,3-dibromo-5,5-dimethylhydantoin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Exposures to 1,3-dibromo-5,5-dimethylhydantoin (DBDMH) only occur during the mixing of the treatment solution. These exposures would only be associated with the occupational handling/applying when pouring and mixing with water. When mixed with water, DBDMH rapidly hydrolyzes to 5,5-dimethylhydantion (DMH). DMH is stable in water and is the residue available for dietary exposure.

Most of the toxicology studies submitted to the Agency in support of registration of DBDMH were conducted on DMH (including subchronic oral toxicity in the rat and dog; subchronic dermal toxicity in the rat; chronic toxicity in the dog; combined chronic/oncogenicity in the rat and mouse; oncogenicity in the mouse; developmental toxicity in the rat and rabbit; 2-generation reproductive toxicity in the rat; genotoxicity battery; and general metabolism in the rat). These studies generally show lack of systemic toxicity up to the limit dose. No specific target organs were identified in adult animals tested. No developmental or maternal toxicity was observed. There was no evidence of carcinogenicity. There is also no indication of neurotoxicity or immunotoxicity in the database.

The formation of the bromide ion is also present during the degradation of DBDMH. Based on available data, the Agency has previously determined that bromine does not present adverse systemic effects and therefore no endpoints were identified. *See Bromine Final Registration Review Decision, Case 4015,* which is document number 10 in docket number EPA–HQ–OPP–2009–0167, in *www.regulations.gov.* Based on its previous assessment, which remains valid, the Agency has determined that there are no risks of concern from exposures to bromine.

Specific information on the studies received from the toxicity studies can be found at *http://www.regulations.gov* in document 1,3-dibromo-5,5-dimethylhydantoin (DBDMH), Human health and ecological risk assessment for the new use as a Fruit and Vegetable Wash and Food Contact Surface Sanitizer in docket ID number EPA–HQ–OPP–2011–1033.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a

reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

The Agency did not identify any toxicological points of departure because the available data indicate a lack of toxicity for DBDMH and its degradates (DMH and the bromide ion).

C. Exposure Assessment

1. *Dietary exposure from food uses and drinking water.* Based on the use patterns for DBDMH, residues of the degradate DMH may be present in or on food as a result of exposure to the substance in treatment solutions or on treated food contact surfaces. DMH residues are unlikely to be in drinking water because the product is intended to be used in treatment solutions in RAC treatment facilities and on food contact surfaces in public eating places or processing. Nevertheless, because of the lack of toxicological endpoints, quantitative dietary food and drinking water exposure and risk assessments were not conducted.

2. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). 1,3-dibromo-5,5-dimethylhydantoin is not registered for use on any sites that would result in residential exposure. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

3. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found 1,3-dibromo-5,5-dimethylhydantoin to share a common mechanism of toxicity with any other substances, and 1,3-dibromo-5,5-dimethylhydantoin does not appear to produce a toxic metabolite produced by other substances. Based on the lack of toxicity for DBDMH and its metabolites and degradates, therefore, EPA concludes that 1,3-dibromo-5,5-dimethylhydantoin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemical, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

There are adequate pre- and/or post-natal toxicity studies for DMH that show no qualitative or quantitative susceptibility from exposure to DMH. As a result, the Agency has conducted a qualitative assessment in which safety factors were not relevant. Moreover, because of the lack of any threshold effects, the requirement to retain an additional 10X safety factor does not apply.

E. Aggregate Risks and Determination of Safety

Based on the toxicological profile of DBDMH, EPA concludes that exposures to the antimicrobial 1,3-dibromo-5,5-dimethylhydantoin will not pose a risk under reasonably foreseeable circumstances. In order to use this substance as antimicrobial treatment in process water and as a food contact surface sanitizer, the substance must be mixed with water, necessarily resulting in the conversion of DMDBH into DMH and bromine, for which the Agency has not identified any toxicological endpoints of concern. Therefore, the Agency concludes that reasonably foreseeable uses of this substance are safe. Accordingly, EPA finds that there is a reasonable certainty of no harm will result to the general population, or to infants and children from aggregate exposure to 1,3-dibromo-5,5-dimethylhydantoin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. Revisions to Petitioned-For Exemption

Although the petitioner requested exemptions for residues of 1,3-dibromo-5,5-dimethylhydantoin with limitations on the amount of DBDMH in sanitizing and antimicrobial treatment solutions, EPA is establishing exemptions, without the requested limitations, for residues of 1,3-dibromo-5,5-dimethylhydantoin, because of the lack of toxicity of DMDBH and its metabolites and degradates.

V. Conclusion

Therefore, exemptions from the requirement of a tolerance are established for residues of 1,3-dibromo-5,5-dimethylhydantoin as follows: When used in food contact surface sanitizing solutions applied to food contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils and when used as an antimicrobial treatment in solutions applied to raw agricultural commodities in treatment facilities.

VI. Statutory and Executive Order Reviews

This action establishes exemptions from tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order

12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 15, 2017.

Steven Weiss,

Acting Director, Antimicrobials Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.940, add alphabetically the pesticide chemical ''1,3-dibromo-5,5-dimethylhydantoin'' to the table in paragraph (a) to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide chemical	CAS Reg. No.	Limits
* * *	*	*
1,3-dibromo-5,5-dimethylhydantoin.	77–48–5	None.
* * *	*	*

■ 3. Add § 180.1346 to subpart D to read as follows:

§ 180.1346 1,3-Dibromo-5,5-Dimethylhydantoin; exemption from the requirement of a tolerance.

Residues of 1,3-dibromo-5,5-dimethylhydantoin, including its metabolites and degradates, resulting from the use of 1,3-dibromo-5,5-dimethylhydantoin in antimicrobial treatment solutions of raw agricultural commodities in treatment facilities are exempt from the requirement of a tolerance.

[FR Doc. 2017–25842 Filed 12–4–17; 8:45 am]

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SURFACE TRANSPORTATION BOARD

49 Parts 1104, 1109, 1111, 1114, and 1130

[Docket No. EP 733]

Expediting Rate Cases

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: Pursuant to section 11 of the Surface Transportation Board Reauthorization Act of 2015 (STB Reauthorization Act), the Surface Transportation Board (Board) is modifying rules pertaining to its rate case procedures.

DATES: This rule is effective on December 30, 2017.

ADDRESSES: Requests for information or questions regarding this final rule should reference Docket No. EP 733 and be in writing addressed to: Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn, (202) 245–0283. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 11 of the STB Reauthorization Act, Public Law 114–110, 129 Stat. 2228 (2015), directs the Board to ''initiate a proceeding to assess procedures that are available to parties in litigation before courts to expedite such litigation and the potential application of any such procedures to rate cases.'' In addition, section 11 requires the Board to comply with a new timeline in Stand-Alone Cost (SAC) cases.

In advance of initiating this proceeding, Board staff held informal meetings with stakeholders [1] to explore and discuss: (1) How procedures to expedite court litigation could be applied to rate cases and (2) additional ways to move SAC cases forward more expeditiously. The Board issued an Advance Notice of Proposed Rulemaking on June 15, 2016, seeking formal comment on specific ideas raised in the informal meetings as well as comments on any other relevant matters. *Expediting Rate Cases* (*ANPRM*), EP 733 (STB served June 15, 2016). *See* 81 FR 40250 (June 21, 2016). The Board received eight opening comments and six reply comments on the *ANPRM*.

On March 31, 2017, the Board issued a Notice of Proposed Rulemaking, addressing the comments on the *ANPRM* and proposing specific

[1] Board staff met with individuals either associated with and/or speaking on behalf of the following organizations: American Chemistry Council; Archer Daniels Midland Company; CSX Transportation, Inc.; Economists Incorporated; Dr. Gerald Faulhaber; FTI Consulting, Inc.; GKG Law, P.C.; Growth Energy; Highroad Consulting; L.E. Peabody; LaRoe, Winn, Moerman & Donovan; consultant Michael A. Nelson; Norfolk Southern Railway Company (NSR); Olin Corporation; POET Ethanol Products; Sidley Austin LLP; Slover & Loftus LLP; Steptoe & Johnson LLP; The Chlorine Institute; The Fertilizer Institute; The National Industrial Transportation League; and Thompson Hine LLP. The Board notes that some participants expressed individual views, not on behalf of the organization(s) with which they are associated.

amendments to its regulations. *Expediting Rate Cases* (*NPRM*), EP 733 (STB served Mar. 31, 2017). *See* 82 FR 16550 (April 5, 2017). The Board received four opening comments and six reply comments on the *NPRM*.[2]

Below, the Board addresses the comments and suggestions submitted by parties in response to the *NPRM* and discusses clarifications and modifications being adopted in the final rule to help improve the rate review process.[3] The text of the final rule is below.

Pre-Complaint Period. In the *NPRM,* the Board proposed to create a pre-complaint period, which would begin when a SAC complainant files a pre-filing notice with the Board. Under the proposed rule, a complainant would file the pre-filing notice at least 70 days prior to filing its complaint. The proposed pre-filing notice would contain the rate and origin/destination pair(s) to be challenged, the commodities at issue, and a motion for protective order pursuant to the proposed, new 49 CFR 1104.14(c).[4] The Board also proposed to revise its regulations to move mandatory mediation in SAC cases to the pre-complaint period.

Several stakeholders generally support the Board's proposed pre-complaint period, although some suggested modification to the proposed rule. ACC, TFI, and NITL state that the pre-filing notice would allow parties to begin many functions that would typically occur after a complaint is filed and note that engaging in mediation before the filing of a complaint could potentially avoid the filing of a complaint at all. (ACC, TFI, & NITL NPRM Comments 3.) They also suggest that the Board allow for skipping or shortening the pre-complaint period when the statute of limitations would otherwise bar any portion of a complaint that is filed after the notice period expires. (*Id.* at 4.) AAR also supports conducting mediation during the pre-complaint period, noting that a pre-filing notice would potentially foster private-sector resolution of the dispute by allowing Board-administered mediation to begin earlier. (AAR NPRM Comments 5–6.) AAR, however, urges the Board to clarify that protective orders filed with the pre-filing notice may continue to include provisions recognizing a party's right to review its own confidential or highly confidential material referenced in the other party's filings. (AAR NPRM Comments 7; *see also* Coal Shippers/NARUC NPRM Reply 4 (noting that they do not object to this request).) NGFA does not oppose the Board's proposal to provide for a pre-complaint period and pre-filing notice so parties can engage in mediation before filing a SAC complaint but recommends that the mediation period span no more than 45 days, subject to extensions by agreement of the parties. (NGFA NPRM Comments 4.)

Coal Shippers/NARUC urge the Board not to adopt the proposed pre-complaint period rules. (Coal Shippers/NARUC NPRM Comments 14.) According to Coal Shippers/NARUC, the pre-filing notice requirement would lengthen the rate case schedule. (*Id.* at 16.) They also argue that the pre-filing notice would not expedite discovery. (*Id.* at 23 (citing NSR ANPRM Comments 35 (''The railroad can only begin to gather the necessary documents and data once a shipper has . . . served its discovery requests, informing the railroad of the time frame for discovery materials and segments of the railroad for which discovery is sought''); AAR ANPRM Comments 6 (pre-filing notice ''would not actually expedite the rate case itself once it is filed'')); *see also* ACC, TFI, & NITL NPRM Reply 5.) According to Coal Shippers/NARUC, railroads would continue to ''withhold'' production of the most important information unless the Board establishes expedited post-complaint deadlines for discovery production. (Coal Shippers/NARUC NPRM Comments 24 (citing NSR ANPRM Comments 6).)

Coal Shippers/NARUC urge that, if the Board establishes a pre-filing notice requirement, it should also require railroads to provide common carrier rates and service terms to shippers upon request no later than 90 days prior to the anticipated start of the common carrier service. (Coal Shippers/NARUC NPRM Comments 29; *see also* ACC, TFI, & NITL NPRM Reply 5–6; NGFA NPRM Reply 3.) Coal Shippers/NARUC further argue that the pre-filing notice should be optional, (Coal Shippers/NARUC NPRM Reply 11), and should be filed at least 40 days prior to the proposed filing date of a complaint, (Coal Shippers/NARUC NPRM Comments 30; Coal Shippers/NARUC NPRM Reply 12; *see also* ACC, TFI, & NITL NPRM Reply 6; NGFA NPRM Reply 3).

Coal Shippers/NARUC also do not support moving mandatory mediation to the pre-complaint period. According to Coal Shippers/NARUC, by the time a case reaches the Board, it is unlikely that a mediated resolution can be obtained. (Coal Shippers/NARUC NPRM Comments 20.) Coal Shippers/NARUC further argue that mediation is more beneficial following a complaint because the complaint provides valuable information to both the defendant carrier and mediator. (*Id.* at 21.) Coal Shippers/NARUC argue that the Board could best deal with the burdens imposed by the Board's current mandatory mediation rules by changing those rules to make mediation voluntary, not mandatory, in SAC cases. (*Id.* at 22.) Coal Shippers/NARUC argue that, if the Board proceeds with the proposed pre-complaint period, the mediation period should be 40 days (beginning when the pre-filing notice is submitted), subject to extensions if requested by all parties. (*Id.* at 32–33; Coal Shippers/NARUC NPRM Reply 12; *see also* ACC, TFI, & NITL NPRM Reply 6; NGFA NPRM Reply 3.) Coal Shippers/NARUC also argue that the Board should reduce the time allotted (i) to assign mediators after the pre-filing notice is submitted from within 10 business days to within three business days, and (ii) for mediators to contact the parties from within five business days of assignment to within three business days. (Coal Shippers/NARUC NPRM Comments 32.)

NGFA suggests the Board shorten the mediation period, specifically to no more than 45 days, subject to extension by mutual agreement of the parties. (NGFA NPRM Comments 4; NGFA NPRM Reply 3; *see also* ACC, TFI, & NITL NPRM Reply 4.) According to NGFA, by the time any non-agricultural shipper files a SAC complaint, it already would have engaged in thorough discussions with the defendant railroad and formal action likely would be required to resolve their differences. (NGFA NPRM Comments 4; *see also* ACC, TFI, & NITL NPRM Reply 4.)

UP opposes Coal Shippers/NARUC's suggestion that the Board require a

[2] Comments were received from the following organizations: The American Chemistry Council, the Fertilizer Institute, and the National Industrial Transportation League (ACC, TFI, and NITL); the Association of American Railroads (AAR); the National Grain and Feed Association (NGFA); Samuel J. Nasca on behalf of SMART/Transportation Division, New York State Legislative Board; Union Pacific Railroad Company (UP); and the Western Coal Traffic League, American Public Power Association, Edison Electric Institute, National Association of Regulatory Utility Commissioners, National Rural Electric Cooperative Association, and Freight Rail Customer Alliance (collectively, Coal Shippers/NARUC).

[3] The final rule adopted in this rulemaking pertains mostly to SAC cases—the Board's methodology for large rate cases. However, some aspects of the final rule would also benefit cases filed under the Board's other methodologies, Simplified-SAC and Three-Benchmark (collectively, simplified standards). *See Simplified Standards for Rail Rate Cases,* EP 646 (Sub-No. 1) (STB served Sept. 5, 2007). In those instances, the rule will specify to which types of cases it applies.

[4] In the *NPRM,* the Board proposed standard identifying markers for the submission of confidential, highly confidential, and sensitive security information in rate cases at § 1104.14(c). This proposal is discussed in more detail, below.

carrier to provide common carrier rates and service terms 90 days prior to the anticipated start of that service, arguing such a requirement would constitute a modification to the Board's rules governing the establishment of common carrier rates, which are neither the subject of this proceeding nor a logical outgrowth of the proposed rule. (UP NPRM Reply 6.) UP further argues that, even if such a rule were permissible, a carrier would retain its statutory right to increase the rate with 20-days' notice or reduce the rate with no notice. (*Id.* at 7 (citing 49 U.S.C. 11101(c) & *Burlington N. R.R.* v. *STB,* 75 F.3d 685, 694 (D.C. Cir. 1996)).)

The Board continues to believe that establishing a pre-complaint period, during which parties would engage in mediation, would help rate cases proceed more efficiently. The pre-filing notice would put parties on notice as to what they likely will need to produce in discovery and enable parties to begin many activities that typically would occur only after a complaint is filed. In this respect, the pre-complaint period could shorten the rate case schedule by lessening the need for parties to request extensions of time once discovery begins. Establishing a pre-complaint period will also allow parties to engage in mediation before a complaint is filed, enabling parties to focus on mediation without the distractions of fully active litigation.[5] In addition, the Board continues to believe that the early submission of a motion for protective order will expedite discovery production and disclosures by allowing a protective order to be in place at the outset of a case.

Additionally, completing Board-sponsored mediation during the pre-complaint period could potentially prevent the filing of a complaint altogether. The Board prefers the resolution of disputes through mediation in lieu of formal Board proceedings whenever possible. *See* 49 CFR 1109.1. AAR noted, and the Board agrees, that pre-complaint mediation could foster such resolutions before a formal complaint is filed. Mediation is widely used by courts as a measure for expediting proceedings.[6] The Board disagrees with NGFA and Coal Shippers/NARUC that, by the time a complaint is filed, formal action would be required to resolve the parties' differences. In fact, parties in several rate cases have successfully mediated resolutions to rate disputes, even following the filing of a formal complaint. *See NRG Power Marketing LLC* v. *CSX Transp., Inc.,* NOR 42122, slip op. at 1 (STB served July 8, 2010); *Williams Olefins, L.L.C.* v. *Grand Trunk Corp.,* NOR 42098 (STB served Feb. 15, 2007). *See also E.I. Du Pont De Nemours & Co.* v. *CSX Transp., Inc.,* NOR 42112 (STB served May 11, 2009) (complaint challenging the reasonableness of rates dismissed following voluntary settlement). Resolving disputes in mediation would save parties considerable time and expense, and could better preserve their ongoing commercial relationship.

The Board also continues to believe that 70 days is the most appropriate length for the pre-complaint period because it would allow sufficient time for mediation to be completed before the filing of a formal complaint, thus freeing parties to focus on mediating a resolution before litigation begins. The Board is not persuaded by the arguments set forth by Coal Shippers/NARUC and NGFA in support of shorter pre-complaint and mediation periods. Coal Shippers/NARUC provide no support for their claim that 40 days is ''more than enough time'' for parties to reach a mediated solution.

For these reasons, the Board will adopt the proposal in the *NPRM* with two modifications. First, the Board will modify the rule proposed in the *NPRM* to adopt Coal Shippers/NARUC's suggestion that the assignment of the mediator(s) should occur in fewer than 10 business days after the shipper submits its pre-filing notice. The Board finds that five business days would be a reasonable amount of time for the Board to assign the mediator(s).[7] The Board will also modify the introductory text of the proposed new section to clarify that the pre-filing notice is required only in SAC cases.

Second, in response to AAR's concern regarding a party's ability to view its own confidential information when such information is referenced in another party's filing, the Board clarifies that the rules adopted here would not affect the parties' ability to negotiate protective orders addressing that situation, as is routinely done now.

The Board declines to adopt Coal Shippers/NARUC's suggestion that the Board require railroads to provide common carrier rates to shippers upon request no later than 90 days prior to the start of that service. The Board agrees with UP that the dates associated with the establishment of common carrier rates are beyond the scope of this proceeding.

The Board also declines to adopt ACC, TFI, and NITL's suggestions that the Board allow the pre-complaint period to be skipped or shortened when the statute of limitations would otherwise bar any portion of a complaint. Adopting such an approach would effectively permit parties to ignore the pre-complaint period established in this final rule. Parties should take the applicable statute of limitations into account when preparing to file a rate case.

Discovery. The Board also sought comment on several ways the Board could change its discovery procedures to help improve the processing of rate cases.

a. *Service of initial discovery requests and deadlines for production.* In the *NPRM,* the Board proposed requiring parties in SAC proceedings to certify that they have served their initial discovery requests simultaneously with their complaint and answer. Several stakeholders generally support the Board's proposal. (*See* ACC, TFI, & NITL NPRM Comments 4; Coal Shippers/NARUC NPRM Comments 33–34; UP NPRM Reply 2.) Both Coal Shippers/NARUC and ACC, TFI, and NITL argue that the proposal would ensure discovery begins promptly. (*See* ACC, TFI, & NITL NPRM Comments 4; Coal Shippers/NARUC NPRM Comments 34.) However, ACC, TFI, and NITL suggest that the Board limit subsequent discovery requests because a party could ''game[]'' this requirement by submitting a skeletal initial discovery request with the intention of serving principal discovery requests at a later date. (ACC, TFI, & NITL NPRM Comment 4.) Coal Shippers/NARUC also argue that shippers should be permitted to include in their pre-filing notices discovery requests for ''Core SAC Data,'' which Coal Shippers/NARUC describe as key categories of information shippers need to present a SAC case. (Coal Shippers/NARUC NPRM Comments 30 & Attachment 1.) According to Coal Shippers/NARUC, this requirement would allow carriers to begin collecting requested documents, expedite discovery, and eliminate the delay caused by ''carrier foot-dragging.'' (*Id.* at 30–32; Coal Shippers/NARUC NPRM Reply 13–14.)

[5] The Board intends for mediation to conclude before the filing of a complaint; however, consistent with current procedures, the rules would allow for an extension of time via Board order.

[6] Under the Alternative Dispute Resolution Act of 1998 Section 3, 28 U.S.C. 651(b), ''[e]ach United States district court shall authorize, by local rule . . ., the use of alternative dispute resolution processes in all civil actions.''

[7] The Board, however, will maintain the current five business day deadline for mediator(s) to contact the parties to discuss ground rules and the time and location of any meeting. The Board believes that fewer than five days would not provide sufficient time for the mediator to establish ground rules for the mediation and contact the parties.

Additionally, both Coal Shippers/NARUC and ACC, TFI, and NITL suggest that the Board establish firm deadlines for defendant carriers to produce certain data. (ACC, TFI, & NITL NPRM Comments 4; Coal Shippers/NARUC NPRM Reply 15.) ACC, TFI, and NITL argue that defendant carriers should be required to produce traffic data within 90 days of the initial discovery request. (ACC, TFI, & NITL NPRM Comments 4–5.) Coal Shippers/NARUC argue that the defendant carrier(s) should be required to produce ''Core SAC Data'' no later than 70 days after receipt of the shipper's initial discovery requests.[8] (Coal Shippers/NARUC NPRM Comments 32.) NGFA supports Coal Shippers/NARUC's proposal, arguing that establishing a date for production of such data after the commencement of a formal complaint proceeding seems logical and efficient. (NGFA NPRM Reply 3.)

Both AAR and UP dispute the claims that railroads delay discovery. (AAR NPRM Reply 5–6; UP NPRM Reply 2.) They also both claim that production of discovery material in SAC cases, especially production of traffic data, is a resource- and time-intensive task, requiring the development of information not maintained in the ordinary course of business. (AAR NPRM Reply 7–8; UP NPRM Reply 2–3, V.S. Sanford 1 & 3.) According to UP, carriers should not be expected to begin compiling discovery material during the mediation period for several reasons. First, according to UP, doing so would effectively transform the pre-filing notice into a complaint by immediately triggering discovery, yet ignoring the burdens involved in addressing disputes over the scope of discovery. Second, the proposal would cause a waste of resources if mediation succeeds. Third, parties may be able to resolve part of their dispute in mediation and narrow the scope of discovery. (UP NPRM Reply 5–6.)

Additionally, UP argues that the Board need not establish a firm discovery deadline because one already exists. (UP NPRM Reply 3 (''The rules establish a 150-day discovery period, followed by a 60-day period for preparing evidence.'').) According to UP, if the Board were to subdivide and micromanage the discovery period, the Board would generate more litigation by creating new types of disputes for the Board to resolve, imposing additional costs and delay. (*Id.*) UP also argues that shippers' timelines are unrealistic and assume that a railroad should produce traffic data without questioning the scope of a shipper's discovery requests. (UP NPRM Reply 3–4.) Additionally, UP notes that a defendant cannot begin producing traffic data until the geographical and temporal limits of a case are settled. (UP NPRM Reply 2, V.S. Sanford 1 & 3.) AAR likewise argues that an ''arbitrary'' deadline for the production of ''Core SAC Data'' is unwarranted and impracticable given shipper groups' failure to provide any evidence in support of their ''foot-dragging'' claims and given the significant effort required of carriers to produce certain categories of ''Core SAC Data.'' (AAR NPRM Reply 5–8.)

The final rule will adopt the proposal as set forth in the *NPRM.* The Board continues to believe that beginning discovery earlier in the rate review process (*i.e.,* serving discovery requests with the complaint and answer) will help expedite discovery. These changes will eliminate the current potential gap between the filing of a complaint and the beginning of discovery, thus expediting both discovery and the rate case in general.

The Board declines to adopt Coal Shippers/NARUC's recommendation that complainants be permitted to include discovery requests for ''Core SAC Data'' with their pre-filing notices. Because the scope of discovery could potentially evolve as parties proceed through mediation, the Board believes the appropriate time for parties to submit discovery requests is with the respective filings of the complaint and answer. Parties may resolve certain aspects of the dispute, such as the geographical and temporal limits for the case, and those agreements could significantly affect what data a party is required to produce and could render prior efforts to gather data superfluous.

Additionally, because the Board's rules already provide a default procedural schedule for SAC cases that includes a 150-day deadline for the completion of discovery, the Board need not establish other interim discovery deadlines in this rulemaking. *See* 49 CFR 1111.8(a). The parties are free to—within the context of the Board's default procedural schedule or an agreed-upon procedural schedule—negotiate interim discovery deadlines on a case-by-case basis.

Lastly, the Board declines to adopt the suggestion made by ACC, TFI, and NITL that the Board include a limit on subsequent discovery requests in the revised regulations. In accordance with 49 CFR 1103.27, the Board expects practitioners to exercise candor and fairness in dealing with other litigants. Attempts to ''game'' discovery requirements would contravene the canons of ethics governing practitioners before the Board. If a party believes subsequent discovery is overly broad or unduly burdensome, it may move to quash those requests. Additionally, the Board can, on its own initiative or at the request of a party, convene a staff conference to aid in resolving a discovery dispute.

b. *Meet-and-confer requirement.* The Board also proposed in the *NPRM* to amend its regulations to require a party filing a motion to compel in a SAC or simplified standards case to certify that it has in good faith conferred or attempted to confer with the party serving discovery to settle the dispute without Board intervention. This requirement is similar to Federal Rule of Civil Procedure 37.

Railroad and shipper interests generally support the Board's proposed meet-and-confer requirement. (AAR NPRM Comments 6–7; ACC, TFI, & NITL NPRM Comments 5; Coal Shippers/NARUC NPRM Comments 35; NGFA NPRM Comments 5; UP NPRM Reply 2.) Coal Shippers/NARUC ask the Board to clarify whether the proposed meet-and-confer obligation applies to requests for document production.[9]

[8] Under Coal Shippers/NARUC's proposal, the initial discovery requests would be filed (with the pre-filing notice) 40 days before the filing of the complaint, meaning the 70-day production deadline would fall 30 days after the filing of the formal complaint.

[9] Parties also raised the following arguments pertaining to regulations that apply to other Board proceedings besides rate cases.

- Coal Shippers/NARUC ask the Board to clarify whether the requirement in § 1114.31(a) that motions to compel be filed with the Board within 10 days after the failure to obtain a responsive answer applies to requests for document production. (Coal Shippers/NARUC NPRM Comments 36–37; Coal Shippers/NARUC NPRM Reply 3–4, 16; *see also* NGFA NPRM Reply 4.)
- AAR suggests the proposed meet-and-confer requirement should apply in all Board proceedings, not just rate cases. (AAR NPRM Comments 7 n.24; *see also* Coal Shippers/NARUC NPRM Reply 4, 17.)
- ACC, TFI, and NITL ask the Board to clarify whether parties may continue to mutually agree to toll the 10-day period for filing motions to compel while they engage in negotiations and suggest that 30 days is a more realistic time line for filing motions to compel in SAC cases. (ACC, TFI, & NITL NPRM Comments 5; *see also* Coal Shippers/NARUC NPRM Reply 17.)

In general, as noted in the *ANPRM,* the Board does not believe it is appropriate to make changes to regulations that would impact other proceedings in this rulemaking proceeding, which is specifically limited to procedures in rate cases.

With respect to the concern from ACC, TFI, and NITL regarding agreements tolling the 10-day period, the Board believes that 10 days is generally sufficient time to confer or attempt to confer with a party before filing a motion to compel under § 1114.31(a), and extending that period any further would unnecessarily delay discovery. If parties have conferred and are unable to reach a negotiated solution within 10 days, they may file a request for extension of time with the Board. Given the recent changes to the statutory deadlines for deciding rate

Continued

(Coal Shippers/NARUC NPRM Comments 36; Coal Shippers/NARUC NPRM Reply 16; *see also* NGFA NPRM Reply 4.)

The Board agrees with the majority of commenters that adding a meet-and-confer requirement modeled on Federal Rule of Civil Procedure 37 would encourage parties to resolve disputes without involving the Board, thus reducing the number of disputes that reach the Board, requiring fewer Board decisions, and avoiding potential delays in processing rate cases. As requested by Coal Shippers/NARUC, the Board will clarify in the final rule adopted here that the requirement that a party filing a motion to compel in a SAC or simplified standards case certify that it has in good faith conferred or attempted to confer with the party serving discovery to settle the dispute without Board intervention will apply to all motions to compel.

Evidentiary Submissions. The Board proposed several changes to its regulations governing the submission of evidence that were intended to improve and expedite the presentation of evidence in rate cases.

a. *Staggered filings and confidential designations.* In the *NPRM,* the Board proposed changing its regulations to stagger the submission of confidential and public filings. Under the proposed rule, parties would submit highly confidential versions of the filings according to the procedural schedule, followed by public versions of those filings within three business days after the filing of the highly confidential versions. Additionally, the Board proposed standard identifying markers for the submission of confidential, highly confidential, and sensitive security information in both SAC and simplified standards rate cases.[10] Specifically, the Board proposed that all confidential information be contained in single braces, *i.e.,* {X}, all highly confidential information be contained in double braces, *i.e.,* {{Y}}, and all sensitive security information be contained in triple braces, *i.e.,* {{{Z}}}.

AAR and NGFA support the proposal to establish a standard convention for identifying confidential, highly confidential, and sensitive security information. (*See* AAR NPRM Comments 7; NGFA NPRM Comments 5.) AAR, Coal Shippers/NARUC, and NGFA also support the Board's proposal to stagger the submission of public and highly confidential versions of filings.[11] (*See* AAR NPRM Comments 7; Coal Shippers/NARUC NPRM Comments 38; NGFA NPRM Comments 5.)

ACC, TFI, and NITL do not object to this proposal but question whether it is feasible in practice. (ACC, TFI, & NITL NPRM Comments 6.) Specifically, ACC, TFI, and NITL state that, if confidentiality designations are not made until after the highly confidential version has been filed, confidential versions would no longer identify confidential text; as such, parties will have to cross-reference the confidential versions with the redacted public versions to identify confidential text, a process they claim is cumbersome and creates risk of inadvertent disclosures of confidential information. (ACC, TFI, & NITL NPRM Comments 6; ACC, TFI, & NITL NPRM Reply 8.) Coal Shippers/NARUC, however, believe the Board's proposal would be feasible in practice and note that ACC, TFI, and NITL's feasibility concern appears to be premised on a scenario where the Board's proposal is interpreted as not requiring parties to make all bracket designations (*i.e.,* highly confidential, confidential, and sensitive security information) when they make their initial filings with the Board containing this information. Coal Shippers/NARUC ask the Board to clarify its intent given ACC, TFI, and NITL's concern. (Coal Shippers/NARUC NPRM Reply 19–20.)

The Board finds that the standard designations for confidential information will help eliminate any confusion caused by parties using different methods of identification and, accordingly, this proposal will be adopted in the final rules. The Board also continues to believe that the proposal to stagger the filing of confidential and public filings will be beneficial and, therefore, will adopt this proposal as well. However, the Board will provide clarification in response to ACC, TFI, and NITL's concern regarding the feasibility of staggering the filings. Under the *NPRM,* a party would submit, by the deadline set forth in the procedural schedule, the non-public (*e.g.,* confidential, highly confidential) version(s) of its filing *with* the appropriate confidentiality designations around any confidential, highly confidential, and sensitive security information.[12] In this fashion, a party's non-public version(s) will clearly designate what information is confidential, highly confidential, and sensitive security information. The non-public version(s) would not be posted to the Board's Web site. The party would then have an additional three days to redact the confidential, highly confidential, and sensitive security information from the document(s) it filed with the Board and submit a public version of the filing to the Board. Thus, all confidentiality designations would be included in the initial version(s) of the filing submitted to the Board by the procedural deadline, indicating which information is non-public and the degree of confidentiality assigned. Accordingly, parties would not need to cross-reference the non-public version(s) with the redacted public version(s) to identify confidential text, as ACC, TFI, and NITL suggest. Rather, the purpose of this requirement is to provide parties a reasonable amount of time to ensure confidentiality redactions are properly made after submitting the non-public version(s) of each filing without delaying the case. To codify this clarification in the final rule, the Board will replace the phrase ''highly confidential versions of filings'' with ''non-public (*e.g.,* confidential, highly confidential) versions of filings.''

b. *Limits on final briefs.* In the *NPRM,* the Board proposed limiting the length of final briefs in SAC and Simplified-SAC cases to 30 pages, inclusive of exhibits.[13] Coal Shippers/NARUC and NGFA generally support limits on the length of final briefs. (*See* ACC, TFI, & NITL NPRM Comments 7; Coal Shippers/NARUC NPRM Comments 38; NGFA NPRM Comments 5; Coal Shippers/NARUC NPRM Reply 21.)

cases, the Board finds it more appropriate to consider such requests in the context of the individual case than to incorporate a longer meet-and-confer deadline into the Board's regulations.

[10] Protective orders in SAC cases generally distinguish between ''confidential,'' ''highly confidential,'' and ''sensitive security information.''

[11] Coal Shippers/NARUC qualify their support, noting that they do not object to the Board's proposal, provided that the Board limits the universe of ''confidential information'' so that it does not include highly confidential information that is reclassified as confidential to permit a party to see its own highly confidential information (*e.g.,* where a shipper files a pleading with the Board that contains information that the railroad has designated as highly confidential, and the shipper's counsel agrees to reclassify the information as confidential vis-à-vis the railroad so that the railroad's counsel can disclose the information (which came from the railroad in the first instance) to the railroad's in-house personnel). (Coal Shippers/NARUC NPRM Comments 25–26, 38; Coal Shippers/NARUC NPRM Reply 4, 18.) As the Board noted in the section related to the pre-complaint period, discussed above, the rules adopted here would not affect parties' ability to negotiate protective orders covering such circumstances, as is currently done.

[12] In the Board's experience, parties to rate cases typically do not submit confidential versions of their filings in addition to the highly confidential and public versions. To the extent that only highly confidential and public versions are filed, parties should continue to identify all confidential, highly confidential, and sensitive security information in the ''highly confidential'' filing, properly identifying each type of information according to the convention described in this final rule.

[13] Final briefs are not permitted under the procedural schedule in Three-Benchmark cases. *See* 49 CFR 1111.9(a)(2).

AAR also supports limiting final briefs but suggests that the Board set a limit of 30 pages or 13,000 words, consistent with the Federal Rules of Appellate Procedure, to avoid gamesmanship regarding type fonts and margins. (AAR NPRM Comments 8.) Neither ACC, TFI, and NITL nor Coal Shippers/NARUC object to such a word limit, although Coal Shippers/NARUC note that the Board's rules already contain standards governing document formatting and font sizes. (ACC, TFI, & NITL NPRM Reply 8; Coal Shippers/NARUC NPRM Reply 4–5, 21–22.)

ACC, TFI, and NITL also suggest that the Board stagger the submission of final briefs so a complainant would file its final brief two weeks after the defendant files its final brief. (ACC, TFI, & NITL NPRM Comments 7.) According to ACC, TFI, and NITL, staggering briefs would ensure that complainants, who have the burden of proof, can respond to the defendant's final brief rather than simply reiterate their rebuttal. (*Id.; see also* Coal Shippers/NARUC NPRM Reply 4–5, 21; NGFA NPRM Reply 4.) UP urges the Board to reject ACC, TFI, and NITL's proposal because final briefs are not evidence. (UP NPRM Reply 8 (citing *NPRM,* EP 733, slip op. at 9).) Similarly, AAR argues that a complainant that has not included improper new arguments or new evidence in its rebuttal evidence should have little need to ''react'' to a defendant's brief. (AAR NPRM Reply 8–10.) AAR also argues that staggering final briefs would make it harder for the Board to process cases expeditiously since the Board's deadline for deciding a case now runs from the filing of rebuttal evidence—not the filing of final briefs. (AAR NPRM Reply 8–10.)

AAR also asks the Board to reiterate its commitment to policing improper rebuttal evidence, strictly enforcing those rules, and either relieving defendants from the brief limit when responding to improper rebuttal evidence or giving defendants an opportunity to file a separate document (not subject to the brief length limit) that responds to improper rebuttal evidence. (AAR NPRM Comments 8.) ACC, TFI, and NITL object to AAR's proposal, arguing that it would give railroads the right to decide unilaterally when there has been an improper rebuttal and relieve themselves of brief limits. ACC, TFI, and NITL further state that the Board already has procedures for dealing with improper rebuttal evidence through motions to strike. (ACC, TFI, & NITL NPRM Reply 8.) Coal Shippers/NARUC also object to AAR's proposal, arguing that it would create a loophole that would defeat the purpose of the proposed rule and deprive shippers of procedural due process because shippers would not have an opportunity to respond to the carrier's claims of improper rebuttal. (Coal Shippers/NARUC NPRM Reply 5, 22.)

Lastly, NGFA recommends that the Board tailor final briefs to ''specific issues of concern to the Board'' by determining whether final briefs are needed on a case-by-case basis and imposing even shorter page limits where the issues do not justify 30 pages. (NGFA NPRM Comments 5–6.) Both Coal Shippers/NARUC and ACC, TFI, and NITL state that they do not object to the Board determining on a case-by-case bases the need for, and length of, final briefs. (ACC, TFI, & NITL NPRM Reply 9; Coal Shippers/NARUC NPRM Reply 4–5, 21.)

The Board will adopt the proposed 30-page limit, inclusive of exhibits, on the length of final briefs in SAC and Simplified-SAC cases. The Board believes the page limit will encourage parties to focus their briefs on the most important issues. As the Board noted in the *NPRM,* it has on occasion, in individual cases, imposed page limits on final briefs. *See, e.g., Consumers Energy Co.* v. *CSX Transp., Inc.,* NOR 42142, slip op. at 1 (STB served June 3, 2016); *Total Petrochems. & Ref. USA, Inc.* v. *CSX Transp., Inc.,* NOR 42121, slip op. at 4 (STB served Sept. 26, 2013). Based on the Board's prior experience in those cases, it believes 30 pages provides space sufficient for the parties to articulate their final concerns, but limited enough to prevent improper surrebuttal. The Board is not persuaded that a 13,000-word limit on final briefs, as proposed by AAR, is necessary to prevent gamesmanship regarding type fonts and margins. The Board's regulations already provide guidelines concerning document formatting and font sizes. *See* 49 CFR 1104.2 (''white paper not larger than 8½ by 11 inches,'' ''double-spaced (except for footnotes and long quotations which may be single-spaced),'' ''using type not smaller than 12 point'').

The Board also declines to adopt ACC, TFI, and NITL's suggestion that the Board stagger the submission of final briefs. First, staggering final briefs would shorten the time between when final briefs are filed and when the Board must render a decision. Second, because parties are not permitted to raise new evidence or arguments in final briefs, a complainant need not respond to a defendant's final brief. Rather, final briefs are intended as a concise summary of the parties' positions to help focus the Board's analysis of the evidence and arguments and facilitate a more efficient resolution of outstanding issues. Nor will the Board adopt AAR's proposal to relieve defendants from the page limit to respond to improper rebuttal evidence or give defendants an opportunity to file a separate document when responding to improper rebuttal evidence. The Board agrees with ACC, TFI, and NITL that the Board's existing procedures for dealing with improper rebuttal evidence are sufficient.[14]

As the Board noted in the *NPRM,* while the Board believes designating topics for final briefs could be beneficial, doing so would require an additional Board decision following the close of evidence. The Board remains concerned that this additional step would curtail the already shortened period available to the Board for issuing a decision on the merits in SAC cases. The case-by-case approach regarding the necessity of and length for briefs proposed by NGFA would similarly require an additional decision by the Board. As is already the case, if, following receipt of final briefs, the Board believes it requires additional information to reach its decision, the Board may request supplemental information from the parties.

Interaction with Board Staff. In the *NPRM,* the Board proposed increasing staff involvement at all stages of a rate case, both through technical conferences/written questions and a Board-appointed liaison to the parties. This change was intended to reduce the number of disputes between the parties that can delay the resolution of cases. The Board proposed appointing a liaison to the parties within 10 business days of the submission of the pre-filing notice in SAC cases, and within 10 business days of the filing of the complaint in Simplified-SAC and Three-Benchmark cases. The liaison would not be recused from handling substantive elements of the case. In addition, the Board proposed greater use of written questions from staff and technical conferences with the parties at every stage of the case. When a technical conference is requested by a party or parties or convened by the Board, the Board would provide advance notice of the topics to be discussed to promote an efficient and productive conference.

ACC, TFI, and NITL support the Board's proposal, stating that a liaison will improve communications between the parties and with the Board, potentially resolve disagreements,

[14] In the event of improper rebuttal evidence, a party may file a motion to strike or a request to file supplemental information to respond to the improper rebuttal evidence.

provide guidance on process, and keep the case moving forward through status conferences. (ACC, TFI, & NITL NPRM Comments 3–4.) NGFA also supports this proposal, noting that the proposed staff involvement contemplated by the *NPRM,* including the establishment of ground rules, issue-specific Board expectations, and a point of contact for questions about the process, could prove to be extremely useful to grain and other agricultural shippers in the event such a case is filed. (NGFA NPRM Comments 6.)

Coal Shippers/NARUC also generally support the Board's proposal for increased staff involvement in rate cases, but suggest two modifications. (*See* Coal Shippers/NARUC NPRM Comments 39.) First, Coal Shippers/NARUC argue that the Board should appoint the liaison after the shipper files its complaint. (Coal Shippers/NARUC NPRM Reply 23.) According to Coal Shippers/NARUC, there is no need for the Board to appoint a staff liaison during the mediation period, and the appointment itself could cause confusion because the Board's rules call for the mediator to supervise the parties' mediation, not the liaison. (Coal Shippers/NARUC NPRM Comments 26.) NGFA, however, disagrees, arguing that appointment of a liaison should be made during the pre-filing phase to assist those parties that may be new to or unfamiliar with the rate-complaint process. (NGFA NPRM Reply 4–5.)

Second, Coal Shippers/NARUC request the Board clarify that the parties and the liaison must abide by the Board's rules governing ex parte communications. (Coal Shippers/NARUC NPRM Comments 27.) Specifically, Coal Shippers/NARUC argue: (1) The liaison should be free to engage in joint communications with counsel for the parties as is done in technical conferences; (2) while it may not be necessary for the liaison to convene joint meetings at all times, all communications between the liaison and any of the parties to a case (*e.g.,* letters, emails, and phone discussions) should be joint ones (*e.g.,* conference calls where both parties participate, written communications copied to all parties, etc.); and (3) unless the parties otherwise agree, the parties should not be permitted to address the merits of the case (or case evidence) with the liaison and the liaison should not be permitted to address the merits of the case (or case evidence) with the parties. (*Id.* at 27–28; Coal Shippers/NARUC NPRM Reply 23.)

UP argues that the ex parte restrictions proposed by Coal Shippers/NARUC are vague, would have a chilling effect on communications, and would undermine the usefulness of the staff liaison. (UP NPRM Reply 7.) Moreover, UP argues, the Board's ex parte regulations should address any concern shippers have. (*Id.*) Likewise, AAR argues that the Board's ex parte regulations do not require that ''all communications'' be joint ones because the ex parte regulations bar only communications ''concerning the merits of the proceeding.'' (AAR NPRM Reply 4.) AAR states that to effectively and efficiently manage rate cases, the staff liaison occasionally may need to communicate separately with parties on procedural issues, and such communications violate neither the ex parte rules nor the rules' purpose of safeguarding due process. (*Id.*)

AAR supports increased use of written questions and technical conferences and the appointment a staff liaison to a rate case; however, AAR asks the Board to clarify that the staff liaison and the appointed mediator would be two separate individuals. (AAR NPRM Comments 6; AAR NPRM Reply 3–4.) AAR further suggests the Board modify its regulations to delegate to the liaison the authority to convene a technical conference and to rule on issues raised in such conferences. (AAR NPRM Comments 6.) According to AAR, this modification would enable the liaison to facilitate negotiation among the parties while still providing a clear path for Board oversight, as the liaison's rulings would be subject to the appellate standards for interlocutory appeals under 49 CFR 1115.9(b). (*Id.*) ACC, TFI, and NITL do not endorse AAR's suggestion, arguing that if the Board were to adopt such a change, it should provide details in a subsequent rulemaking for public comment and any such proposal should address the division of responsibility between the liaison and administrative law judges. (ACC, TFI, & NITL NPRM Reply 4.) Coal Shippers/NARUC likewise object to AAR's proposal, arguing that it would delay Board consideration of rate cases and turn informal technical conferences into formal adversarial proceedings. (Coal Shippers/NARUC NPRM Reply 5, 25.) Coal Shippers/NARUC also note that AAR's proposal is at odds with the role the Board envisioned the liaison would perform. (*Id.* at 25 (citing *NRPM,* EP 733, slip op. at 9 (the function of the liaison is ''to answer questions about the process and to intervene informally (*e.g.,* hold status conferences) if it would help discovery or other matters move more smoothly'').))

The Board will adopt the proposal in the *NPRM.* The Board continues to believe that increased communication between the parties and the Board will increase the efficiency of processing rate cases. The Board also believes that the appropriate time to appoint the liaison is following the submission of the shipper's pre-filing notice. As the Board noted in the *NPRM,* the goal of the liaison is to increase staff involvement at *all stages* of a rate cases, which would begin with the newly created pre-complaint period. The Board does not agree with Coal Shippers/NARUC that the appointment of a liaison would cause confusion with the mediator. The liaison and mediator will be clearly identified and distinct individuals, and the liaison will not participate in the mediation.[15]

However, the Board will clarify that the liaison would be required to comply with the Board's ex parte regulations. *See* 49 CFR 1102.2; *see also Ex Parte Commc'ns in Informal Rulemaking Proceedings,* EP 739 (STB served Sept. 28, 2017) (proposing modifications to the Board's ex parte regulations in informal rulemaking proceedings). *See* 82 FR 45771 (Oct. 2, 2017). The Board is committed to ensuring that rate case proceedings, including the new liaison role, are conducted in a transparent and fair manner. Coal Shippers/NARUC have not provided any reason to believe that the Board's regulations would be ineffective; therefore, the Board finds no reason to expand its ex parte restrictions in rate case proceedings as suggested by Coal Shippers/NARUC.

Additionally, AAR's suggestion that the Board delegate to the liaison the authority to rule on issues exceeds the intended scope of the liaison's role. As noted in the *NPRM,* the liaison is intended to ''answer questions about the process and to intervene informally (*e.g.,* hold status conferences) if it would help discovery or other matters move more smoothly.'' *NPRM,* EP 733, slip op. at 9. The liaison's role would be to work with parties to help primarily with procedural issues that arise through the processing of a rate case.[16]

Additional Comments. In addition to commenting on these specific proposals, some parties have also raised more general comments on how the Board could expedite rate cases. AAR notes certain internal reforms that could aid the Board in expediting rate case

[15] Because the liaison would not participate in the mediation, the liaison would not be recused from handling substantive elements of the case.

[16] The Board also notes that its regulations already include mechanisms to expedite resolution of some issues. *See, e.g.,* 49 CFR 1011.6(c)(3) (delegating to the Director of the Board's Office of Proceedings, among other things, the authority to dispose of routine procedural matters in proceedings assigned for handling under modified procedure).

litigation without the need for changes to the Board's rules. (AAR NPRM Comments 10.) Specifically, AAR cites to five recommendations of the Institute for the Advancement of the American Legal System at the University of Denver: (1) Setting firm dates early in the pretrial process for the close of discovery, the filing of dispositive motions, and trial, and maintaining those dates except in rare and truly unusual circumstances; (2) ruling expeditiously on motions, even when the motions are denied; (3) limiting the number of extensions sought by the parties during any phase of the case; (4) working to foster a local legal culture that accepts efficient case processing as the norm, and enforcing that culture through active judicial case management; and (5) tracking the status of cases and motions through internal statistical reporting, and disseminating the results internally and externally as appropriate. (AAR NPRM Comments 8, 8 n.28. (citing *Civil Case Processing in the Federal District Courts,* Inst. for the Advancement of the Am. Legal Sys. 9–10 (2009), *http://www.uscourts.gov/sites/default/files/iaals_civil_case_processing_in_the_federal_district_courts_0.pdf*).) ACC, TFI, and NITL similarly argue that the Board should enforce deadlines for completing discovery and grant extensions of time only in extraordinary circumstances and for the shortest possible time. (ACC, TFI, & NITL NPRM Reply 9.) The Board appreciates that the parties offered these additional recommendations. The Board is committed to processing rate cases as expeditiously as possible, and agrees that it is important to timely rule on motions and grant extensions of time judiciously.

The Final Rule

The final rule adopted by the Board here contains changes to the Board's regulations at 49 CFR parts 1104, 1109, 1111, 1114, and 1130, which are set out below. The final rule would amend the existing procedures for filing and litigating a rate case, as directed by section 11 of the STB Reauthorization Act. While the rules adopted here are largely in response to section 11 of the STB Reauthorization Act, the Board intends to continue to review its rate regulations so that it may propose additional improvements to its rate review process in a subsequent rulemaking proceeding.

Pre-Complaint Period. The final rule includes changes creating and detailing a pre-complaint period in SAC cases, which is intended to provide parties an opportunity to mediate the dispute free from the distraction of litigation and take steps in preparation for litigation before the filing of the complaint.

1. *Pre-filing Notice.* The Board creates a pre-complaint period in a new 49 CFR 1111.1 by requiring a SAC complainant to submit a pre-filing notice at least 70 days prior to filing its complaint.[17] The pre-filing notice shall contain the rate and origin/destination pair(s) to be challenged, the commodities at issue, and a motion for protective order pursuant to newly created 49 CFR 1104.14(c).

2. *Mandatory Mediation.* The Board revises 49 CFR 1109.4 to move mandatory mediation in SAC cases to the pre-complaint period. This change to the regulations would not impose new requirements but would require mediation to take place earlier to allow parties to focus on the mediation process without the distractions of fully active litigation. The Board intends for mediation to be complete prior to the filing of the complaint; however, consistent with current procedures, the rules will allow for an extension of time via Board order. Additionally, the Board revises its regulations to provide that it will assign one or more mediators to a case within 5 business days after the shipper submits its pre-filing notice (rather than the 10-business day period currently in place).

3. *Appointment of a Board Liaison to the Parties.* The Board will require the appointment of a liaison to the parties within 10 business days of the complainant's submission of the pre-filing notice in SAC cases pursuant to new 49 CFR 1111.1(b) and in cases using simplified standards pursuant to newly redesignated 49 CFR 1111.10(a).

Discovery. The final rule also includes changes to the Board's discovery regulations intended to streamline discovery in rate cases.

1. *Initial Discovery Requests.* The Board will add 49 CFR 1111.2(f) and amend 49 CFR 1114.21(d) & (f) to require a complainant in a SAC proceeding to certify that it has served its initial discovery requests simultaneously with its complaint. The Board also will add 49 CFR 1111.5(f) and amend 49 CFR 1114.21(d) & (f) to require a defendant in a SAC proceeding to certify that it has served its initial discovery requests simultaneously with its answer. To address the filing of an amended or supplemental complaint, the Board will amend the newly redesignated 49 CFR 1111.3(b) to require the complainant to certify that it has served on the defendant any new or modified discovery requests affected by the amended or supplemental complaint, if any. The Board will adopt a corresponding requirement at 49 CFR 1111.5(f), in which a defendant responding to an amended or supplemental complaint must certify that it has served on the complainant any new or modified discovery requests affected by the amended or supplemental complaint, if any.

2. *Meet-and-Confer Requirement.* The Board will amend 49 CFR 1114.31(a)(2) to require that all motions to compel in SAC cases and cases filed under simplified standards include a certification that the party filing the motion has in good faith conferred or attempted to confer with the party failing to answer discovery to settle the dispute over those terms without Board intervention.

Evidentiary Submissions. The final rule includes changes to the Board's regulations governing the submission of evidence intended to improve and expedite the presentation of evidence in rate cases.

1. *Stagger the Submission of Public and Highly Confidential Versions of Filings.* In both SAC and simplified standards cases, the Board will allow parties to submit non-public (*e.g.,* confidential, highly confidential) versions of the filings according to the procedural schedule in a particular case, and submit public versions of those filings within three business days after the filing of the non-public versions.

2. *Standard Convention for Identifying Confidential, Highly Confidential, and Sensitive Security Information.* The Board will revise 49 CFR 1104.14 to create standard identifying markers set forth in protective orders for the submission of confidential, highly confidential, and sensitive security information in rate cases. The standard identifying markers are as follows: All confidential information will be contained in single braces, *i.e.,* {X}, all highly confidential information will be contained in double braces, *i.e.,* {{Y}}, and all sensitive security information will be contained in triple braces, *i.e.,* {{{Z}}}.

3. *Limits on Final Briefs.* The Board will limit the length of final briefs to 30 pages, inclusive of exhibits, in SAC and Simplified-SAC cases.

Technical Modifications. The Board adopts two technical modifications to the existing regulations. Specifically, the Board will amend the newly redesignated 49 CFR 1111.11(b) (requiring parties to meet at the beginning of the case to discuss procedural matters) to clarify that its requirements also apply to SAC cases.

[17] To accommodate the new § 1111.1, the existing §§ 1111.1–1111.10 will be redesignated as §§ 1111.2–1111.11.

The Board also will amend 49 CFR 1130.1 to include the correct reference to the newly redesignated 49 CFR 1111.2(a).

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its final rule, the agency must either include an initial regulatory flexibility analysis, section 603(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities,'' section 605(b). The impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

In the *NPRM*, the Board certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.[18] The Board explained that the proposed changes to its regulations would not mandate or circumscribe the conduct of small entities. Rather, the changes proposed would be largely procedural or would codify existing practice, and would not have a significant economic impact on small entities. Additionally, the Board noted that, since the inception of the Board in 1996, only three of the 51 filed cases challenging the reasonableness of freight rail rates involved a Class III rail carrier as a defendant. Those three cases involved a total of 13 Class III rail carriers. The Board estimated that there are approximately 656 Class III rail carriers. Therefore, the Board certified under 5 U.S.C. 605(b) that these proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

The final rule adopted here revises the rules proposed in the *NPRM;* however, the same basis for the Board's certification of the proposed rule applies to the final rule. The final rule will not create a significant impact on a substantial number of small entities, as the regulations do not mandate or circumscribe the conduct of small entities. Thus, the Board again certifies under 5 U.S.C. 605(b) that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

Paperwork Reduction Act. In this proceeding, the Board is modifying an existing collection of information that is currently approved by the Office of Management and Budget (OMB) through May 31, 2020, under OMB Control No. 2140–0029. In the *NPRM,* the Board sought comments pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3549, and Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3) regarding: (1) Whether the collection of information, as modified in the proposed rule and further described below, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. No comments were received pertaining to the collection of this information under the PRA.

This modification to an existing collection will be submitted to OMB for review as required under the PRA, 44 U.S.C. 3507(d), and 5 CFR 1320.11.

It is ordered:

1. The Board adopts the final rule as set forth in this decision. Notice of the adopted rule will be published in the **Federal Register**.

2. This decision is effective December 30, 2017.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

List of Subjects

49 CFR Part 1104

Administrative practice and procedure.

49 CFR Part 1109

Administrative practice and procedure, Maritime carriers, Motor carriers, Railroads.

49 CFR Part 1111

Administrative practice and procedure, Investigations.

49 CFR Part 1114

Administrative practice and procedure.

49 CFR Part 1130

Administrative practice and procedure.

Decided: November 29, 2017.

By the Board, Board Members Begeman and Miller.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board amends title 49, chapter X, parts 1104, 1109, 1111, 1114, and 1130 of the Code of Federal Regulations as follows:

PART 1104—FILING WITH THE BOARD-COPIES-VERIFICATION-SERVICE-PLEADINGS, GENERALLY

■ 1. The authority citation for part 1104 is revised to read as follows:

Authority: 5.U.S.C. 553 and 559; 18 U.S.C. 1621; and 49 U.S.C. 1321.

■ 2. In § 1104.14, add paragraph (c) to read as follows:

§ 1104.14 Protective orders to maintain confidentiality.

* * * * *

(c) *Requests for protective orders in stand-alone cost and simplified standards cases.* A motion for protective order in stand-alone cost and simplified standards cases shall specify that evidentiary submissions will designate confidential material within single braces (*i.e.,* {X}), highly confidential material within double braces (*i.e.,* {{Y}}), and sensitive security information within triple braces (*i.e.,* {{{Z}}}). In stand-alone cost cases, the motion for protective order shall be filed together with the notice pursuant to 49 CFR 1111.1.

PART 1109—USE OF MEDIATION IN BOARD PROCEEDINGS

■ 3. The authority citation for part 1109 is revised to read as follows:

Authority: 49 U.S.C. 1321(a) and 5 U.S.C. 571 *et seq.*

[18] Effective June 30, 2016, for the purpose of RFA analysis for rail carriers subject to Board jurisdiction, the Board defines a ''small business'' as only those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). *See* 81 FR 42566 (June 30, 2016). Class III carriers have annual operating revenues of $20 million or less in 1991 dollars, or $35,809,698 or less when adjusted for inflation using 2016 data. Class II rail carriers have annual operating revenues of less than $250 million in 1991 dollars or less than $447,621,226 when adjusted for inflation using 2016 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its Web site. 49 CFR 1201.1–1.

■ 4. In § 1109.4, revise paragraphs (a), (b), and (g) to read as follows:

§ 1109.4 Mandatory mediation in rate cases to be considered under the stand-alone cost methodology.

(a) *Mandatory use of mediation.* A shipper seeking rate relief from a railroad or railroads in a case involving the stand-alone cost methodology must engage in non-binding mediation of its dispute with the railroad upon submitting a pre-filing notice under 49 CFR part 1111.

(b) *Assignment of mediators.* Within 5 business days after the shipper submits its pre-filing notice, the Board will assign one or more mediators to the case. Within 5 business days of the assignment to mediate, the mediator(s) shall contact the parties to discuss ground rules and the time and location of any meeting.

* * * * *

(g) *Procedural schedule.* Absent a specific order from the Board granting an extension, the mediation will not affect the procedural schedule in stand-alone cost rate cases set forth at 49 CFR 1111.9(a).

■ 5. Part 1111 is revised to read as follows:

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

Sec.

1111.1 Pre-filing procedures in stand-alone cost cases.
1111.2 Content of formal complaints; joinder.
1111.3 Amended and supplemental complaints.
1111.4 Service.
1111.5 Answers and cross complaints.
1111.6 Motions to dismiss or to make more definite.
1111.7 Satisfaction of complaint.
1111.8 Investigations on the Board's own motion.
1111.9 Procedural schedule in stand-alone cost cases.
1111.10 Procedural schedule in cases using simplified standards.
1111.11 Meeting to discuss procedural matters.

Authority: 49 U.S.C. 10704, 11701, and 1321.

§ 1111.1 Pre-filing procedures in stand-alone cost cases.

(a) *General.* At least 70 days prior to the proposed filing of a complaint challenging the reasonableness of a rail rate based on stand-alone cost, complainant shall file a notice with the Board. The notice shall:

(1) Identify the rate to be challenged;

(2) Identify the origin/destination pair(s) to be challenged;

(3) Identify the affected commodities; and

(4) Include a motion for protective order as set forth at 49 CFR 1104.14(c).

(b) *Liaison.* Within 10 days of the filing of the pre-filing notice, the Board shall appoint a liaison to the parties.

§ 1111.2 Content of formal complaints; joinder.

(a) *General.* A formal complaint must contain the correct, unabbreviated names and addresses of each complainant and defendant. It should set forth briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Board regulations, and should advise the Board and the defendant fully in what respects these provisions or regulations have been violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed. In a complaint challenging the reasonableness of a rail rate, the complainant should indicate whether, in its view, the reasonableness of the rate should be examined using constrained market pricing or using the simplified standards adopted pursuant to 49 U.S.C. 10701(d)(3). If the complainant seeks to use the simplified standards, it should support this request by submitting, at a minimum, the following information:

(1) The carrier or region identifier.

(2) The type of shipment (local, received-terminated, etc.).

(3) The one-way distance of the shipment.

(4) The type of car (by URCS code).

(5) The number of cars.

(6) The car ownership (private or railroad).

(7) The commodity type (STCC code).

(8) The weight of the shipment (in tons per car).

(9) The type of movement (individual, multi-car, or unit train).

(10) A narrative addressing whether there is any feasible transportation alternative for the challenged movements.

(11) For matters for which voluntary, binding arbitration is available pursuant to 49 CFR part 1108, the complaint shall state that arbitration was considered, but rejected, as a means of resolving the dispute.

(b) *Disclosure with simplified standards complaint.* The complainant must provide to the defendant all documents relied upon in formulating its assessment of a feasible transportation alternative and all documents relied upon to determine the inputs to the URCS Phase III program.

(c) *Multiple causes of action.* Two or more grounds of complaint concerning the same principle, subject, or statement of facts may be included in one complaint, but should be stated and numbered separately.

(d) *Joinder.* Two or more complainants may join in one complaint against one or more defendants if their respective causes of action concern substantially the same alleged violations and like facts.

(e) *Request for access to waybill data.* Parties needing access to the Waybill Sample to prepare their case should follow the procedures set forth at 49 CFR 1244.9.

(f) *Discovery in stand-alone cost cases.* Upon filing its complaint, the complainant shall certify that it has served its initial discovery requests on the defendant.

§ 1111.3 Amended and supplemental complaints.

(a) *Generally.* An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants. The time limits for responding to an amended or supplemental complaint are computed pursuant to §§ 1111.5 and 1111.6, as if the amended or supplemental complaint was an original complaint.

(b) *Stand-alone cost.* If a complainant tenders an amended or supplemental complaint in a stand-alone cost case, the complainant shall certify that it has served on the defendant those initial discovery requests affected by the amended or supplemental complaint, if any.

(c) *Simplified standards.* A complaint filed under the simplified standards may be amended once before the filing of opening evidence to opt for a different rate reasonableness methodology, among Three-Benchmark, Simplified-SAC, or Full-SAC. If so amended, the procedural schedule begins again under the new methodology as set forth at §§ 1111.9 and 1111.10. However, only one mediation period per complaint shall be required.

§ 1111.4 Service.

A complainant is responsible for serving formal complaints, amended or supplemental complaints, and cross complaints on the defendant(s). Service

shall be made by sending a copy of such complaint to the chief legal officer of each defendant by either confirmed facsimile and first-class mail or express overnight courier. The cover page of each such facsimile and the front of each such first-class mail or overnight express courier envelope shall include the following legend: ''Service of STB Complaint''. Service of the complaint shall be deemed completed on the date on which the complaint is served by confirmed facsimile or, if service is made by express overnight courier, on the date such complaint is actually received by the defendant. When the complaint involves more than one defendant, service of the complaint shall be deemed completed on the date on which all defendants have been served. An original and ten copies of the complaint should be filed with the Board together with an acknowledgment of service by the persons served or proof of service in the form of a statement of the date and manner of service, of the names of the persons served, and of the addresses to which the papers were mailed or at which they were delivered, certified by the person who made service. If complainant cannot serve the complaint, an original of each complaint accompanied by a sufficient number of copies to enable the Board to serve one upon each defendant and to retain 10 copies in addition to the original should be filed with the Board.

§ 1111.5 Answers and cross complaints.

(a) *Generally.* An answer shall be filed within the time provided in paragraph (c) of this section. An answer should be responsive to the complaint and should fully advise the Board and the parties of the nature of the defense. In answering a complaint challenging the reasonableness of a rail rate, the defendant should indicate whether it will contend that the Board is deprived of jurisdiction to hear the complaint because the revenue-variable cost percentage generated by the traffic is less than 180 percent, or the traffic is subject to effective product or geographic competition. In response to a complaint filed under the simplified standards, the answer must include the defendant's preliminary estimate of the variable cost of each challenged movement calculated using the unadjusted figures produced by the URCS Phase III program.

(b) *Disclosure with simplified standards answer.* The defendant must provide to the complainant all documents that it relied upon to determine the inputs used in the URCS Phase III program.

(c) *Time for filing; copies; service.* An answer must be filed within 20 days after the service of the complaint or within such additional time as the Board may provide. The original and 10 copies of an answer must be filed with the Board. The defendant must serve copies of the answer upon the complainant and any other defendants.

(d) *Cross complaints.* A cross complaint alleging violations by other parties to the proceeding or seeking relief against them may be filed with the answer. An answer to a cross complaint shall be filed within 20 days after the service date of the cross complaint. The party shall serve copies of an answer to a cross complaint upon the other parties.

(e) *Failure to answer complaint.* Averments in a complaint are admitted when not denied in an answer to the complaint.

(f) *Discovery in stand-alone cost cases.* Upon filing its answer, the defendant shall certify that it has served its initial discovery requests on the complainant. If the complainant tenders an amended or supplemental complaint to which the defendant must reply, upon filing the answer to the amended or supplemental complaint, the defendant shall certify that it has served on the complainant those initial discovery requests affected by the amended or supplemental complaint, if any.

§ 1111.6 Motions to dismiss or to make more definite.

An answer to a complaint or cross complaint may be accompanied by a motion to dismiss the complaint or cross complaint or a motion to make the complaint or cross complaint more definite. A motion to dismiss can be filed at anytime during a proceeding. A complainant or cross complainant may, within 10 days after an answer is filed, file a motion to make the answer more definite. Any motion to make more definite must specify the defects in the particular pleading and must describe fully the additional information or details thought to be necessary.

§ 1111.7 Satisfaction of complaint.

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the complainant must be filed (original only need be filed), setting forth when and how the complaint has been satisfied. This action should be taken as expeditiously as possible.

§ 1111.8 Investigations on the Board's own motion.

(a) *Service of decision.* A decision instituting an investigation on the Board's own motion will be served by the Board upon respondents.

(b) *Default.* If within the time period stated in the decision instituting an investigation, a respondent fails to comply with any requirement specified in the decision, the respondent will be deemed in default and to have waived any further proceedings, and the investigation may be decided forthwith.

§ 1111.9 Procedural schedule in stand-alone cost cases.

(a) *Procedural schedule.* Absent a specific order by the Board, the following general procedural schedule will apply in stand-alone cost cases after the pre-complaint period initiated by the pre-filing notice:

(1) Day 0—Complaint filed, discovery period begins.

(2) Day 7 or before—Conference of the parties convened pursuant to § 1111.11(b).

(3) Day 20—Defendant's answer to complaint due.

(4) Day 150—Discovery completed.

(5) Day 210—Complainant files opening evidence on absence of intermodal and intramodal competition, variable cost, and stand-alone cost issues.

(6) Day 270—Defendant files reply evidence to complainant's opening evidence.

(7) Day 305—Complainant files rebuttal evidence to defendant's reply evidence.

(8) Day 335—Complainant and defendant file final briefs.

(9) Day 485 or before—The Board issues its decision.

(b) *Staggered filings; final briefs.* (1) The parties may submit non-public (*e.g.,* confidential, highly confidential) versions of filings on the dates identified in the procedural schedule, and submit public versions of those filings within three business days thereafter.

(2) Final briefs are limited to 30 pages, inclusive of exhibits.

(c) *Conferences with parties.* (1) The Board will convene a technical conference of the parties with Board staff prior to the filing of any evidence in a stand-alone cost rate case, for the purpose of reaching agreement on the operating characteristics that are used in the variable cost calculations for the movements at issue. The parties should jointly propose a schedule for this technical conference.

(2) In addition, the Board may convene a conference of the parties with Board staff, after discovery requests are served but before any motions to compel may be filed, to discuss discovery matters in stand-alone cost rate cases.

The parties should jointly propose a schedule for this discovery conference.

§ 1111.10 Procedural schedule in cases using simplified standards.

(a) *Procedural schedule.* Absent a specific order by the Board, the following general procedural schedules will apply in cases using the simplified standards:

(1)(i) In cases relying upon the Simplified-SAC methodology:

(A) Day 0—Complaint filed (including complainant's disclosure).

(B) Day 10—Mediation begins.

(C) Day 20—Defendant's answer to complaint (including defendant's initial disclosure).

(D) Day 30—Mediation ends; discovery begins.

(E) Day 140—Defendant's second disclosure.

(F) Day 150—Discovery closes.

(G) Day 220—Opening evidence.

(H) Day 280—Reply evidence.

(I) Day 310—Rebuttal evidence.

(J) Day 320—Technical conference (market dominance and merits).

(K) Day 330—Final briefs.

(ii) In addition, the Board will appoint a liaison within 10 business days of the filing of the complaint.

(2)(i) In cases relying upon the Three-Benchmark methodology:

(A) Day 0—Complaint filed (including complainant's disclosure).

(B) Day 10—Mediation begins. (STB production of unmasked Waybill Sample.)

(C) Day 20—Defendant's answer to complaint (including defendant's initial disclosure).

(D) Day 30—Mediation ends; discovery begins.

(E) Day 60—Discovery closes.

(F) Day 90—Complainant's opening (initial tender of comparison group and opening evidence on market dominance). Defendant's opening (initial tender of comparison group).

(G) Day 95—Technical conference on comparison group.

(H) Day 120—Parties' final tenders on comparison group. Defendant's reply on market dominance.

(I) Day 150—Parties' replies to final tenders. Complainant's rebuttal on market dominance.

(ii) In addition, the Board will appoint a liaison within 10 business days of the filing of the complaint.

(b) *Staggered filings; final briefs.* (1) The parties may submit non-public (*e.g.,* confidential, highly confidential) versions of filings on the dates identified in the procedural schedule, and submit public versions of those filings within three business days thereafter.

(2) In cases relying upon the Simplified-SAC methodology, final briefs are limited to 30 pages, inclusive of exhibits.

(c) *Defendant's second disclosure.* In cases using the Simplified–SAC methodology, the defendant must make the following disclosures to the complainant by Day 170 of the procedural schedule.

(1) Identification of all traffic that moved over the routes replicated by the SARR in the Test Year.

(2) Information about those movements, in electronic format, aggregated by origin-destination pair and shipper, showing the origin, destination, volume, and total revenues from each movement.

(3) Total operating and equipment cost calculations for each of those movements, provided in electronic format.

(4) Revenue allocation for the on–SARR portion of each cross-over movement in the traffic group provided in electronic format.

(5) Total trackage rights payments paid or received during the Test Year associated with the route replicated by the SARR.

(6) All workpapers and documentation necessary to support the calculations.

(d) *Conferences with parties.* The Board may convene a conference of the parties with Board staff to facilitate voluntary resolution of discovery disputes and to address technical issues that may arise.

(e) *Complaint filed with a petition to revoke a class exemption.* If a complaint is filed simultaneously with a petition to revoke a class exemption, the Board will take no action on the complaint and the procedural schedule will be held in abeyance automatically until the petition to revoke is adjudicated.

§ 1111.11 Meeting to discuss procedural matters.

(a) *Generally.* In all complaint proceedings, other than those challenging the reasonableness of a rail rate based on stand-alone cost or the simplified standards, the parties shall meet, or discuss by telephone, discovery and procedural matters within 12 days after an answer to a complaint is filed. Within 19 days after an answer to a complaint is filed, the parties, either jointly or separately, shall file a report with the Board setting forth a proposed procedural schedule to govern future activities and deadlines in the case.

(b) *Stand-alone cost or simplified standards complaints.* In complaints challenging the reasonableness of a rail rate based on stand-alone cost or the simplified standards, the parties shall meet, or discuss by telephone or through email, discovery and procedural matters within 7 days after the complaint is filed in stand-alone cost cases, and 7 days after the mediation period ends in simplified standards cases. The parties should inform the Board as soon as possible thereafter whether there are unresolved disputes that require Board intervention and, if so, the nature of such disputes.

PART 1114—EVIDENCE; DISCOVERY

■ 6. The authority citation for part 1114 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 1321.

■ 7. In § 1114.21, revise paragraph (d) and the first sentence of paragraph (f) to read as follows:

§ 1114.21 Applicability; general provisions.

* * * * *

(d) *Sequence and timing of discovery.* Unless the Board upon motion, and subject to the requirements at 49 CFR 1111.2(f) and 1111.5(f) in stand-alone cost cases, for the convenience of parties and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, should not operate to delay any party's discovery.

* * * * *

(f) *Service of discovery materials.* Unless otherwise ordered by the Board, and subject to the requirements at 49 CFR 1111.2(f) and 1111.5(f) in stand-alone cost cases, depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto, shall be served on other counsel and parties, but shall not be filed with the Board. * * *

■ 8. In § 1114.31, revise paragraph (a)(2) to read as follows:

§ 1114.31 Failure to respond to discovery.

(a) * * *

(2) *Motions to compel in stand-alone cost and simplified standards rate cases.* (i) Motions to compel in stand-alone cost and simplified standards rate cases must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to answer discovery to obtain it without Board intervention.

(ii) In a rate case to be considered under the stand-alone cost or simplified standards methodologies, a reply to a motion to compel must be filed with the Board within 10 days of when the motion to compel is filed.

* * * * *

PART 1130—INFORMAL COMPLAINTS

■ 9. The authority citation for part 1130 is revised to read as follows:

Authority: 49 U.S.C. 1321, 13301(f), 14709.

■ 10. In § 1130.1, revise paragraph (a) to read as follows:

§ 1130.1 When no damages sought.

(a) *Form and content; copies.* Informal complaint may be by letter or other writing and will be serially numbered and filed. The complaint must contain the essential elements of a formal complaint as specified at 49 CFR 1111.2 and may embrace supporting papers. The original and one copy must be filed with the Board.

* * * * *

[FR Doc. 2017–26153 Filed 12–4–17; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 161017970–6999–02]

RIN 0648–XF856

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the State of New Jersey

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 2017 summer flounder commercial quota allocated to the State of New Jersey has been harvested. Vessels issued a Federal commercial summer flounder permit may not land summer flounder in New Jersey for the remainder of calendar year 2017, unless additional quota becomes available through a transfer from another state. Regulations governing the summer flounder fishery require publication of this notice to advise vessel and dealer permit holders that Federal commercial quota is no longer available to land summer flounder in New Jersey.

DATES: Effective November 30, 2017 through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, (978) 281–9180, or *Cynthia.Hanson@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102.

The coastwide commercial quota for summer flounder for the 2017 calendar year is 5,658,260 lb (2,566,544 kg) (81 FR 93842, December 22, 2016). The percent allocated to vessels landing summer flounder in New Jersey is 16.72499 percent, resulting in an initial commercial quota of 946,512 lb (429,331 kg). New Jersey conducted one quota transfer of 380 lb (172 kg) to Rhode Island on October 4, 2017 (82 FR 46936), reducing its commercial quota to 946,132 lb (429,158 kg).

The NMFS Administrator for the Greater Atlantic Region (Regional Administrator) monitors the state commercial landings and determines when a state's commercial quota has been harvested. NMFS is required to publish a notice in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial summer flounder quota is available to land in that state. The Regional Administrator has determined, based on dealer reports and other available information, that the 2017 New Jersey commercial summer flounder quota will be harvested by December 11, 2017.

Section 648.4(b) provides that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective November 30, 2017, landing of summer flounder in New Jersey by vessels holding summer flounder commercial Federal fisheries permits is prohibited for the remainder of the 2017 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective November 30, 2017, federally permitted dealers are also notified that they may not purchase summer flounder from vessels that land in New Jersey for the remainder of the calendar year, or until additional quota becomes available through a transfer from another state.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the commercial summer flounder fishery for New Jersey through December 31, 2017, under current regulations. The regulations at § 648.103(b) require such action to ensure that summer flounder vessels do not exceed quotas allocated to the states. If implementation of this closure was delayed to solicit prior public comment, the quota for this fishing year will be exceeded, thereby undermining the conservation objectives of the Summer Flounder Fishery Management Plan. The Assistant Administrator further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reason stated above.

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

Dated: November 30, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–26176 Filed 11–30–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 232
Tuesday, December 5, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1024; Product Identifier 2017–NM–065–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–300, –400, –500, –600, –700, –700C, –800, –900, and –900ER series airplanes; Model 757 airplanes; Model 767 airplanes; Model 777 airplanes; and Model 787–8 and 787–9 airplanes. This proposed AD was prompted by reports of fuel crossfeed valves failing to open when activated during flight. This proposed AD would require, for certain airplanes, revising the airplane flight manual (AFM); and for certain other airplanes, revising the minimum equipment list (MEL) to do an operational check of the fuel crossfeed valve prior to each extended range operations (ETOPS) flight if one fuel crossfeed valve (or the fuel balancing system on Model 787 airplanes) is inoperative. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 19, 2018.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1024; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6506; fax: 425–917–6590; email: *Jon.Regimbal@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–1024; Product Identifier 2017–NM–065–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

We have received reports of fuel crossfeed valves failing to open when activated during flight. The fuel crossfeed valve can fail closed due to electrical or mechanical faults. Such a failure would remain undiscovered until an attempt is made to open the fuel crossfeed valve. Depending on the operational use of the airplane, such a failure could remain latent for multiple flights. Some of the affected airplanes have only one fuel crossfeed valve. Other affected airplanes have two redundant fuel crossfeed valves, but are allowed to be dispatched under their MEL with one of the two fuel crossfeed valves inoperative and locked closed. Model 787 airplanes have a single crossfeed valve and a separate fuel balancing system, either of which allows use of all of the main tank fuel by either engine. The Model 787 MEL allows airplanes to be dispatched with the fuel balancing system inoperative.

If an engine failure occurs during certain portions of the cruise phase of an ETOPS flight and the fuel crossfeed valve cannot be opened, the fuel in the main tank associated with the failed engine cannot be used by the remaining operative engine, potentially resulting in a forced off-airport landing due to exhaustion of the remaining usable fuel and consequent loss of all engine thrust.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type designs.

Proposed AD Requirements

For airplanes equipped with a single fuel crossfeed valve, this proposed AD would require revising the limitation and normal procedures sections of the AFM by adding an operational check of the fuel crossfeed valve immediately prior to each ETOPS flight. For airplanes equipped with dual fuel crossfeed valves, this proposed AD would require revising the MEL by adding a requirement to do an operational check of the fuel crossfeed valve prior to each ETOPS flight if one fuel crossfeed valve (or the fuel balancing system on Model 787 airplanes) is inoperative.

This proposed AD would allow removal of the AFM limitation required by AD 88–21–03 R1, Amendment 39–6077 (53 FR 46605, November 18, 1988) (''88–21–03 R1''), after the applicable AFM limitations in this proposed AD are incorporated in the AFM.

Related AD

AD 88–21–03 R1 applies to, among other airplanes, certain Model 737–200, 737–300, 757–200, 767–200, and 767–300 series airplanes. AD 88–21–03 R1 requires revising the AFM to include an operational check of the fuel crossfeed valve during the last hour of cruise flight during each ETOPS flight and log book entry of any fuel crossfeed valve failure conditions, and repair if necessary.

Costs of Compliance

We estimate that this proposed AD affects 3,252 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM Revision (2,127 airplanes)	1 work-hour × $85 per hour = $85	$0	$85	$180,795
MEL Revision (1,125 airplanes)	1 work-hour × $85 per hour = $85	0	85	95,625

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2017–1024; Product Identifier 2017–NM–065–AD.

(a) Comments Due Date

We must receive comments by January 19, 2018.

(b) Affected ADs

This AD affects AD 88–21–03 R1, Amendment 39–6077 (53 FR 46605, November 18, 1988).

(c) Applicability

This AD applies to all The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(5) of this AD.

(1) Model 737–300, –400, –500, –600, –700, –700C, –800, –900, and –900ER series airplanes.

(2) Model 757–200, –200PF, –200CB, and –300 series airplanes.

(3) Model 767–200, –300, –300F, and –400ER series airplanes.

(4) Model 777–200, –200LR, –300, –300ER, and –777F series airplanes.

(5) Model 787–8 and 787–9 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28; Fuel.

(e) Unsafe Condition

This AD was prompted by reports of fuel crossfeed valves failing to open when activated during flight. We are issuing this AD to prevent an airplane from being dispatched on an extended range operations (ETOPS) flight with a single fuel crossfeed valve that cannot be opened. This condition could cause the fuel in the main tank associated with a failed engine to be unavailable to the remaining operative engine, potentially resulting in a forced offairport landing due to exhaustion of the remaining usable fuel and consequent loss of all engine thrust.

(f) Compliance

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

(g) AFM Revisions for Model 737 Airplanes Equipped With a Single Fuel Crossfeed Valve

For airplanes identified in paragraph (c)(1) of this AD: Within 120 days after the effective date of this AD, do the actions in specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Revise ''Extended Range Operations'' subsection of the ''Fuel System Limitations'' section of the Section 1 Certificate Limitations of the airplane flight manual (AFM) by incorporating the information specified in figure 1 to paragraph (g)(1) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 1 to

paragraph (g)(1) of this AD has been included in the ''Extended Range Operations'' subsection of the ''Fuel System Limitations'' section of the Section 1 Certificate Limitations of the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 1 to Paragraph (g)(1) of this AD – *Model 737 AFM Section 1 Revision*

Fuel Crossfeed Valve Operational Check (Required by AD ****-**-**)

Prior to extended operations (ETOPS) flight, an operational check of the fuel crossfeed valve must be performed. This check must be accomplished on the ground by maintenance personnel or by the flight crew as part of the preflight procedure for the specific extended range flight.

(2) Revise the ''Extended Range Operations'' section of the Section 3 Normal Procedures of the AFM by incorporating the information specified in figure 2 to paragraph (g)(2) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 2 to paragraph (g)(2) of this AD has been included in the ''Extended Range Operations'' section of Section 3 Normal Procedures of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 2 to Paragraph (g)(2) of this AD – *Model 737 AFM Section 3 Revision*

Extended Range Operations

Fuel Crossfeed Valve Operational Check

Unless accomplished by maintenance personnel as part of preparing the airplane for the specific ETOPS flight, do the following steps on the ground prior to engine start.

Crossfeed selector……..Open
Verify that the VALVE OPEN light illuminates bright, then dim

Crossfeed selector……..Closed
Verify that the VALVE OPEN light illuminates bright, then extinguishes

(h) AFM Revisions for Model 757 Airplanes Equipped With a Single Fuel Crossfeed Valve

For airplanes identified in paragraph (c)(2) of this AD having line numbers 1 through 616 inclusive and 618 on which the actions specified in Boeing Service Bulletin 757–28–0029 (second fuel crossfeed valve installation) have not been done: Within 120 days after the effective date of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD. For Model 757 airplanes identified in this paragraph, if the actions specified in Boeing Service Bulletin 757–28–0029 are done after the effective date of this AD, then the actions specified in this paragraph are no longer required for that airplane and the actions specified in paragraph (j) of this AD must be done before further flight after performing the actions specified in Boeing Service Bulletin 757–28–0029.

(1) Revise the ''Extended Range Operations'' section of the Section 1 Certificate Limitations of the AFM by incorporating the information specified in figure 3 to paragraph (h)(1). This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 3 to paragraph (h)(1) of this AD has been included in the ''Extended Range Operations'' section of the Section 1 Certificate Limitations of the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 3 to Paragraph (h)(1) of this AD – *Model 757 AFM Section 1 Revision*

Fuel Crossfeed Valve Operational Check (Required by AD ****-**-**) Prior to extended operations (ETOPS) flight, an operational check of the fuel crossfeed valve must be performed. This check must be accomplished on the ground by maintenance personnel or by the flight crew as part of the preflight procedure for the specific extended range flight.

(2) Revise the ''Extended Range Operations'' section of Section 3 Normal Procedures of the AFM by incorporating the information specified in figure 4 to paragraph (h)(2) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 4 to paragraph (h)(2) of this AD has been included in the Extended Range Operations section of Section 3 Normal Procedures of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 4 to Paragraph (h)(2) of this AD – ***Model 757 AFM Section 3 Revision***

Fuel Crossfeed Valve Operational Check Unless accomplished by maintenance personnel as part of preparing the airplane for the specific ETOPS flight, do the following steps on the ground prior to engine start. Crossfeed selector……..ON Verify that the VALVE light illuminates, then extinguishes Crossfeed selector……..OFF Verify that the VALVE light illuminates, then extinguishes

(i) AFM Revisions for Model 767 Airplanes Equipped With a Single Fuel Crossfeed Valve

For airplanes identified in paragraph (c)(3) of this AD having line numbers 1 through 430 inclusive on which the actions specified in Boeing Service Bulletin 767–28–0034 (second fuel crossfeed valve installation) have not been done as of the effective date of this AD: Within 120 days after the effective date of this AD, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD. If the actions specified in Boeing Service Bulletin 767–28–0034 are done after the effective date of this AD, the actions specified in this paragraph are no longer required for that airplane and the actions specified in paragraph (k) of this AD must be done before further flight.

(1) Revise the ''Extended Range Operations'' section of the Section 1 Certificate Limitations of the AFM by incorporating the information specified in figure 5 to paragraph (i)(1) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 5 to paragraph (i)(1) of this AD has been included in the ''Extended Range Operations'' section of the Section 1 Certificate Limitations of the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 5 to Paragraph (i)(1) of this AD – ***Model 767 AFM Section 1 Revision***

Fuel Crossfeed Valve Operational Check (Required by AD ****-**-**) Prior to extended operations (ETOPS) flight, an operational check of the fuel crossfeed valve must be performed. This check must be accomplished on the ground by maintenance personnel or by the flight crew as part of the preflight procedure for the specific extended range flight.

(2) Revise the Section 3.1 Normal Procedures of the AFM by incorporating the information specified in figure 6 to paragraph (i)(2) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure

6 to paragraph (i)(2) of this AD has been included in the Extended Range Operations section of Section 3.1 Normal Procedures of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 6 to Paragraph (i)(2) of this AD – *Model 767 AFM Section 3.1 Revision*

Fuel Crossfeed Valve Operational Check

Unless accomplished by maintenance personnel as part of preparing the airplane for the specific ETOPS flight, do the following steps on the ground prior to engine start.

Crossfeed selector……..ON
Verify that the VALVE light illuminates, then extinguishes

Crossfeed selector……..OFF
Verify that the VALVE light illuminates, then extinguishes

(j) Minimum Equipment List (MEL) Revisions for Model 757 Equipped With Dual Fuel Crossfeed Valves

For airplanes identified in paragraph (c)(2) of this AD having line numbers 617, 619, and subsequent; and for airplanes identified in paragraph (c)(2) of this AD having line numbers 1 through 616 inclusive and 618, on which a second fuel crossfeed valve has been installed before the effective date of this AD, as specified in Boeing Service Bulletin 757–28–0029: Within 120 days after the effective date of this AD, revise the operator's FAA-approved MEL by incorporating the information specified in figure 7 to paragraph (j) of this AD as a required operations procedure when dispatching for ETOPS operation with an inoperative fuel crossfeed valve. Specific alternative MEL wording to accomplish the actions specified in figure 7 to paragraph (j) of this AD can be approved by the operator's principal operations inspector (POI).

Figure 7 to Paragraph (j) of this AD – *Model 757 MEL Revision*

Fuel Crossfeed Valve Operational Check

Unless accomplished by maintenance personnel as part of preparing the airplane for the specific ETOPS flight, do the following steps on the ground prior to engine start.

Crossfeed selector……..ON
Verify that the VALVE light illuminates, then extinguishes

Crossfeed selector……..OFF
Verify that the VALVE light illuminates, then extinguishes

(k) MEL Revisions for Model 767 Equipped With Dual Fuel Crossfeed Valves

For airplanes identified in paragraph (c)(3) of this AD having line numbers 431 and subsequent; and for airplanes identified in paragraph (c)(3) of this AD having line numbers 1 through 430 inclusive on which a second fuel crossfeed valve has been installed before the effective date of this AD, as specified in Boeing Service Bulletin 767–28–0034: Within 120 days after the effective date of this AD, revise the operator's FAA-approved MEL by incorporating the information specified in figure 8 to paragraph (k) of this AD as a required operations procedure when dispatching for ETOPS operation with an inoperative fuel crossfeed valve. Specific alternative MEL wording to accomplish the actions specified in figure 8 to paragraph (k) of this AD can be approved by the operator's POI.

Figure 8 to Paragraph (k) of this AD – *Model 767 MEL Revision*

Fuel Crossfeed Valve Operational Check

Unless accomplished by maintenance personnel as part of preparing the airplane for the specific ETOPS flight, do the following steps on the ground prior to engine start.

Crossfeed selector……..ON
Verify that the VALVE light illuminates, then extinguishes

Crossfeed selector……..OFF
Verify that the VALVE light illuminates, then extinguishes

(l) MEL Revisions for Model 777 Airplanes

For airplanes identified in paragraph (c)(4) of this AD: Within 120 days after the effective date of this AD, revise the operator's FAA-approved MEL by incorporating the information specified in figure 9 to paragraph (l) of this AD as a required operations procedure when dispatching for ETOPS operation with an inoperative fuel crossfeed valve. Specific alternative MEL wording to accomplish the actions specified in figure 9 to paragraph (l) of this AD can be approved by the operator's POI.

Figure 9 to Paragraph (l) of this AD – ***Model 777 MEL Revision***

Fuel Crossfeed Valve Operational Check

Before each departure, perform the following fuel crossfeed valve check:

1. Position operative crossfeed valve on and verify associated FUEL CROSSFEED AFT or FWD advisory message does not display.

2. Position operative crossfeed valve off and verify associated FUEL CROSSFEED AFT or FWD advisory message does not display.

(m) MEL Revisions for Model 787 Airplanes

For airplanes identified in paragraph (c)(5) of this AD: Within 120 days after the effective date of this AD, revise the operator's FAA-approved MEL by incorporating the information specified in figure 10 to paragraph (m) of this AD into the MEL requirements for each of the inoperative items specified in paragraphs (m)(1) through (m)(4) of this AD. Specific alternative MEL wording to accomplish the actions specified in figure 10 to paragraph (m) of this AD can be approved by the operator's POI.

(1) 28–21–01–01 Pressure Refueling System, Main Tank Inboard Refuel Valve.
(2) 28–22–06 Fuel Balance Switch.
(3) 28–26–01 Defuel/Isolation Valves.
(4) 28–41–01–01 Main Tank Fuel Quantity Indication Systems.

Figure 10 to Paragraph (m) of this AD – *Model 787 MEL Revision*

Before the first ETOPS departure after the crossfeed valve is determined to be inoperative, perform the following maintenance procedure prior to flight. If the item remains inoperative, this maintenance procedure is not required on subsequent ETOPS departures if the crossfeed valve operated normally on the operations (o) pre-flight check.

MAINTENANCE (M)
Verify crossfeed valve operates normally.

1. Gain access to the crossfeed valve in the main gear wheel well.

2. Set Fuel Control Panel (P5) CROSSFEED switch to ON and visually confirm the valve drive moves from the closed (C) position to the open (O) position.

3. Set Fuel Control Panel (P5) CROSSFEED switch to OFF and visually confirm the valve drive moves from the open (O) position to closed (C) position.

Before each ETOPS flight conducted with this item inoperative, perform the following operational check as part of the pre-flight check of the airplane. This check may be performed by either the flight crew or ground crew.

OPERATIONS (O)
1. Prior to each flight, verify crossfeed valve operates normally.

A. Set Fuel Control Panel (P5) CROSSFEED switch to ON and confirm FUEL CROSSFEED advisory message does not display.

B. Set Fuel Control Panel (P5) CROSSFEED switch to OFF and confirm FUEL CROSSFEED advisory message does not display.

2. For fuel balancing, do the FUEL BALANCE SYS Non-Normal Checklist.

(n) AD 88–21–03 R1, Amendment 39–6077 (53 FR 46605–01, November 18, 1988), AFM Limitation Removal

After the applicable AFM limitations specified in paragraphs (g)(1), (h)(1), and (i)(1) of this AD are incorporated into an airplane's AFM, operators may remove the AFM limitation required by AD 88–21–03 R1, Amendment 39–6077 (53 FR 46605–01, November 18, 1988), for that airplane.

(o) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (p) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(p) Related Information

For more information about this AD, contact Jon Regimbal, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6506; fax: 425–917–6590; email: *Jon.Regimbal@faa.gov*.

Issued in Renton, Washington, on November 6, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–24811 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1123; Product Identifier 2017–SW–013–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2017–02–07 for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB–BK 117 C–2 and Model MBB–BK 117 D–2 helicopters. AD 2017–02–07 currently requires a repetitive inspection and a one-time torque of each hydraulic module plate assembly attachment point (attachment point). Since we issued AD 2017–02–07, a terminating action has been developed to address the unsafe condition. This proposed AD would retain the initial inspection and torque requirements of AD 2017–02–07 and require replacing the attachment point hardware. The actions of this proposed AD are intended to prevent an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 5, 2018.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1123; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Discussion

We issued AD 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017) (2017–02–07) for Airbus Helicopters Model MBB–BK 117 C–2 helicopters, serial numbers up to and including 9750, and Model MBB–BK 117 D–2 helicopters, serial numbers up to and including 20110, with a hydraulic module plate assembly part number B291M0003103 with a single locking attachment point installed. AD 2017–02–07 requires a repetitive inspection and a one-time torque of the attachment points. The actions in AD 2017–02–07 are intended to prevent failure of an attachment point, loss of the hydraulic module plate, and subsequent loss of control of the helicopter.

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2015–0210R1, Revision 1, dated October 28, 2015 (2015–0210R1), to correct an unsafe condition for Airbus Helicopters Model MBB–BK117 C–2, MBB–BK117 C–2e, MBB–BK117 D–2, and MBB–BK117 D–2m helicopters. EASA advised that the hydraulic plate assembly on certain MBB–BK117 models has four attachment points on the fuselage secured by a single locking mechanism. According to EASA, a design reassessment revealed stiffness of the hydraulic plate may be insufficient to withstand the in-service loads in the event one of the four single locking attachment points fails. EASA stated that if this condition is not detected and corrected, it may lead to loss of the hydraulic module plate and possible loss of control of the helicopter. Therefore, the EASA AD required a repetitive inspection and one-time torque tightening of the attachment points in accordance with Airbus Helicopters' service information.

EASA considered its AD an interim action and stated further AD action may follow. EASA subsequently revised AD 2015–0210R1 and issued AD No. 2015–0210R2, dated December 2, 2016 (2015–0210R2), to exclude from the applicability helicopters with an improved double locking attachment mechanism that is not subject to the unsafe condition.

Actions Since AD 2017–02–07 Was Issued

Since we issued AD 2017–02–07, Airbus Helicopters revised its service information to add procedures to modify single locking attachment mechanisms to double locking attachment mechanisms. EASA subsequently superseded AD 2015–0210R2 with AD No. 2017–0047, dated March 13, 2017, to require installation of double locking attachments.

FAA's Determination

These helicopters have been approved by the aviation authority of Germany

and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. ASB MBB–BK117 C–2–29A–003 for Model MBB–BK 117 C–2 helicopters and ASB No. ASB MBB–BK117 D–2–29A–001 for Model MBB–BK 117 D–2 helicopters, both Revision 2 and both dated February 1, 2017. Until the attachment points are modified with double locking attachment mechanisms, this service information specifies a repetitive visual inspection for condition and correct installation of the attachment points and replacing the affected parts if there is a crack. This service information also specifies a tightening torque check after the initial inspection and replacing the affected parts if torque cannot be applied. This revision of the service information also specifies procedures to replace the single locking attachment hardware with double locking attachment hardware.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

We also reviewed Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003 for Model MBB–BK 117 C–2 helicopters and ASB No. ASB MBB–BK117 D–2–29A–001 for Model MBB–BK 117 D–2 helicopters, both Revision 1 and both dated October 14, 2016. Revision 1 of this service information contains the same visual inspection and torque tightening check procedures as Revision 2. However, Revision 2 of this service information adds the procedures to replace the single locking attachment hardware with double locking attachment hardware.

Proposed AD Requirements

This proposed AD would require, within 100 hours time-in-service (TIS), unless already done within the last 100 hours TIS, performing a visual inspection of each attachment point of the hydraulic module plate assembly for a crack and proper installation, and applying torque to the nuts of each attachment point. This proposed AD would also require, within 300 hours TIS, replacing each single locking attachment point mechanism with a double locking attachment point mechanism.

Differences Between This Proposed AD and the EASA AD

The EASA AD specifies performing the visual inspection of each attachment point at intervals not exceeding 400 flight hours. This proposed AD would not require a repetitive inspection. This proposed AD would require the replacement of each single locking attachment point mechanism with a double locking attachment point mechanism within 300 hours TIS instead, which would make subsequent inspections unnecessary.

Costs of Compliance

We estimate that this proposed AD would affect 134 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. We estimate the cost of labor at $85 per work-hour. Visually inspecting the four attachment points would take about 0.75 work-hour for an estimated cost of $64 per helicopter and $8,576 for the U.S. fleet. Inspecting the torque of the four attachment points would take about 0.25 work-hour for an estimated cost of $21 per helicopter and $2,814 for the U.S. fleet. Replacing any of the attachment point parts would take a minimal amount of time and parts would cost about $48 per attachment point. Installing four double locking attachment point mechanisms would take a minimal amount of time and parts would cost about $400 per helicopter and $53,600 for the U.S. fleet.

According to Airbus Helicopters service information, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Airbus Helicopters. Accordingly, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017), and adding the following new AD:

Airbus Helicopters Deutschland GmbH: Docket No. FAA–2017–1123; Product Identifier 2017–SW–013–AD.

(a) Applicability

This AD applies to Model MBB–BK 117 C–2 helicopters, serial numbers up to and including 9750, and Model MBB–BK 117 D–2 helicopters, serial numbers up to and including 20110, with a hydraulic module plate assembly part number B291M0003103 with a single locking attachment point installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of a hydraulic module plate assembly attachment point (attachment point). This condition could result in loss of the hydraulic module plate and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017).

(d) Comments Due Date

We must receive comments by February 5, 2018.

(e) Compliance

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

(f) Required Actions

(1) Within 100 hours time-in-service (TIS):

(i) Visually inspect the split pins, castellated nuts, plugs, nuts, and hexagon bolts of each attachment point for a crack and for proper installation by following the Accomplishment Instructions, paragraphs 3.B.1.3.a. through 3.B.1.3.d., of Airbus Helicopters Alert Service Bulletin (ASB) No. ASB MBB–BK117 C–2–29A–003 (ASB MBB–BK117 C–2–29A–003) or Airbus Helicopters ASB No. ASB MBB–BK117 D–2–29A–001 (ASB MBB–BK117 D–2–29A–001), both Revision 2 and both dated February 1, 2017, as applicable to your model helicopter. Replace any part that has a crack before further flight. If the split pins, castellated nuts, or hexagon bolts are not as depicted in Figure 2 of ASB MBB–BK117 C–2–29A–003 or ASB MBB–BK117 D–2–29A–001, before further flight, properly install them.

(ii) Apply a torque of 9 to 10 Nm to the left-hand and right-hand nuts of each attachment point. If a torque of 9 to 10 Nm cannot be applied, replace the affected nut before further flight.

(2) Within 300 hours TIS:

(i) Replace each forward single locking attachment hardware with double locking attachment hardware by following the Accomplishment Instructions, paragraphs 3.B.3.3. through 3.B.3.6. on page 11 of ASB MBB–BK117 C–2–29A–003 or ASB MBB–BK117 D–2–29A–001, as applicable to your model helicopter, except you are not required to discard old parts.

(ii) Replace each aft single locking attachment hardware with double locking attachment hardware by following the Accomplishment Instructions, paragraphs 3.B.3.1. through 3.B.3.3. on page 13 of ASB MBB–BK117 C–2–29A–003 or ASB MBB–BK117 D–2–29A–001, as applicable to your model helicopter, except you are not required to discard old parts.

(g) Credit for Previous Actions

Actions accomplished before the effective date of this AD in accordance with the procedures specified in AD 2017–02–07, Amendment 39–18786 (82 FR 10267, February 10, 2017) or Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003 or ASB No. ASB MBB–BK117 D–2–29A–001, both Revision 1 and both dated October 14, 2016, are considered acceptable for compliance with the corresponding actions specified in paragraph (f)(1) of this AD.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(i) Additional Information

(1) Airbus Helicopters ASB No. ASB MBB–BK117 C–2–29A–003 and ASB No. ASB MBB–BK117 D–2–29A–001, both Revision 1 and both dated October 14, 2016, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0047, dated March 13, 2017. You may view the EASA AD on the Internet at *http://www.regulations.gov* in the AD Docket.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 2900, Hydraulic Power System.

Issued in Fort Worth, Texas, on November 17, 2017.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2017–26039 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 24 and 27

[Docket No. TTB–2016–0014; Notice No. 168A; Re: Notice No. 168, T.D. TTB–147, and T.D. TTB 147A]

RIN 1513–AC31

Implementation of Statutory Amendments Requiring the Modification of the Definition of Hard Cider; Delayed Compliance Date for the Hard Cider Tax Class Labeling Statement Requirement; Reopening of Comment Period

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking and reopening of comment period.

SUMMARY: On January 23, 2017, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published a temporary rule, T.D. TTB–147, Implementation of Statutory Amendments Requiring the Modification of the Definition of Hard Cider, that amended its regulations to implement changes made to the definition of ''hard cider'' in the Internal Revenue Code of 1986 by the Protecting Americans from Tax Hikes Act (PATH Act) of 2015. The amended regulations included a requirement that the statement ''Tax class 5041(b)(6)'' appear on the container of any wine for which the hard cider tax rate is claimed if the wine is removed from wine premises or customs custody on or after January 1, 2018. Concurrent with the temporary rule, TTB published Notice of Proposed Rulemaking No. 168 requesting comments on the regulatory amendments made by T.D. TTB–147. In response to a comment received from a cider industry trade association, TTB, in a temporary rule published elsewhere in this issue of the **Federal Register**, is now delaying the compliance date for the hard cider tax class labeling requirement by one year, until January 1, 2019. In this document, TTB is requesting comments on that delayed compliance date, and we are also re-opening the comment period for Notice No. 168 for an additional 60 days to request comments on the regulatory amendments described in T.D. TTB–147.

DATES: Comments on the delayed compliance date referenced in this document (Notice No. 168A) are due on or before February 5, 2018. The comment period for the proposed rule, Notice No. 168, published on January

23, 2017, at 82 FR 7753 is reopened for 60 days, and, therefore, comments on Notice No. 168 also are now due on or before February 5, 2018.

ADDRESSES: Please send your comments on Notice No. 168 or Notice No. 168A to one of the following addresses:

- *Internet: https://www.regulations.gov* (via the online comment forms for Notice No. 168 or Notice No. 168A, as appropriate, which are posted within Docket No. TTB–2016–0014 at *Regulations.gov*, the Federal e-rulemaking portal);
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

See the Public Participation sections of Notice No. 168 and this document (Notice No. 168A) for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this document, Notice No. 168, and any comments made to TTB about the described proposals at *https://www.regulations.gov* within Docket No. TTB–2016–0014. A link to that docket is posted on the TTB Web site at *https://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 168 or Notice No. 168A. You also may view copies of this document, Notice No. 168, and any comments made to TTB about the described proposals by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call (202) 453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Kara Fontaine, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone (202) 453–1039, ext. 103.

SUPPLEMENTARY INFORMATION: In T.D. TTB–147, a temporary rule published in the **Federal Register** on January 23, 2017, at 82 FR 7653, the Alcohol and Tobacco Tax and Trade Bureau (TTB) implemented changes made to the definition of ''hard cider'' in the Internal Revenue Code of 1986 by the Protecting Americans from Tax Hikes (PATH) Act of 2015 (Consolidated Appropriations Act, 2016 (Pub. L. 114–113), Division Q). The modified definition broadened the range of wines eligible for the hard cider tax rate. In T.D. TTB–147, TTB amended its regulations to reflect the modified definition of hard cider effective for products removed from wine premises or customs custody on or after January 1, 2017, and set forth new labeling requirements to identify products to which the hard cider tax rate applies. The new labeling requirements include both a one-year transitional rule and a new labeling requirement that takes effect for products removed on or after January 1, 2018.

TTB solicited public comments on the temporary regulations via Notice No. 168, a notice of proposed rulemaking published in the **Federal Register** on January 23, 2017, at 82 FR 7753. The temporary regulations contained in T.D. TTB–147 served as the text of the proposed regulations. The original 60-day comment period for Notice No. 168 closed on March 24, 2017.

In response to this comment request, TTB received a comment, posted on February 15, 2017, from Ian Flom of Mercier Orchards, indicating that the timeframe to implement the new ''Tax Class 5041(b)(6)'' labeling statement requirement is insufficient because he buys labels in bulk and has a supply of labels that do not bear the tax class statement that he will not be able to use up before January 1, 2018. In addition, TTB received a letter, dated February 23, 2017, from the United States Association of Cider Makers (USACM), a cider industry trade association based in Portland, Oregon, requesting a 60-day extension of the comment period for Notice No. 168. In its letter, the USACM noted that ''there was much discussion about these proposed changes'' at its annual membership conference and that a number of its members planned to submit comments to TTB. The letter also noted, however, that ''orchardists are currently facing time-management challenges due to pruning season,'' and that the requested extension ''would allow our members time to properly address any of their concerns with the proposed changes to the hard cider definition and related regulatory changes.'' The USACM comment period extension request letter is posted as Comment 2 to Notice No. 168 within Docket No. TTB–2016–0014 on the *Regulations.gov* Web site at *https://www.regulations.gov*.

In addition to USACM's request to TTB to extend the comment period, USACM wrote a letter, on which TTB was copied, to Steven T. Mnuchin, Secretary of the Treasury, dated August 1, 2017, requesting both a reopening of the comment period of T.D. TTB–147 and a one year delay of the January 1, 2018, hard cider tax class labeling statement requirement. A copy of this USACM letter is posted as Comment 3 to Notice No. 168 within Docket No. TTB–2016–0014 on the *Regulations.gov* Web site.

In light of these requests, TTB is delaying the hard cider tax class labeling statement compliance date. Such a delay will provide industry members additional time to come into compliance with the labeling requirement. Through the publication of a temporary rule elsewhere in this issue of the **Federal Register**, TTB is amending 27 CFR 24.257(a)(4) to delay until January 1, 2019, the compliance date for the requirement that the tax class statement ''Tax class 5041(b)(6)'' appear on any container of wine removed from wine premises or customs custody for which the hard cider tax rate is claimed. Because the tax class labeling requirement contained in 27 CFR 27.59(b) is a cross-reference to § 24.257(a)(4), no change to the regulatory text in § 27.59(b) is required.

Further, in response to the USACM request to reopen the comment period for all the regulatory amendments contained in T.D. TTB–147, TTB is reopening the comment period for the related notice of proposed rulemaking, Notice No. 168, for an additional 60 days. TTB believes that this additional 60-day comment period will allow all interested parties to fully consider and comment on the regulatory amendments contained in the hard cider temporary rule.

Therefore, new comments on Notice No. 168 and comments on this document (Notice No. 168A) delaying the compliance date of the hard cider tax class labeling requirement are due to TTB on or before February 5, 2018.

Public Participation

Comments Sought

TTB requests comments from interested members of the public on the one-year delay, from January 1, 2018, to January 1, 2019, of the hard cider tax-class labeling statement requirement contained in 27 CFR 24.257, as described in the temporary rule, T.D. TTB–147A, published elsewhere in this issue of the **Federal Register**. TTB also requests new comments on the regulatory amendments to 27 CFR parts 24 and 27 set forth in the temporary rule, T.D. TTB–147, published in the **Federal Register** on January 23, 2017 at 82 FR 7653.

Submitting Comments

You may submit comments by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online

comment form for this proposed rule (Notice No. 168A) or for Notice No. 168, as appropriate, posted within Docket No. TTB–2016–0014 on ''*Regulations.gov*,'' the Federal e-rulemaking portal, at *https://www.regulations.gov.* A direct link to that docket is available under Notice No. 168 and Notice No. 168A on the TTB Web site at *https://www.ttb.gov/wine/wine-rulemaking.shtml.* Supplemental files may be attached to comments submitted via *Regulations.gov*. For complete instructions on how to use *Regulations.gov*, click on the site's ''Help'' tab.

- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 168A or Notice No. 168, as appropriate, and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments and considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name as well as your name and position title. In your comment via *Regulations.gov*, please enter the entity's name in the ''Organization'' blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of the proposed rules, the related temporary rules, and any online or mailed comments received about them, within Docket No. TTB–2016–0014 on *Regulations.gov*, the Federal e-rulemaking portal. A direct link to that docket is available on the TTB Web site at *https://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 168 or Notice No. 168A. You may also reach the relevant docket through the *Regulations.gov* search page at *https://www.regulations.gov.* For information on how to use *Regulations.gov*, click on the site's ''Help'' tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that it considers unsuitable for posting.

You may view copies of the proposed rules, the related temporary rules, and any electronic or mailed comments TTB receives about them by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies for 20 cents per 8.5- × 11-inch page. Contact TTB's information specialist at the above address or by telephone at (202) 453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Order 12866

Since the regulatory text proposed in this notice of proposed rulemaking is identical to that contained in the companion temporary rule published elsewhere in this issue of the **Federal Register**, the analyses contained in the preamble of the temporary rule concerning the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12866 also apply to this proposed rule.

Drafting Information

Kara Fontaine and Michael Hoover of the Regulations and Rulings Division drafted this document with the assistance of other Alcohol and Tobacco Tax and Trade Bureau personnel.

List of Subjects

27 CFR Part 24

Administrative practice and procedure, Cider, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Hard Cider, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspections, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and Recordkeeping requirements, Wine.

Proposed Amendments to the Regulations

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR chapter I, parts 24 and 27, as follows:

PART 24—WINE

■ 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121, 5122–5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 24.257 [Amended]

■ 2. In § 24.257:

■ a. Paragraph (a)(4) is amended by removing the date ''January 1, 2018'' each place it appears and adding in its place the date ''January 1, 2019''; and

■ b. The Office of Management and Budget control number reference at the end of the section is amended by removing the phrase ''1513–0115 and 1513–XXXX'' and adding in its place the phrase ''1513–0092 and 1513–0138''.

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

■ 3. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5382, 5555, 6109, 6302, 7805.

§ 27.59 [Amended]

■ 4. In § 27.59, the Office of Management and Budget control number reference at the end of the section is amended by removing the phrase ''number 1513–XXXX'' and adding in its place the phrase ''numbers 1513–0092 and 1513–0138''.

Signed: October 30, 2017.

John J. Manfreda,

Administrator.

Approved: November 30, 2017.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade and Tariff Policy).

[FR Doc. 2017–26283 Filed 12–4–17; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 531

RIN 1235–AA21

Tip Regulations Under the Fair Labor Standards Act (FLSA)

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Department of Labor (Department) is proposing to rescind portions of its tip regulations issued pursuant to the Fair Labor Standards Act that impose restrictions on employers that pay a direct cash wage of at least the full federal minimum wage and do not seek to use a portion of tips as a credit toward their minimum wage obligations. This Notice of Proposed Rulemaking (NPRM) seeks the views of the public on the Department's proposed rescission of those portions of the regulations.

DATES: Comments must be received on or before January 4, 2018.

ADDRESSES: To facilitate the receipt and processing of written comments on this NPRM, the Department encourages interested persons to submit their comments electronically. You may submit comments, identified by Regulatory Information Number (RIN) 1235–AA21, by either of the following methods:

Electronic Comments: Follow the instructions for submitting comments on the Federal eRulemaking Portal *http://www.regulations.gov.*

Mail: Address written submissions to Melissa Smith, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: This NPRM is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access this document via the Wage and Hour Division's (WHD) Web site at *http://www.dol.gov/whd/.* All comment submissions must include the agency name and Regulatory Information Number (RIN 1235–AA21) for this NPRM. Response to this NPRM is voluntary. The Department requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this NPRM. Submit only one copy of your comment by only one method (*e.g.,* persons submitting comments electronically are encouraged not to submit paper copies). Please be advised that comments received will become a matter of public record and will be posted without change to *http://www.regulations.gov,* including any personal information provided. All comments must be received by 11:59 p.m. on the date indicated for consideration in this NPRM; comments received after the comment period closes will not be considered. Commenters should transmit comments early to ensure timely receipt prior to the close of the comment period. Electronic submission via *http://www.regulations.gov* enables prompt receipt of comments submitted as DOL continues to experience delays in the receipt of mail in our area. For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa Smith, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210, telephone: (202) 693–0406 (this is not a toll-free number). Copies of this NPRM may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1 (877) 889–5627 to obtain information or request materials in alternative formats.

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SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Fair Labor Standards Act of 1938 (FLSA) generally requires covered employers to pay employees at least a Federal minimum wage, which is currently $7.25 per hour. *See* 29 U.S.C. 206(a)(1). Under section 3(m) of the FLSA, which defines the term ''wage,'' an employer of tipped employees can satisfy its obligation to pay those employees the Federal minimum wage by paying a lower direct cash wage and counting a limited amount of the tips received by its employees as a partial credit to satisfy the difference between the direct cash wage paid and the Federal minimum wage (known as a ''tip credit''), if it follows certain statutory requirements. *See* 29 U.S.C. 203(m).

In 1966, Congress created a tip credit provision within the definition of a ''wage'' in section 3(m) of the statute that permitted an employer to utilize tips received by its employees to subsidize up to 50 percent of its minimum wage obligations. *See* Public Law 89–601, 101(a), 80 Stat. 830 (1966); 76 FR 18,832, 18,838.[1] In 1974, Congress again amended section 3(m) by providing that an employer could not utilize tips received by its employees toward its Federal minimum wage obligation unless, among other things:

> (1) [its] employee has been informed by the employer of the provisions of this subsection and (2) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

Public Law 93–259, 13(e), 88 Stat. 55 (1974). Thus, section 3(m) permits an employer to take a partial credit against its minimum wage obligations on account of tips received by its employees but only if, among other things, its tipped employees retain all of their tips. Section 3(m), however, does not preclude an employer that takes a tip credit from implementing a tip pool in which tips are shared only among those employees who ''customarily and regularly receive tips.'' *Id.*

The Department first promulgated regulations implementing the section 3(m) tip credit in 1967. *See* 32 FR 13,575 (Sept. 28, 1967). In 2011, the Department updated those regulations to reflect its then-existing view that the statutory conditions in section 3(m) of the FLSA require that tipped employees retain all of their tips, except for those tips distributed through a tip pool limited to customarily and regularly tipped employees, regardless whether such employees work for an employer that takes a tip credit. *See, e.g.,* § 531.52.

[1] As discussed further below, Congress changed the amount of tips received by employees that an employer can credit against its minimum wage obligation in subsequent amendments to the FLSA. *See, infra,* Sec. III.

As discussed below, since 2011 there has been a significant amount of private litigation involving the tip pooling and tip retention practices of employers that pay a direct cash wage of at least the Federal minimum wage and do not take a tip credit. There has also been litigation directly challenging the Department's authority to promulgate the 2011 Final Rule as it applies to employers that pay a direct cash wage of at least the Federal minimum wage. At the same time, there have been changes in state laws that require employers to pay their tipped employees a direct cash wage of at least the Federal minimum wage, which have resulted in more employers being unable to claim a tip credit.

In part because of these developments, the Department is concerned about the scope of its current tip regulations as applied to employers that pay the full Federal minimum wage to their tipped employees. The Department is also seriously concerned that it incorrectly construed the statute in promulgating the tip credit regulations that apply to such employers. Additionally, the Department seeks to consider whether it is unnecessary to prohibit the sharing of tips with employees who do not customarily receive tips, including restaurant cooks, dishwashers, and other traditionally lower-wage job classifications, when their employer does not take a tip credit under FLSA section 3(m) and its employees are paid at least the full Federal minimum wage.

The Department is therefore proposing to rescind the parts of its tip regulations that bar tip-sharing arrangements in establishments where the employers pay full Federal minimum wage and do not take a tip credit against their minimum wage obligations. This proposed rule applies only to employers that pay direct cash wages of at least the Federal minimum wage and do not take a tip credit. It does not apply to employers who pay less than the Federal minimum wage and take a tip credit.

The proposed removal of the regulatory limitation on an employer's ability to utilize tips if it pays a direct wage of at least the full FLSA minimum wage will allow for employers to provide in their agreements [2] with employees for tip sharing among a larger tip pool of employees. This change could result, for example, in tips being shared with employees who are not customarily and regularly tipped, such as back-of-the-house employees in restaurants. This type of tip sharing was at issue in *Cumbie* v. *Woody Woo, Inc.,* 596 F.3d 577 (9th Cir. 2010) (employer paid its tipped employees a direct wage payment that exceeded the Federal minimum wage and instituted a tip pool that included back-of-the-house employees who did not customarily and regularly receive tips, such as dishwashers and cooks). If the Department's rule were adopted as proposed herein, it would expressly allow such tip sharing. Employers in other industries could also adopt similarly varied tip pooling arrangements among tipped and non-tipped employees. *E.g., Cesarz* v. *Wynn Las Vegas,* 2014 WL 117579 (D. Nev. 2014), *rev'd and remanded by Oregon Rest. & Lodging Ass'n* v. *Perez,* 816 F.3d 1080 (9th Cir. 2016), *reh'g and reh'g en banc denied,* 843 F.3d 355 (9th Cir. 2016), *pet. for cert. filed* (Aug. 1 2016) (employer instituted a tip pool through which dealers' tips were shared with other casino employees in jobs that have not traditionally been customarily and regularly tipped). Promulgation of the regulation would also make clear that where an employer does not claim the tip credit under section 3(m) and pays a direct wage that satisfies the FLSA's minimum wage requirements, the treatment and disposition of tips is a matter of agreement between the employer and employees or of state law.

To estimate the impact of the proposed rule, the Department looked at two occupations that constitute a large percentage of tipped workers (waiters, waitresses, and bartenders) and focused on two industries (drinking places and full-service restaurants). Based on the data used in the regulatory impact analysis below, the Department estimated that there are up to 1,298,231 tipped workers in the selected occupations, and 206,770 full-service restaurants, and 40,095 drinking places.

There are labor market forces that will affect decisions concerning employer use or reallocation of tips. For example, there are certain market factors that may discourage any changes in tip-sharing practices, such as employee resistance and heightened turnover among the customarily tipped employees. The Department is unable to quantify how customers will respond to proposed regulatory changes, which in turn would affect total tipped income and employer behavior. The Department currently lacks data to quantify possible reallocations of tips through newly expanded tip pools to employees who do not customarily and regularly receive tips. The Department presents a primarily qualitative approach to assessing the benefits and transfers of the new rule.

The Department estimated the regulatory familiarization costs associated with this proposed rule on an establishment basis and calculated the first year cost to be $3.431 million. The Department discussed other impacts and benefits of the proposed rule qualitatively. For the purposes of E.O. 13771, it is expected that this proposed rule would, if finalized as proposed, qualify as an ''E.O. 13771 deregulatory action.''

II. Recent Developments in Tip Pooling Regulations and Litigation; Proposed Changes to Regulations; and Nonenforcement Policy

As noted above, the FLSA's tip credit provision was enacted in 1966. WHD promulgated regulations implementing the FLSA's tip credit provision in 1967. *See* 29 U.S.C. 203(m), Public Law 89–601, 101(a), 80 Stat. 830 (1966); 32 FR 13,575 (Sept. 28, 1967). Among other things, the 1967 regulations acknowledged that employers and employees could agree that tips received would belong to the employer, which might then use the tips to satisfy the entirety of its minimum wage obligations, thus exceeding the then-50 percent limitation on an employer's crediting of tips received by its employees against its minimum wage obligations. *See, e.g.,* § 531.55(b) (1967) (''[I]f pursuant to an employment agreement the tips received by an employee must be credited or turned over to the employer, such sums may, after receipt by the employer, be used by the employer to satisfy the monetary requirements of the Act. In such instances there is no applicability of the 50-percent limitation on tip credits provided by section 3(m).'').

The 1967 regulations were consistent with *Williams* v. *Jacksonville Terminal Co.,* 315 U.S. 386 (1942), and the legislative history of the 1966 amendments. In *Jacksonville Terminal,* the Supreme Court held that an employer had complied with the FLSA's minimum-wage requirements by paying its employees only those tips that the employees received from customers and, if tips received by any employee did not satisfy the minimum wage, by paying the difference to that employee.

[2] Similar references to agreements in this notice refer to agreements, whether written or otherwise, between an employer and its employees regarding the treatment and disposition of tips received by such employees. *Cf. Williams* v. *Jacksonville Terminal Co.,* 315 U.S. 386, 397 (1942) (determining that, ''[i]n businesses where tipping is customary, the tips, in the absence of an explicit contrary understanding, belong to the recipient,'' but that ''an arrangement [may be] made by which the employee agrees'' to a different disposition of such tips).

Id. at 388–389, 397–398, 403–408. The Court reasoned that such tips ''belong to the recipient'' employee ''in the absence of an explicit contrary understanding,'' but that an employer and its employees could agree that the employer would ''take the compensation paid by [customers] for the service [provided by the employees], whether paid as a fixed charge or as a tip.'' *Id.* at 397–398. The Court ultimately concluded that the parties in the case had entered, and the FLSA did not prohibit, such an agreement to ''transfer the tips [collected by the employees] . . . to the credit of the [employer].'' *Id.* at 403; *see id.* at 403–408. The 1966 legislative history similarly reflected that the new statutory ''tip provisions [we]re sufficiently flexible to permit the continuance of existing practices with respect to tips,'' including practices under which ''an employer and his tipped employees . . . agree that all tips are to be turned over or accounted for to the employer to be treated by him as part of his gross receipts.'' S. Rep. 1487, 89th Cong., 2d Sess. 12 (1966). In that circumstance, however, ''the employer must pay the employee the full minimum hourly wage, since for all practical purposes the employee is not receiving tip income.'' *Id.*

When it amended section 3(m) in 1974, Congress added the requirement that an employer taking a tip credit must permit its tipped employees to retain all of their tips, except for those tips distributed through a mandatory tip pool that includes only employees who customarily and regularly receive tips. *See* Public Law 93–259, 13(e). Immediately after the 1974 amendments, WHD stated that its existing regulations were superseded by the amendments to the extent that they were in conflict with those amendments, in particular, those provisions that permitted an employer to use tips received by its employees toward its minimum wage obligations to a greater extent than permitted by section 3(m). *See* Wage and Hour Opinion Letter FLSA–626, 1974 WL 422051 (June 21, 1974), at *2; Wage and Hour Opinion Letter WH–310, 1975 WL 40934, at *1 (Feb. 18, 1975); Wage and Hour Opinion Letter WH–321, 1975 WL 40945, at *1–2 (Apr. 30, 1975). However, although the statutory tip credit provision was significantly amended in 1974 and thereafter, WHD did not revise its 1967 tip credit regulations until 2011. *See* 76 FR 18,832, 18,854–56 (Apr. 5, 2011).

In 2008, the Department published a Notice of Proposed Rulemaking that proposed, among other things, to amend WHD's tip credit regulations to reflect the 1974 amendments to the FLSA. *See* 73 FR 43,654, 43,659 (July 28, 2008). Before it had finalized that rulemaking, the Department participated as *amicus curiae* in support of a tipped employee challenging her employer's tip pooling arrangement in *Cumbie* v. *Woody Woo,* a case before the Ninth Circuit. 596 F.3d 577. *Woody Woo* involved an employer that paid its tipped employees a direct wage payment that exceeded the Federal minimum wage and instituted a mandatory tip pool that included back-of-the-house employees who do not customarily and regularly receive tips, such as dishwashers and cooks. *Id.* at 578–79. The district court in *Woody Woo* had concluded that section 3(m)'s restrictions on tip pooling apply only when an employer takes a tip credit against its minimum wage obligations. *See Cumbie* v. *Woody Woo, Inc.,* 2008 WL 2884484, at *3 (D. Or. July 25, 2008). The Department argued before the Ninth Circuit that the district court's interpretation would permit an employer to use tips received by its employees to a greater extent than that permitted in section 3(m), since it would permit an employer to use tips to meet its entire minimum wage obligation or to subsidize the wages of non-tipped employees. *See* Br. of the Sec'y of Labor as Amicus Curiae, Apr. 29, 2009, at 8, 2009 WL 2609879, *Cumbie* v. *Woody Woo, Inc.,* 596 F.3d 577 (9th Cir. 2010). On February 23, 2010, the Ninth Circuit issued an opinion in *Cumbie* v. *Woody Woo,* which held in the context of an employer that did not use tips to pay its employees the minimum wage, that section 3(m)'s tip retention requirements apply only to employers that avail themselves of the tip credit provision. 596 F.3d 577, 581 (9th Cir. 2010).

The Department finalized its revisions to the tip regulations in 2011. *See* 76 FR 18,832, 18,854–56 (revising, among other provisions, §§ 531.52, 531.54, and 531.59). Those regulations, among other things, bar all employers from sharing tips with employees who do not customarily and regularly receive tips—regardless whether the employers take a tip credit. *See, e.g.,* § 531.52. The Department's regulations thus provide that an employer is prohibited from using tips received by employees, whether or not it has taken a tip credit, except as a credit against its minimum wage obligations to the employee to the extent permitted by that section, or in furtherance of a tip pool that is permissible under that section. *Id.*

On July 12, 2012, the Oregon Restaurant and Lodging Association (ORLA), along with the National Restaurant Association, Washington Restaurant Association, Alaska Cabaret, Hotel, Restaurant & Retailers Association, and others (the ORLA Plaintiffs), challenged the Department's authority to promulgate the 2011 Final Rule as it applies to employers that do not take a tip credit and that pay a direct cash wage of at least the Federal minimum wage. *See* Compl., July 12, 2012, *Oregon Rest. & Lodging Ass'n* v. *Solis,* 948 F.Supp.2d 1217 (D. Or. 2013). The ORLA Plaintiffs sought to have those parts of the Department's 2011 tip regulations that apply to employers that do not take a tip credit against their minimum wage obligations declared invalid and vacated. *See id.* at 33–34 (identifying §§ 531.52, 531.54, and 531.59).

The plaintiffs alleged, inter alia, that such tip regulations are contrary to the FLSA's clear statutory language in section 3(m), which places restrictions on an employer's use of tips *only when the employer takes a tip credit. See id.* at 18–21. The Department responded by arguing that the FLSA does not address an employer's use of tips when the employer does not take a tip credit, and that the Department appropriately used its rulemaking authority to address that statutory gap through the 2011 tip regulations. *See* Reply Br. of the Sec'y of Labor, Dec. 7, 2012, at 5–8, *Oregon Rest. & Lodging Ass'n* v. *Solis,* 948 F.Supp.2d 1217 (D. Or. 2013). On June 7, 2013, the district court granted the plaintiffs' motion for summary judgment, ruling that the 2011 tip regulations were invalid. *Oregon Rest. & Lodging Ass'n* v. *Solis,* 948 F.Supp.2d 1217, 1227 (D. Or. 2013). The court concluded that the regulations were contrary to the clear intent of Congress to limit the use or pooling of tips only to employers that elect to take a tip credit. *See id.* at 1226.

On August 21, 2013, the Department appealed the district court's decision to the Ninth Circuit. *See* Br. of the Sec'y of Labor, Dec. 27, 2013, at 8, *Oregon Rest. & Lodging Ass'n* v. *Perez,* 816 F.3d 1080 (9th Cir. 2016) (ORLA). In its brief, the Department argued that the 1974 amendments to the FLSA expressly delegated broad authority to the Department to implement the terms of the amendments and that the Department properly used this authority to promulgate the 2011 tip regulations, which address a gap in the statutory scheme: Whether an employer that does not take a tip credit is subject to section 3(m)'s restrictions. *See id.* at 24–28. The Department further argued that the regulations were necessary to prevent a circumvention of section 3(m)'s limitations on an employer's ability to

use or require the pooling of tips. *See id.* at 32–33. The Ninth Circuit consolidated the case with *Cesarz* v. *Wynn Las Vegas*—a private FLSA action in which the plaintiffs-employees, relying on the Department's 2011 regulations, alleged that the employer violated the FLSA when it required its tipped employees to share their tips with non-tipped employees, *see* 2014 WL 117579, at *1 (D. Nev. 2014)— for purposes of oral argument and disposition. *See* 816 F.3d 1080 n.* (9th Cir. 2016).[3]

On February 23, 2016, the Ninth Circuit, reversing the district court, upheld the validity of the 2011 tip regulations in *ORLA* v. *Perez,* 816 F.3d 1080, 1090 (9th Cir. 2016). In deciding *ORLA,* the Ninth Circuit concluded that *Woody Woo* held only that section 3(m) does not *prohibit* employers that do not take a tip credit from instituting an invalid tip pool. *See id.* at 1088. Having found that the FLSA is silent with respect to employers that do not take a tip credit, the Ninth Circuit concluded that the 2011 tip regulations were a reasonable application of the agency's authority to fill gaps left by the text of the FLSA, because the ''purpose of the Act does not support the view that Congress intended permanently to allow employers that do not take a tip credit to do whatever they wish with their employees' tips.'' *See id.* at 1089–1090. On April 6, 2016, the *ORLA* Plaintiffs filed a petition for panel rehearing and rehearing *en banc. See* Pet. for Panel Reh'g and Reh'g En Banc, Apr. 6, 2016, *ORLA* v. *Perez,* 816 F.3d 1080 (9th Cir. 2016). The *ORLA* Plaintiffs argued that the Ninth Circuit's decision in *ORLA* cannot be reconciled with *Woody Woo* and reiterated their contention that the 2011 tip pooling regulation is an impermissible interpretation of the FLSA. *See id.* at 11, 13.

On September 6, 2016, the *ORLA* panel denied the plaintiffs' request for panel rehearing, and a majority of the non-recused active judges voted to decline *en banc* review. *See ORLA* v. *Perez,* 816 F.3d 1080, *reh'g and reh'g en banc denied,* 843 F.3d 355, 356 (9th Cir. 2016).

Judge O'Scannlain, joined by nine other judges, dissented. *See id.* (O'Scannlain, J., dissenting). Judge O'Scannlain concluded that the Department's tip pooling regulation is precluded because the Ninth Circuit previously held in *Woody Woo* that the FLSA ''clearly and unambiguously permits employers who forgo a tip credit to arrange their tip-pooling affairs however they see fit.'' *See id.* at 358 (citing *Cumbie* v. *Woody Woo,* 596 F.3d at 579 n.6, 581, 581 n.11, 582, 583; *Nat'l Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 984 (2005)). Based on this statutory construction, Judge O'Scannlain wrote, ''[T]he Department has not been delegated authority to ban tip pooling by employers who forgo the tip credit, and [as such] the Department's assertion of regulatory jurisdiction is manifestly contrary to the statute and exceeds [its] statutory authority.'' *Id.* at 363–64 (internal quotation marks omitted).

The National Restaurant Association (and other plaintiffs in the OLRA litigation) filed a petition for certiorari with the Supreme Court, asking for review of the Ninth Circuit's decision in *ORLA,* and that petition is pending. *See* Sup. Ct. No. 16–920 (certiorari petition filed Jan. 19, 2017). The *Wynn* Defendants filed their own petition for certiorari with the Supreme Court on August 1, 2016, which is also still pending. Sup. Ct. No. 16–163 (certiorari petition filed (Aug. 1 2016)).

As explained further in Part IV, below, more employers are unable to claim a tip credit in 2017 than when the Department's regulations were promulgated in 2011 due to the increased number of states that require employers to pay their tipped employees a direct cash wage of at least the Federal minimum wage. Perhaps because of these changes to state law, there has been a significant amount of private litigation in recent years involving the tip pooling and tip retention practices of employers that pay a direct cash wage of at least the Federal minimum wage. Much of that litigation involves the application of the Department's 2011 tip credit regulations that bar employers from retaining and from sharing tips with employees who do not customarily and regularly receive tips, even when the employers have not taken a tip credit. For example, in *Trejo* v. *Ryman Hospitality Properties,* the employees alleged that their employer, which had paid its tipped employees a direct cash wage of at least the Federal minimum wage, improperly required its tipped employees to contribute to a tip pool including employees who were not customarily and regularly tipped. *Sazzad* v. *Ryman Hosp. Properties,* No. 8:13–cv–02911 (D. Md., April 21, 2014), *aff'd sub nom, Trejo,* 795 F.3d 442 (4th Cir. 2015); *see also Malivuk,* 2016 WL 3999878, *aff'd on other grounds,*—F. App'x —, 2017 WL 2491498 (11th Cir. June 9, 2017); *see also Brueningsen* v. *Resort Express Inc.,* 2015 WL 339671 (D. Utah Jan. 26, 2015), *recons. denied,* 2016 WL 1181683 (D. Utah Mar. 25, 2016), *appeal filed* (10th Cir., Nov. 16, 2016). *Wynn,* 2014 WL 117579 (D. Nev. 2014) (employees alleged that the employer improperly required them to contribute to a tip pool that included their supervisors), *rev'd and remanded by ORLA,* 816 F.3d 1080 (9th Cir. 2016), *reh'g and reh'g en banc denied,* 843 F.3d 355 (9th Cir. 2016), *pet. for cert. filed* (Aug. 1 2016). Therefore, the application of the Department's regulations to employers who do not take a tip credit has gained increasing importance in recent years.

Additionally, the Tenth Circuit recently ruled in *Marlow* v. *The New Food Guy,* a private FLSA case in which the United States participated as amicus curiae, that the Department's 2011 tip regulations are invalid to the extent that they bar an employer from using or sharing tips with employees who do not customarily and regularly receive tips when the employer pays a direct cash wage of at least the Federal minimum wage and does not claim a section 3(m) tip credit. *See Marlow* v. *New Food Guy, Inc.,* 861 F.3d 1157 (10th Cir. 2017). In *Marlow,* the plaintiff alleged that the employer, which paid the plaintiff a direct wage of at least the Federal minimum wage and did not claim a section 3(m) tip credit, violated section 3(m) and the Department's 2011 regulations by retaining the tips employees received from customers. *Id.* at 1158–59. The district court dismissed the plaintiff's claim, concluding that the employer satisfied its obligations under the FLSA and that section 3(m) does not

[3] While *ORLA* was pending before the Ninth Circuit, the Fourth Circuit heard *Trejo* v. *Ryman Hospitality Properties, Inc.,* an appeal from a district court's dismissal of a private FLSA action in which plaintiffs—whose employer did not claim the tip credit—sought to recoup tips that their employer required them to pay into an allegedly invalid tip pool. 795 F.3d 442 (4th Cir. 2015). The Department submitted a brief as *amicus curiae* arguing that the 2011 tip-pooling regulation was valid and entitled to deference, but also pointing out that the FLSA provides a cause of action only to recover unpaid minimum wages or overtime compensation under sections 6 and 7 of the FLSA, rather than to recover tips in and of themselves under section 3(m), and that plaintiffs had expressly disclaimed any minimum wage violation. *See* Br. of the United States as Amicus Curiae, Jan. 2015, at *12, *13, 2015 WL 191535, *Trejo,* 795 F.3d 442 (4th Cir. 2015). In other words, and as explained further in footnote 10, *infra,* Plaintiffs did not argue that the effect of the invalid tip pool was to reduce their wages below the minimum wage, which would present a valid cause of action under the FLSA. *See id.* at *12 (citing 29 U.S.C. 216(b) (private right of action limited to enforcing the FLSA's minimum wage and overtime compensation provisions); *see also* 29 U.S.C. 216(c) (imposing similar limitations on the Secretary's ability to enforce the FLSA)). The Fourth Circuit concluded that section 3(m) ''simply does not contemplate a claim for wages other than minimum wage or overtime wages.'' *Trejo,* 795 F.3d at 448 (internal quotation marks omitted). *See also Malivuk* v. *Ameripark,* 2016 WL 3999878, *aff'd on other grounds,*—F. App'x —, 2007 WL 2491498, (11th Cir. June 9, 2017).

provide a cause of action for lost tips. *Marlow* v. *New Food Guy, Inc.,* No. 15–CV–01327, 2016 WL 4920980, at *1 (D. Colo. Feb. 17, 2016).[4] On appeal, the United States, while also defending the validity of the Department of Labor's 2011 tip regulations, argued as a threshold matter that the plaintiff failed to plead a claim under the FLSA because she did not allege that her employer's retention of her tips resulted in a minimum wage or overtime violation. *See* Br. of the United States as Amicus Curiae, Oct. 2016, 2016 WL 6566326, at *10. The Tenth Circuit affirmed the district court's dismissal of the plaintiff's claim, holding that the text of the FLSA limits an employer's use of tips only when the employer takes a tip credit, ''leaving [the Department] without authority to regulate to the contrary.'' *See Marlow,* 861 F.3d at 1163–64.[5]

The Department has taken into account the changed landscape and extensive litigation since promulgating its 2011 Final Rule. In that regard, the dissent to the denial of the petition for rehearing *en banc* in *ORLA* is notable, not only because of the force of that opinion but also because it drew the support of nine other judges in the Ninth Circuit. After considering the *ORLA* rehearing dissent and the Tenth Circuit's decision in *Marlow,* both of which state that the Department's 2011 Final Rule exceeded the agency's authority under section 3(m), the Department is reconsidering its regulations to the extent that they apply to employers that pay a direct wage of at least the Federal minimum wage and do not claim a credit based on tips to satisfy their minimum wage obligation. The Department has serious concerns that it incorrectly construed the statute in promulgating its current regulations, the scope of which extends to employers that have paid the full Federal minimum wage to their tipped employees, particularly insofar as those employers, rather than taking the tips for their own purposes, provide for such tips to be shared with other employees through a tip pool. The Department also has independent and serious concerns about those regulations as a policy matter. In particular, the Department seeks to remove prohibitions on sharing tips with employees who do not customarily and regularly receive tips—including restaurant cooks, dishwashers, and other traditionally lower-wage job classifications—when their employer does not take a tip credit under FLSA section 3(m) and all employees are paid at least the full Federal minimum wage. In light of all of these factors, the Department is proposing to rescind the parts of its tip regulations that apply to employers that pay a direct cash wage of at least the full Federal minimum wage and do not take a tip credit against their minimum wage obligations. The Department also issued a nonenforcement policy on July 20, 2017, whereby WHD will not enforce the Department's regulations on the retention of tips received by employees with respect to any employee who is paid a cash wage of not less than the full FLSA minimum wage ($7.25) and for whom their employer does not take an FLSA section 3(m) tip credit either for 18 months or until the completion of this rulemaking, whichever comes first.[6] This nonenforcement policy provides nationwide consistency while the Department moves forward with rulemaking.

III. Legislative and Regulatory History of the Section 3(m) Tip Credit

As discussed above, Congress amended the FLSA's tip credit provision in 1974 to require an employer that elects to take a tip credit against its minimum wage obligations to permit its tipped employees to retain all tips they receive, except for those distributed through a tip pool limited to customarily and regularly tipped employees. *See* Public Law 93–259, § 13(e). The legislative history emphasizes that the employee-tip-retention requirement was not ''intended to discourage the practice of pooling, splitting, or sharing tips with employees who customarily and regularly receive tips—*e.g.,* waiters, bellhops, waitresses, countermen, busboys, [and] service bartenders, etc.'' S. Rep. No. 93–690, at 43 (1974). ''On the other hand,'' the Report explains, ''the employer will lose the benefit'' of the tip credit if tipped employees are required to share their tips with employees who do not customarily and regularly receive tips—*e.g.,* janitors, dishwashers, chefs, laundry room attendants, etc.'' *Id.*[7]

The language from the 1974 amendments to section 3(m) is essentially the same as the current version of the law. *See* 29 U.S.C. 203(m). Although section 3(m)'s tip credit provision has been amended three times since 1974—in 1977, 1989, and 1996—these amendments changed only the applicable amount of tips received by employees that could be used as a credit against an employer's minimum wage obligations. *See* Public Law 95–151, § 3(b), 91 Stat. 1245 (1977); Public Law 101–157, § 5, 103 Stat. 938 (1989); and Public Law 104–188, § 2105(b), 110 Stat. 1755 (1996).[8] In

[4] Following the Ninth Circuit's decision in *ORLA,* the plaintiff moved for reconsideration of the district court's decision. *See Marlow,* 861 F.3d at 1159. The district court denied the plaintiff's motion, expressing its agreement with the *ORLA* dissent. *See id.;* Order on Plaintiff's Motion for Reconsideration, *Marlow,* No. 15–CV–01327 (D. Co. Apr. 4, 2016).

[5] The plaintiff in *Marlow* petitioned for panel rehearing of the Tenth Circuit's decision, which the Court denied on July 20, 2017. *See* Order on Appellant's Petition for Panel Rehearing, *Marlow,* No. 16–1134 (10th Cir. July 20, 2017).

[6] This nonenforcement policy extends the agency's partial nonenforcement policy already in effect. In *Oregon Restaurant and Lodging Ass'n* v. *Solis,* 948 F. Supp. 2d 1217 (D. Or. 2013), the U.S. District Court for the District of Oregon declared the Department's 2011 regulations that limit an employer's use of tips received by its employees when the employer has not taken a tip credit against its minimum wage obligations to be invalid, and imposed injunctive relief, as described below. Notwithstanding the Ninth Circuit's decision in *ORLA* reversing that decision, the Department continues to be constrained by the injunctive relief entered by the district court until the Ninth Circuit issues its mandate, which formally notifies the district court of the court of appeals' decision; issuance of that mandate has been stayed ''until final disposition [of this litigation] by the Supreme Court.'' *ORLA* v. *Perez,* No. 13–35765 (9th Cir. Sept. 13, 2016). For these reasons, the Department is currently prohibited from enforcing its tip retention requirements against the Oregon Restaurant and Lodging Association plaintiffs (which include several associations, one restaurant, and one individual) and members of the plaintiff associations that can demonstrate that they were a member on June 24, 2013. The plaintiff associations in the Oregon litigation were the National Restaurant Association, Washington Restaurant Association, Oregon Restaurant and Lodging Association, and Alaska Cabaret, Hotel, Restaurant, and Retailer Association. As a matter of enforcement policy, the Department decided that while the injunction is in place it will not enforce its tip retention requirements against any employer that has not taken a tip credit in jurisdictions within the Ninth Circuit. The Ninth Circuit has appellate jurisdiction over the states of California, Nevada, Washington, Oregon, Alaska, Idaho, Montana, Hawaii, and Arizona; Guam; and the Northern Mariana Islands. *See* WHD, Fact Sheet #15: Tipped Employees Under the Fair Labor Standards Act (FLSA), *https://www.dol.gov/whd/regs/compliance/whdfs15.pdf* (last accessed June 12, 2017).

[7] The Department has concluded that employer-mandated tip pools described in section 3(m) may also include employees in occupations with duties analogous to those of the Senate's list of ''employees who customarily and regularly receive tips'' (''waiters, bellhops, waitresses, countermen, busboys, service bartenders''), such as barbacks. *See* Field Operations Handbook 30d04(b). Likewise, the Department has concluded that employees who do not customarily and regularly receive tips, and therefore may *not* be included in an employer-mandated tip pool described in § 3(m), include employees in occupations with duties analogous to the Senate's list of non-customarily tipped occupations (''janitors, chefs or cooks, dishwashers, laundry room attendants''), such as salad preparers and prep cooks. *See* Field Operations Handbook 30d04(f).

[8] The 1977 amendments to the FLSA decreased the section 3(m) tip credit to a maximum of 40 percent of the Federal minimum wage, while the 1989 amendments returned it to a maximum of 50

Continued

amendments to the FLSA in 2007, Congress increased the minimum wage in three steps to $7.25 per hour beginning July 2009, but did not change the definition of ''wage'' in section 3(m) for purposes of applying the tip credit formula. Public Law 110–28, § 8102(a), 121 Stat. 112 (2007). Thus, the maximum tip credit that an employer is permitted to claim under section 3(m) today is $5.12 per hour—the current Federal minimum wage, $7.25 per hour, 29 U.S.C. 206(a)(1), minus $2.13—or 71 percent of the current Federal minimum wage. *See* 76 FR 18,832, 18,839.

As explained above, the Department promulgated its initial tip regulations in 1967, one year after Congress created the tip credit in section 3(m), and several years before the 1974 amendments to section 3(m)'s tip provisions. 32 FR 13,575 (Sept. 28, 1967). Consistent with the Department's understanding of the 1966 amendments, the 1967 tip regulations permitted agreements under which tips received by employees would be turned over to the employer, which could then use the tips to pay the Federal minimum wage. *Cf.* S. Rep. 1487, 89th Cong., 2d Sess. 12 (1966) (explaining that such practices could continue under the 1966 amendments).

Shortly after the 1974 statutory amendments, however, the Department addressed the impact of the amendments on its tip regulations and stated that its then-existing regulations were superseded by the amendments to the extent tha they were in conflict. Specifically, when asked about the legality of an agreement under which ''the employer would retain all monies generated by tips'' and directly pay its employees at the minimum wage rate, the Department stated that ''[t]he amendments to section 3(m) of the Act,'' which specified that an employer's wage credit for tips (up to 50% of the minimum wage) could not exceed the amount of tips actually received by the employee, ''would have no meaning or effect unless they prohibit agreements under which tips are credited or turned over to the employer for use by the employer in satisfying the monetary requirements of the Act.'' *See* Wage and Hour Opinion Letter FLSA–626, 1974 WL 422051, at *2 (June 21, 1974).

The Department opined shortly after the 1974 amendments that ''an employer may not take advantage of Section 3(m) by using any part of his employee's tips as a credit to meet his monetary obligation unless the employee is permitted to keep all tips'' and, if an employer takes tips received by an employee, ''then, in order to come into compliance, such employer must return the tips and pay the full statutory minimum wage.'' Wage and Hour Opinion Letter WH–310, 1975 WL 40934, at *1 (Feb. 18, 1975); *see* Wage and Hour Opinion Letter WH–386, 1976 WL 41739, at *3 (July 12, 1976) (''[E]mployers must pay tipped employees at least half of the applicable minimum wage (from their own pockets) for each hour worked, and may take a tip credit of no more than 50 percent of the required minimum wage.''). To conclude otherwise, the Department reasoned, would enable an employer to circumvent section 3(m)'s restriction that employers use no more than a limited portion of tips received by employees to satisfy their Federal minimum wage obligations. *Cf. Woody Woo,* 596 F.3d at 579 n.7.

The opinion letters issued shortly after the 1974 amendments were primarily focused on whether it would constitute an impermissible circumvention of section 3(m) of the Act for an employer to utilize tips received by its employees to satisfy its minimum wage obligations to a greater extent than Congress expressly permitted in the Act's tip credit provision. In a 1989 opinion letter, however, the Department opined that merely requiring tipped employees to participate in a tip pool that is not limited to employees in customarily and regularly tipped occupations—*i.e.,* a tip pool in a form not expressly authorized by section 3(m)—may also violate the FLSA, even when an employer has paid all of the tipped and non-tipped employees in the pool a direct cash wage equal to or greater than the Federal minimum wage. *See* Wage and Hour Opinion Letter WH–536, 1989 WL 610348, at *3 (Oct. 26, 1989). In that letter, the Department stated that tips are an employee's property even when an employer pays a direct cash wage of at least the full Federal minimum wage and does not claim a tip credit against its minimum wage obligations based on erroneous reasoning [9] and, on that premise, concluded that a tipped employee who is required to participate in a tip pool that does not satisfy the criteria in section 3(m) is effectively required to ''contribute part of his or her property to the employer or to other persons for the benefit of the employer.'' *Id.* at *2. Thus, under the erroneous reasoning reflected in that letter, even when an employer does not claim a tip credit to reduce the direct cash wage it pays and does not use tips to fulfill any part of its minimum wage obligation to its tipped employees, mandating that a tipped employee contribute to a pool that includes employees in occupations that do not customarily and regularly receive tips ''would become an issue under the minimum wage provisions of the Act,'' if the ''employer does not pay a sufficiently high cash wage to reimburse such employee for such loss, plus at least the minimum wage.'' *Id.*[10]

In 2011, the Department issued a Final Rule addressing tip pooling and other uses of tips. *See* 76 FR 18,832, 18,842. Revised § 531.52 provides in relevant part that:

percent of the Federal minimum wage. *See* Public Law 95–151, §§ 2(a), 3(b), 91 Stat. 1245 (1977); Public Law 101–157, §§ 2, 5, 103 Stat. 938 (1989). The 1996 amendments ''froze'' the direct cash wage that an employer must pay its tipped employees under section 3(m) at a minimum of 50 percent of the minimum wage in effect on the date of their enactment, or $2.13 per hour. *See* Public Law 104–188, §§ 2104(b), § 2105(b), 110 Stat. 1755 (1996). This change shifted the amount of the maximum tip credit from a fixed percentage of the current Federal minimum wage to the difference between the current Federal minimum wage and the frozen minimum direct cash payment, thus allowing the percentage of the Federal minimum wage covered by the tip credit to increase as the minimum wage rose.

[9] The opinion letter, in the context of an employer that did not take a 3(m) tip credit, stated that ''[t]he courts have made clear that tips are the property of the employee to whom they are given.'' 1989 WL 610348, at *2 (citing *Barcellona* v. *Tiffany English Pub, Inc.,* 597 F.2d 464, 466–467 (5th Cir. 1979)). The Department acknowledges that that statement is incorrect. *Barcellona* concluded that ''*[i]f* there was no agreement as to ownership, then the tips were the property of the recipient,'' and that the *trial evidence in that particular case* supported the factual finding that no such agreement existed. 597 F.2d at 467 (emphasis added) (citing *Williams* v. *Jacksonville Terminal Co.,* 315 U.S. 386, 397 (1940)); *cf. Richard* v. *Marriott Corp.,* 549 F.2d 303, 304–305 (4th Cir. 1977) (concluding that ''tips belong to the employee to whom they are left'' in circumstances in which no contrary agreement existed and the employer simply undertook to pay ''the difference between the tips and the [minimum] hourly wage'').

[10] The Department similarly stated in the preamble to the 2011 Final Rule that, if, by requiring tipped employees to participate in a tip pool that does not satisfy the standards in section 3(m) or by claiming and using the tips itself, such an employer deducts sufficient tips to ''reduce the employer's direct wage payment to an amount below the minimum wage,'' the employer would violate section 6 of the FLSA and be subject to suit under section 16 or 17. 76 FR 18,832, 18,842; *see also* Notice of Proposed Rulemaking, 73 FR 43,654, 43,659 (July 28, 2008) (explaining that if an ''employer paid the employee a direct wage in excess of the minimum wage'' it ''would be able to make deductions [from the employee's tips] so long as they did not reduce the direct wage payment below the minimum wage''); Br. of the United States as Amicus Curiae, Jan. 2015, at 2, 2015 WL 191535, *Trejo* v. *Ryman Hospitality Indus.,* 795 F.3d 442 (4th Cir. Jan. 2015) (pointing out that private plaintiffs who did not allege that the effect of their employers' tip pool was to reduce their wages below the minimum wage in violation of section 6 failed to plead a cause of action under the FLSA because section 3(m) of the Act does not provide a freestanding right to recover tips).

Tips are the property of the employee whether or not the employer has taken a tip credit under section 3(m) of the FLSA. The employer is prohibited from using an employee's tips, *whether or not it has taken a tip credit,* for any reason other than that which is statutorily permitted in section 3(m): As a credit against its minimum wage obligations to the employee, or in furtherance of a valid tip pool.

Id. at 18,855 (emphasis added). Under the current regulations an employer that pays a direct cash wage equal to or greater than the Federal minimum wage—just like an employer that claims a tip credit to reduce the direct cash wage it pays—may require tipped employees to participate in a tip pool that is limited to employees in customarily and regularly tipped occupations, but it may not require tipped employees to participate in a tip pool that includes employees who are not in customarily and regularly tipped occupations. Nor may an employer that pays a direct cash wage equal to or greater than the Federal minimum wage use its tips received by its employees for any other purpose.

IV. Recent Changes in State Tip Pooling Laws

As a result of market forces and changes in state wage laws, the number of employers paying tipped employees a direct cash wage that is equal to or greater than the Federal minimum wage (and thus not claiming a section 3(m) tip credit) has increased since the Department promulgated the 2011 Final Rule. The Department believes that these changes also merit reconsideration of the tip pooling restrictions imposed on employers that do not claim a tip credit under section 3(m).

Historically, six western states (Alaska, California, Montana, Nevada, Oregon, and Washington) have prohibited employers from using tips received by employees as a credit against their state minimum wages—all of which today equal or exceed the Federal minimum wage—thereby preventing employers in these states from claiming a section 3(m) tip credit to reduce the direct cash wage they pay without incurring liability under state law. *See* Alaska Stat. § 23.10.065(a); Cal. Lab. Code § 351 (amended 1975); Mont. Code Ann. §§ 39–3–402, 39–2–404 (originally enacted Sec. 2, Ch. 417 (1971)), Mont. Admin. R. 24.16.1508(1); Nev. Rev. Stat. § 608.160(1)(b); Or. Rev. Stat. § 653.035; Rev. Code Wash. 49.46.020, Wash. Admin. Code 296–126–022 (effective 1974); *see also* Alaska School Bus Safety Act, 1990 Alaska Laws Ch. 12, § 23.10.065 (1990); *Henning* v. *Industrial Welfare Commission,* 46 Cal. 3d 1262, 1275–76 (Cal. 1988) (holding that Labor Code section 351, as amended in 1975, ''bar[s] the establishment of a minimum wage for tipped employees lower than the generally applicable minimum wage.''); *Moen* v. *Las Vegas Int'l Hotel, Inc.,* 402 F. Supp. 157, 158 (D. Nev. 1975) (outlining requirements of Nev. Rev. Stat. § 608.160); Wash. Att'y Gen. Op. 1974 No. 18, 1974 WL 168752 (concluding that hotels and restaurants must pay the full Washington minimum wage to their tipped employees, and may not take advantage of the section 3(m) tip credit, since, ''as it has long been administratively construed by the department of labor and industries, tips are . . . not included as a part of an employee's wages for the purposes of the Washington law.''); WHD, Minimum Wages for Tipped Employees, January 1, 2003, *https://www.dol.gov/whd/state/tipped2003.htm.*[11]

Since the Department promulgated the 2011 Final Rule, a number of additional states have increased the direct cash wage an employer must pay some or all tipped employees under state law. In August 2014, Minnesota—which prohibits employers from taking a tip credit against the state minimum wage—increased its minimum wage for large employers from $6.15 per hour to $8.00 per hour (it was increased on August 1, 2016 to $9.50 per hour) and increased its minimum wage for small employers from $5.25 per hour to $7.25 per hour beginning in August 2015 (it is currently $7.75 per hour). *See* Minn. Stat. Ann. § 177.24, subd. 1, 2; 2014 Minn. Sess. Law Serv. Ch. 166. As a result, employers in Minnesota now must pay tipped employees a direct cash wage that is greater than the Federal minimum wage. In January 2015, Hawaii—which permits employers to take a tip credit but requires that the combined cash wage and tips must equal at least $7.00 more than the state minimum wage—increased the direct cash wage employers must pay tipped employees to $7.25 per hour (the current Federal minimum wage). Haw. Rev. Stat. Ann. § 387–2. The minimum direct cash wage an employer must pay a tipped employee in Hawaii is currently $8.50 per hour and is scheduled to increase to $9.35 in January 2018. Haw. Rev. Stat. Ann. § 387–2. In December 2015, New York increased the direct cash wage employers that take a tip credit must pay tipped food service employees and other service employees to at least $7.50 per hour. *See* 12 NY ADC 146–1.3 (Dec. 4, 2015).[12] And in November 2016, Arizona and Colorado enacted ballot measures that will increase the direct cash wage employers that take a tip credit must pay tipped employees to at least the current Federal minimum wage by January 2020. *See* Ariz. Proposition 206, approved Nov. 8, 2016 (amending Ariz. Rev. Stat. Ann. § 23–363(C)); 2016 Colo. Legis. Serv. Init. Pet. 101 (amending Colo. Const. art. XVIII, § 15).

Due to these changes, the share of servers, bellhops and porters, counter attendants, bartenders, and dining room attendants and bartender helpers[13] with employers that are or will be required under state law to pay a direct cash wage of at least the Federal minimum wage to all or a portion of their tipped employees has almost doubled, from approximately 17 percent in 2011 to approximately 31 percent today. *See* Table A: WHD Analysis of BLS Data Regarding States that Require Employers to Pay Tipped Employees a Direct Cash Wage At Least Equal to the Federal Minimum Wage.

V. The Department Is Proposing To Rescind Portions of Its Tip Regulations

The Department seeks public comments, which should include supporting data whenever possible, on the proposed rescission of those portions of its 2011 tip regulations that apply to employers that pay tipped employees a direct cash wage that is equal to or greater than the Federal minimum wage and that do not claim a tip credit. The Department's current regulations require that tipped employees retain all tips they receive regardless whether the employer takes a

[11] Additionally, Connecticut has required employers to pay bartenders a direct cash wage of at least the Federal minimum wage since 2001. *See* Conn. Gen. Stat. Ann. 31–58, 31–60; Conn. Pub. Act. No. 00–144 (May 26, 2000). Connecticut currently requires bartenders to be paid a direct cash wage of at least $8.23 per hour. *See* Conn. Gen. Stat. Ann. 31–58, 31–60. It permits employers to pay other tipped employees a minimum direct cash wage of $6.38. *See id.*

[12] Effective December 31, 2016, New York has four schedules of direct cash wages that employers must pay tipped service workers and food service workers based on employer size and geographic location. *See* N.Y. Comp. Codes R. & Regs. tit. 12, § 146–1.3. Currently, the lowest direct cash wage an employer can pay to a tipped food service worker in any part of the state is $7.50 per hour and the lowest direct cash wage an employer can pay a tipped service employee in any part of the state is $8.10 per hour. *See id.*

[13] The BLS occupational categories of ''Waiters and Waitresses,'' ''Baggage Porters and Bellhops,'' ''Counter Attendants, Cafeteria, Food Concession, and Coffee Shop,'' ''Bartenders,'' and ''Dining Room and Cafeteria Attendants and Bartender Helpers'' most closely correspond to the illustrative list of ''customarily and regularly tipped'' occupations in the Senate Report accompanying the 1974 amendments to the FLSA: ''waiters, bellhops, waitresses, countermen, busboys, [and] service bartenders.'' *See* S. Rep. No. 93–690, at 43 (1974).

tip credit under section 3(m). Employers can only require tipped employees to participate in a mandatory tip pool if the tip pool is limited to employees in customarily and regularly tipped occupations, such as servers, bartenders, and bussers. As discussed above, this regulatory restriction limiting tip pools to only customarily and regularly tipped employees applies even when an employer pays a direct cash wage of at least the full Federal minimum wage and does not claim a credit pursuant to section 3(m).

The purpose of section 3(m)'s tip credit provision is to allow an employer to subsidize a portion of its Federal minimum wage obligation by crediting the tips customers give to employees. If an employer takes a tip credit against its wage obligations, section 3(m) applies, along with its attendant protections that restrict the employer's use of tips received by its employees. Where an employer has paid a direct cash wage of at least the full Federal minimum wage and does not take the employee tips directly, a strong argument exists that the statutory protections of section 3(m) do not apply.[14] But if an employer pays the full Federal minimum wage and does not take a tip credit, the proposed rule would allow tip sharing in a manner currently prohibited by regulation, including by sharing tips with employees who are not customarily and regularly tipped (*e.g.,* restaurant cooks and dishwashers) through a tip pool. The proposed rule, therefore, provides such employers and employees greater flexibility in determining the pay policies for tipped and non-tipped workers. It additionally allows them to reduce wage disparities among employees who all contribute to the customers' experience and to incentivize all employees to improve that experience regardless of their position. In sum, due to the Department's serious concerns that it incorrectly construed the statute in promulgating its current tip regulations to cover employers who pay a direct cash wage of at least the full Federal minimum wage, as well as the various other reasons described in this NPRM, the Department is proposing to rescind the portions of the current regulations that apply to employers that pay a direct cash wage of at least the Federal minimum wage and do not claim a tip credit against their minimum wage obligations.

This NPRM uses the term ''tip pooling'' to describe any scenario in which a tip provided by a customer to an employee or group of employees is shared, in whole or in part, with other employees. The Department recognizes that in some workplaces or under State laws, the term ''tip pooling'' may refer to a narrower set of practices, and that employers and workers may use other terms—for example ''tip out,'' ''tip sharing,'' or ''tip jar''—to describe certain practices regarding tips. Accordingly, the Department asks commenters to define in their comments any terms they use to describe practices regarding tips. The Department will consider information provided by the public in response to this NPRM in finalizing its proposal to amend 29 CFR part 531, subpart D, as it applies to situations where an employer pays tipped employees a direct cash wage that is at least the Federal minimum wage.

TABLE A—WHD ANALYSIS OF BLS DATA REGARDING STATES THAT REQUIRE EMPLOYERS TO PAY TIPPED EMPLOYEES A DIRECT CASH WAGE AT LEAST EQUAL TO THE FEDERAL MINIMUM WAGE

State	Servers (waiters & waitresses) SOC Code 353031	Bartenders SOC Code 353011	Counter attendants, cafeteria, food concession, and coffee shop SOC Code 353022	Dining room and cafeteria attendants and bartender helpers SOC Code 359011	Baggage porters & bellhops SOC Code 396011	Servers; bartenders; counter attendants; dining room & cafeteria attendants & bartenders helpers; porters & bellhops
Direct cash wage for tipped employees at least equal to the Federal minimum wage, 2011[15]						
Alaska	3690	1930	1550	1020	190	8380
California	233330	45280	61040	61380	4800	405830
Montana	8780	4550	690	1060	90	15170
Nevada	37380	13420	3960	11050	3080	68890
Oregon	26530	9340	5100	3320	340	44630
Washington	41160	12530	19080	8430	920	82120
Subtotal	350870	86450	91420	86260	9420	624420
Total, U.S.	2289010	512230	441830	391290	44130	3678490
% U.S. total	15.33%	16.88%	20.69%	22.05%	21.35%	16.97%
Direct cash wage for tipped employees equal to or scheduled to reach at least Federal minimum wage, present[16]						
Alaska	4260	1740	2540	920	90	9550
Arizona	53580	11150	8340	9610	740	83420
California	280100	57340	47970	71460	5660	462530
Colorado	52540	12560	4530	7490	640	77760
Connecticut	28430	7740	5480	3430	180	45260

[14] If an employer pays its tipped employees a direct cash wage of at least the full Federal minimum wage but takes its employees' tips to satisfy the entirety of its minimum wage obligation, there is a question as to whether the employer is circumventing the protections of section 3(m) because it is utilizing its employees' tips towards its minimum wage obligations to a greater extent than permitted under the statute for employers that take the tip credit. The Department will consider whether additional guidance on this circumvention issue should be issued in the future.

TABLE A—WHD ANALYSIS OF BLS DATA REGARDING STATES THAT REQUIRE EMPLOYERS TO PAY TIPPED EMPLOYEES A DIRECT CASH WAGE AT LEAST EQUAL TO THE FEDERAL MINIMUM WAGE—Continued

State	Servers (waiters & waitresses) SOC Code 353031	Bartenders SOC Code 353011	Counter attendants, cafeteria, food concession, and coffee shop SOC Code 353022	Dining room and cafeteria attendants and bartender helpers SOC Code 359011	Baggage porters & bellhops SOC Code 396011	Servers; bartenders; counter attendants; dining room & cafeteria attendants & bartenders helpers; porters & bellhops
Hawaii	16110	3200	5470	5130	1380	31290
Minnesota	50230	17270	15060	4040	330	86930
Montana	8540	5340	870	1040	70	15860
Nevada	39450	14870	4670	13070	2710	74770
New York	155540	43670	31470	33390	4250	268320
Oregon	33100	9040	9950	4270	270	56630
Washington	48380	13520	13380	8240	520	84040
Subtotal	770260	197440	149730	162090	16840	1296360
Total, U.S.	2564610	603320	499550	423080	44750	4135310
% U.S. total	30.03%	32.73%	29.97%	38.31%	37.63%	31.35%

VI. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, require the Department to consider the agency's need for its information collections, their practical utility, as well as the impact of paperwork and other information collection burdens imposed on the public, and how to minimize those burdens. The PRA typically requires an agency to provide notice and seek public comments on any proposed collection of information contained in a proposed rule. *See* 44 U.S.C. 3506(c)(2)(B); 5 CFR 1320.8.

This NPRM does not contain a collection of information subject to OMB approval under the Paperwork Reduction Act. The Department welcomes comments on this determination.

VII. Analysis Conducted in Accordance With Executive Order 12866, Regulatory Planning and Review, Executive Order 13563, Improved Regulation and Regulatory Review, and Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

Under Executive Order 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive Order and review by OMB. 58 FR 51735. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. *Id.* OMB has determined that this proposed rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; it is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. Executive Order 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Executive Order 13771 (''E.O. 13771'') directs agencies to reduce regulation and control regulatory costs by eliminating at least two existing regulations for each new regulation, and by controlling the cost of planned regulations through the budgeting process. *See* 82 FR 9339. In relevant part, OMB defines an ''E.O. 13771 regulatory action'' as ''a significant regulatory action as defined in section 3(f) of E.O. 12866 that has been finalized and that imposes total costs greater than zero.'' [17] By contrast, an ''E.O. 13771 deregulatory action'' is defined as ''an action that has been finalized and has total costs less than zero.'' [18] For the purposes of E.O. 13771, it is expected that this proposed rule would, if finalized as proposed, qualify as an ''E.O. 13771 deregulatory action.''

A. The Need for Rulemaking

As explained earlier in Part IV of this notice, more employers are unable to claim a tip credit in 2017 than when the Department's regulations were promulgated in 2011 due to the increased number of states that require employers to pay their tipped

[15] These employment figures are from the May 2011 BLS Occupational Employment Statistics (OES) Survey.

[16] These employment figures are from the May 2016 BLS OES Survey.

[17] OIRA Memo M–17–21, Guidance Implementing Executive Order 13771 (April 5, 2017).

[18] *Id.*

employees a direct cash wage of at least the current $7.25 per hour Federal minimum wage. Perhaps because of these changes to state law, there has been a significant amount of private litigation in recent years involving the tip pooling and tip retention practices of employers that pay a direct cash wage of at least the Federal minimum wage. *See, e.g., Trejo* v. *Ryman Hosp. Properties,* 795 F.3d 442 (4th Cir. 2015); *Aguila* v. *Corp. Caterers IV,* 199 F. Supp. 3d 1358 (S.D. Fla. 2016), *aff'd sub nom.* 2017 WL 1101081 (11th Cir. Mar. 24, 2017); *Marlow* v. *The New Food Guy, Inc.,* 861 F.3d 1157 (10th Cir. 2017).

In part because of these developments, the Department has serious concerns that it incorrectly construed the statute in promulgating its current tip regulations as applied to employers that have paid the full Federal minimum wage to their tipped employees, and serious concerns about the regulations as a policy matter, especially under changed circumstances. Additionally, the Department seeks to remove prohibitions on sharing tips with non-customarily tipped employees—including restaurant cooks, dishwashers, and other traditionally lower-wage job classifications—when their employer does not take a tip credit under FLSA section 3(m) and all employees are paid at least the full Federal minimum wage. The Department is therefore proposing to rescind the portions of its tip regulations at 29 CFR part 531, subpart D that limit employee arrangements to share tips by imposing restrictions on employers that pay a direct cash wage of at least the full Federal minimum wage and do not claim a tip credit against their minimum wage obligation. The Department also issued a nonenforcement policy on July 20, 2017, whereby WHD will not enforce the Department's regulations on the retention of employees' tips with respect to any employee who is paid a cash wage of not less than the full FLSA minimum wage ($7.25) and for whom their employer does not take an FLSA section 3(m) tip credit, either for 18 months or until the completion of this rulemaking, whichever comes first.

B. Economic Analysis

i. Introduction

This economic analysis provides a quantitative analysis of the rule familiarization costs of the proposed rule, and a qualitative discussion of the benefits and transfers that may result from the proposed rule.[19] The potential benefits and transfers have not been quantified in this NPRM.

There are labor market forces that will affect employers' decisions on tips that employees receive. For example, there are certain market factors that may cause employers not to change their practices with respect to tips, such as employee resistance and a decline in employee morale, as well as the costs of employee turnover. The Department is unable to quantify how customers will respond to proposed regulatory changes, which in turn would affect total tipped income and employer behavior.

The Department welcomes comments that provide data or information regarding the potential benefits and transfers of this proposed rule, and has asked some specific questions that may help the Department quantify benefits and transfers in the Final Rule analysis. *See* Section VII.B.iv.

ii. Estimated Number of Affected Workers and Firms

This section explains the methodology used to estimate the number of workers who are defined as a tipped employee, *i.e.,* where a tipped employee means any employee engaged in an occupation in which he or she customarily and regularly receives more than $30 a month in tips. *See* 29 U.S.C. 203(t). In the absence of data to specifically categorize employees by the definition above, the Department relied on a broader definition as allowed by the available data, where the minimum tip amount received is relaxed (that is, this analysis does not consider the $30-a-month threshold), and where the focus is on tipped employees who are classified under two Bureau of Labor Statistics (BLS) Standard Occupational Classification (SOC) codes: SOC 35–3031 (Waiters and Waitresses) and SOC 35–3011 (Bartenders).

For the present analysis, the Department considered these two occupations as they constitute a large percentage of tipped workers.[20] The Department understands that there are other occupations with tipped workers such as SOC 35–9011 (Dining room and Cafeteria Attendants and Bartender Helpers) and SOC 35–9031 (Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop), and others; thus, the Department welcomes comments and suggestions on whether this analysis should extend to additional tipped occupations. The Department focused on employees in those two occupations in the two industries in which they are primarily concentrated. The two industries are classified under the North American Industry Classification System (NAICS) as 722410 (Drinking Places (Alcoholic Beverages)) and 722511 (Full-service Restaurants). The Department understands that there are other industries with tipped workers, and welcomes comments and suggestions on whether this analysis should extend to those additional industries, and if so, which industries and why.

The Department used the Current Population Survey (CPS), a large, nationally representative sample of the labor force, for data on the number of workers employed in the two occupations mentioned above, the wages for these workers, and their usual hours worked. The CPS, which is sponsored jointly by the U.S. Census Bureau and BLS, is a monthly survey of about 60,000 households. In any given month, one adult household member reports employment and other information for each member of the household.[21] Households are surveyed for four months, excluded from the survey for eight months, surveyed for an additional four months, then permanently dropped from the sample. During the last month of each rotation in the sample (month 4 and month 16), employed respondents complete a supplementary questionnaire in addition to the regular survey. These households and questions form the CPS Merged Outgoing Rotation Group (CPS–MORG) and provide more detailed information about those surveyed.

The CPS asks respondents whether they usually receive overtime pay, tips, and commissions, which allows the Department to estimate the number of bartenders and wait staff in restaurants

[19] The Department focused on two industries, which are classified under the North American Industry Classification System (NAICS) as 722410 (Drinking Places (Alcoholic Beverages)) and 722511 (Full-service Restaurants, the focus is on tipped employees who are classified under two Bureau of Labor Statistics (BLS) Standard Occupational Classification (SOC) codes: SOC 35–3031 (Waiters and Waitresses) and SOC 35–3011 (Bartenders).

[20] Source: Bureau of Labor Statistics, Current Population Survey, Table 11b. Employed Persons by Detailed Occupation and Age, 2016 (*https://www.bls.gov/cps/cpsaat11b.pdf*). The number of bartenders and wait staff were calculated as a percentage of total employment in 11 occupations in which compensation depends heavily on tips. The 11 occupations are based on a 2014 Congressional Budget Office report, ''The Effects of a Minimum-Wage Increase on Employment and Family Income'' (*https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/44995-MinimumWage.pdf*).

[21] *See* Current Population Survey, U.S. Census Bureau, *https://www.census.gov/programs-surveys/cps.html* (last visited July 17, 2017); CPS Merged Outgoing Rotation Groups, NBER, *http://www.nber.org/data/morg.html* (last visited July 17, 2017).

and drinking places who receive tips. CPS data, however, are not available separately for overtime pay, tips, and commissions, but the Department assumes very few bartenders and wait staff at restaurants and drinking places receive commissions, and the number who receive overtime pay but not tips is also assumed to be minimal. Therefore, where bartenders and wait staff responded affirmatively to this question, the Department assumes that they receive tips.

All data tables in this analysis include estimates for the year 2016 as the baseline. Table 1 presents the estimates of the share of bartenders and wait staff in restaurants and drinking places who reported that they usually earned overtime pay, tips, or commissions in 2016. Approximately 61 percent of bartenders and 57 percent of wait staff reported usually earning overtime pay, tips, or commissions in 2016.

TABLE 1—SHARE OF BARTENDERS AND WAITERS/WAITRESSES IN RESTAURANTS AND DRINKING PLACES WHO EARNED OVERTIME PAY, TIPS, OR COMMISSIONS, 2016

Occupation	Number of bartenders and waiters/waitresses in restaurants and drinking places	Number who responded Yes to earning overtime pay, tips, or commissions	Percent who responded Yes to earning overtime pay, tips, or commissions
Total	2,265,705	1,298,231	57
Bartenders	357,727	218,989	61
Waiters and waitresses	1,907,979	1,079,243	57

Source: 2016 Current Population Survey. The Department used DataFerrett to extract basic monthly CPS data.
Occupations: Bartenders (Census Code 4040) and Waiters and Waitresses (Census Code 4110).
Industries: Restaurants and other food services (Census Code 8680) and Drinking places, alcoholic beverages (Census Code 8690).

The Department used data from BLS' Quarterly Census of Employment and Wages (QCEW) to estimate the familiarization cost (Section VII.B.iv). The Department believes regulatory familiarization will occur at the specific establishment level rather than the broader firm level.[22]

iii. Qualitative Analysis

Under this NPRM, employers that pay at least the full FLSA minimum wage directly to tipped employees could utilize some or all of the tips received by employees for purposes currently prohibited by the regulations (*i.e.,* for purposes other than a tip pool limited to customarily and regularly tipped employees) or when employers that currently claim the section 3(m) tip credit increase the cash wages of their tipped employees to at least the full FLSA minimum wage and then utilize some or all of the tips received by employees for purposes currently prohibited by the regulations.[23]

The Department does not attempt to definitively interpret individual state law, and is therefore unable to determine to what extent state law will affect employer behavior in light of the proposed changes. It is assumed, however, that about 30 percent of all waiters and waitresses and bartenders work in states that prohibit employers from obtaining tips received by employees.[24] In these states, employers must continue complying with state law, and therefore tipped employees in these states may not be impacted by the changes proposed in this NPRM. The potential transfers of tips would depend on employer behavior, employee behavior, customer behavior, and other factors. The Department seeks public comments, which should include supporting data whenever possible, on ''tip pooling'' practices in workplaces where an employer pays tipped employees a direct cash wage that is equal to or greater than the Federal minimum wage. The Department uses the term ''tip pooling'' to describe any scenario in which a tip provided by a customer to an employee or group of employees is redistributed, in whole or in part, with other employees.[25] The Department recognizes that in some workplaces or under State laws, the term ''tip pooling'' may refer to a narrower set of practices, and that employers and workers may use other terms—for example ''tip out,'' ''tip sharing,'' or ''tip jar''—to describe certain practices regarding tips. Accordingly, the Department asks commenters to define in their comments any terms they use to describe practices regarding tips. Specifically, the Department solicits comments with supporting data to the following issues:

1. Among employers that currently pay a direct cash wage of at least the Federal minimum wage and do not take a tip credit, what portion reallocate tips, with other employees? And, among that population of employers, what portion of the total tips do they retain or reallocate?

2. How prevalent are employer-required, or mandatory, tip pools? What factors determine whether an employer institutes a mandatory tip pool? What portion of the tips received by employees do employers anticipate being contributed to the tip pool? What kinds of factors might influence an employer's decision to exclude some tips from inclusion in a mandatory tip pool?

3. Do tipped employees receiving money from a mandatory tip pool typically receive a fixed dollar amount, or a fixed percentage of the pool? Is it common for some employees to receive

[22] An establishment is commonly understood as a single economic unit, such as a farm, a mine, a factory, or a store, that produces goods or services. Establishments are typically at one physical location and engaged in one, or predominantly one, type of economic activity for which a single industrial classification may be applied. An establishment is in contrast to a firm, or a company, which is a business and may consist of one or more establishments, where each establishment may participate in a different predominant economic activity. *See* Quarterly Census of Employment and Wages: Concepts, *https://www.bls.gov/opub/hom/cew/concepts.htm.*

[23] Under the Department's proposed rule, employers that do take a tip credit will still be subject to section 3(m)'s restrictions on the use of employee tips.

[24] *See, e.g.,* Cal. Labor Code § 351 (''Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for.''); N.Y. Lab. Law § 196–d (''No employer . . . shall demand or accept, directly or indirectly, any part of the gratuities, received by an employee, or retain any part of a gratuity or of any charge purported to be a gratuity for an employee.''). The Department seeks comments regarding how certain state laws apply to the retention of tips when the employer pays the full minimum wage directly and does not take a tip credit. Such information may assist the Department in providing a more detailed analysis in the final rule.

[25] Under the Department's current regulations, an employer can lawfully mandate that an employee contribute a portion of her tips to a tip pool, but only if the pool is limited to ''employees who customarily and regularly receive tips.'' Public Law 93–259, 13(e), (*i.e.,* a ''valid tip pool''). See § 531.54; Field Operations Handbook 30d04(a).

a larger share of the tip pool than others,[26] or are tips typically distributed on an even basis among all participants in the tip pool?

4. If this proposed rule were adopted as proposed, what kinds of employees would employers choose to include in mandatory tip pools?

5. If this proposed rule were adopted as proposed, would customers' tipping practices change?

6. If this proposed rule were adopted as proposed, would some employers respond by reallocating tipped income to their non-tipped employees? Would such a response reduce the disparity in take-home earnings between tipped and non-tipped employees in service industry establishments?

7. If this rule were adopted as proposed, what non-regulatory limitations would employers and employees face when deciding whether and how to design a tip pooling arrangement? Are there any market norms or other behavioral reasons why some types of tip pooling are more prevalent than others? To what extent is the endowment effect (that is, customarily and regularly tipped employees potentially valuing tips more than wages of the same average amount) relevant for explaining potential tip behavior in a relatively less-regulated market?

iv. Estimated Costs and Cost Savings to Employers

In this subsection, the Department addresses regulatory familiarization costs and recordkeeping costs and cost savings attributable to the proposed rule. The Department also presents a qualitative discussion of potential benefits and the impacts of the proposed rule on wages and employment, as well as possible changes to customers' tipping behavior resulting from employers reallocating tips to other employees.

1. Regulatory Familiarization Costs

Regulatory familiarization costs represent direct costs on businesses associated with reviewing the new regulation. It is not clear whether regulatory familiarization costs are a function of the number of establishments or the number of firms. It can be assumed that the headquarters of a firm will conduct the regulatory review for businesses with multiple restaurants, and may also require chain restaurants to familiarize themselves with the regulation at the establishment level. To be conservative, the Department used the number of establishments in its cost estimate—which is larger than the number of firms—and assumes that regulatory familiarization occurs both the headquarters and at the decentralized (*i.e.,* establishment) level.

The Department assumes that all establishments will incur some regulatory familiarization costs regardless of whether the employer decides to change its tip practices as a result of the proposed rule. There may be differences in familiarization cost by the size of establishments; however, our analysis does not compute different costs for establishments of different sizes. The estimate of regulatory familiarization cost in the analysis is assumed to be conservative. Further, the change in this regulation is quite straightforward and is unlikely to have a major burden or cost.

To estimate the total regulatory familiarization costs, the Department used: (1) The number of establishments in the two industries, Drinking Places (Alcoholic Beverages) and Full-service Restaurants, employing affected workers; (2) the wage rate for the employees reviewing the rule; and (3) the number of hours that it estimates employees will spend reviewing the rule. Table 2 shows the number of establishments in the two industries. To estimate the number of affected establishments, the Department used data from BLS's QCEW.

TABLE 2—NUMBER OF ESTABLISHMENTS WITH TIPPED WORKERS, 2016

Industry	Establishments
NAICS 722410 (Drinking Places (Alcoholic Beverages))	43,152
NAICS 722511 (Full-service Restaurants)	238,776
Total	281,928

Source: QCEW, 2016.

For familiarization cost analysis, the Department assumes that a Compensation/benefits specialist (SOC 13–1141) (or a staff member in a similar position) with a median wage of $29.85 per hour in 2016 will review the rule.[27] Given the change proposed, the Department assumes that it will take about 15 minutes to review the final rule. Assuming benefits are paid at a rate of 46 percent of the base wage, and overhead costs are 17 percent of the base wage, the reviewer's effective hourly rate is $48.66; thus, the average cost per establishment is $12.17 for 15 minutes of review time. The number of establishments in the selected industries was 281,928 in 2016. Therefore, regulatory familiarization costs in Year 1 are estimated to be $3.431 million ($12.17 × 281,928 establishments), which amounts to a 10-year annualized cost of $390,510 at a discount rate of 3 percent or $456,548 at a discount rate of 7 percent.[28] Regulatory familiarization costs in future years are assumed to be *de minimis.*

2. Other Potential Costs or Cost Savings

If employers that are currently taking the section 3(m) tip credit continue to do so, their recordkeeping responsibilities under the FLSA regulation, 29 CFR 516.28, would not change under the proposed rule. However, if employers decide to pay the full FLSA minimum wage in cash and do not take a section 3(m) tip credit, they may have cost savings, because they will no longer need to keep the specific records required under 29 CFR 516.28.

[26] *Woody Woo,* 596 F.3d 577, addressed the legality of a tip pool where between 55 to 70 percent of the tip pool went to kitchen staff (*e.g.,* dishwashers and cooks), with the remaining 30 to 45 percent returned to servers in proportion to their hours worked. *Id.* at 578–79.

[27] Compensation/benefits specialist ensures company compliance with federal and state laws, including reporting requirements; evaluates job positions, determining classification, exempt or non-exempt status, and salary; plans, develops, evaluates, improves, and communicates methods and techniques for selecting, promoting, compensating, evaluating, and training workers. 13–1141 Compensation, Benefits, and Job Analysis Specialists, *https://www.bls.gov/oes/current/oes131141.htm* (last visited on July 20, 2017).

[28] This regulatory familiarization cost cannot be subtracted from any current compliance costs because there was no Regulatory Impact Analysis in the 2011 rule. Costs incurred in 2011 are sunk from the perspective of employers in 2017.

To the extent that some employers choose to change their practices and pay at least the full FLSA minimum wage in cash and not take a section 3(m) tip credit, they may have to revise their employee handbooks, adjust their payroll systems, and/or advise affected employees. These are generally regarded as adjustment costs that would be imposed by changes in the regulations. The Department recognizes, however, that deciding to pay at least the full FLSA minimum wage in cash and not take a section 3(m) tip credit is a choice some employers may make in responding to the proposed rule, but is not a requirement of the regulation. Due to the many variables and assumptions needed to estimate how employers will respond to the proposed regulatory changes and insufficient information at this time regarding the costs that employers may assume or not incur as a result of the proposed rule, the Department has not quantified a monetary value for any additional costs or cost savings in this NPRM. The Department invites comments regarding any potential costs or cost savings attributable to the proposed rule.

v. Summary of Familiarization Costs

Below the Department provides a summary table of the quantified costs for the RIA.

TABLE 3—REGULATORY FAMILIARIZATION COSTS

	Disc rate = 3%	Disc rate = 7%
First Year Costs ($ million)	$3.431	$3.431
10-year Annualized Costs ($)	390,510	456,548

C. Discussion of Benefits and Other Potential Impacts of the Proposed Rule

i. Benefits

The purpose of section 3(m)'s tip credit provision is to allow an employer to subsidize a portion of its Federal minimum wage obligation through a credit against the tips given to employees by customers. If an employer takes a tip credit against its wage obligations, section 3(m) applies, along with its attendant provisions that restrict the employer's use of tips received by employees, including the requirement that only tipped employees be included in the tip pool. However, where an employer has paid employees a direct cash wage of at least the full Federal minimum wage, the proposed rule would allow the employer to reallocate tips received by its employees in a manner currently prohibited by regulation, including distributing tips to non-tipped employees (*e.g.,* cooks or dishwashers) through a tip pool. The proposed rule, therefore, provides employers greater flexibility in determining the pay policies for tipped and non-tipped workers. Theoretically, it additionally allows them to reduce wage disparities among employees who all contribute to the customers' experience and incentivize all employees to improve that experience regardless of position.

It is common in full-service restaurants to have a tip pool. One study suggests that tip pooling contributes to increased service quality, along with enhanced interaction and cooperation between coworkers, especially when team members rely on input or task completion from each other.[29] From management's perspective, tip pooling may foster service that is customer-focused and promotes a setting where employees get along well, and may increase productivity.[30] These studies suggest that expanding the tip pool to include non-tipped employees may lead to enhanced interaction and cooperation between coworkers, and increased quality of service. On the other hand, a recent meta-analysis indicates that tips may be more a function of server looks and friendliness, the customer's mood, and even the weather than they are of aspects of service quality that depend on cooks, dishwashers, or other back-of-house staff who might newly be included in tip pools as a result of this proposed policy.[31] Under the proposed changes, the employer will be able to distribute customer tips to non-tipped employees, possibly resulting in increased earnings for those employees.

Also, research demonstrates a negative correlation between earnings and employee turnover: As earnings increase, employee turnover decreases.[32] If earnings increase for previously non-tipped employees who are newly added to a tip pool (or tip pools), then employers may see a decreased turnover rate amongst these employees. Reducing turnover may increase productivity, at least partially, because new employees have less firm-specific capital (*i.e.,* skills and knowledge that have productive value in only one particular company) and thus are less productive and require additional supervision and training. Replacing experienced workers with new workers decreases productivity in the short term; avoiding the need to replace experienced workers may, thus, increase productivity. Reduced turnover should also reduce firms' hiring and training costs, leading to increased profitability. Although there may be increased turnover among tipped employees who would lose a portion of the tips they currently receive, thus leading to effects that are opposite in direction to the previously-discussed impacts, employers are best positioned to consider those issues and determine the optimum distribution of tipped income among their staff for the purpose of reducing employee turnover.

To the extent employers overall decrease use of the tip credit for traditionally tipped employees because of this proposed rule change, that too may provide benefits to traditionally tipped employees. A guaranteed direct cash wage of at least the full federal minimum wage will improve traditionally tipped employees' participation in various aspects of the marketplace that irregular income from changes over time from tip income may impact adversely. As with the previous paragraph, the benefits to one subset of employees (in this case, those who were previously paid a lower direct wage and received tips and now receive an increased direct wage payment from the employer) may be accompanied by harm to another subset (those who newly receive tips while experiencing an offsetting wage reduction).

[29] Samuel Estreicher and Jonathan Nash, American Law & Economics Association Annual Meetings, *The Law and Economics of Tipping: The Laborer's Perspective.* (2004) available at *http://law.bepress.com/alea/14th/art54.*

[30] Ofer H. Azar, *The implications of tipping for economics and management,* 30 (10) International Journal of Social Economics. 1084–1094 (2003).

[31] Michael Lynn and Michael McCall, *Beyond Gratitude and Gratuity: A Meta-Analytic Review of the Predictors of Restaurant Tipping.* Cornell University Working Paper (2016), available at *http://scholarship.sha.cornell.edu/cgi/viewcontent.cgi?article=1021&context=workingpapers.*

[32] Rodger W. Griffeth, Peter W. Hom, and Stefan Gaertner. *A Meta-Analysis of Antecedents and Correlates of Employee Turnover: Update, Moderator Tests, and Research Implications for the Next Millennium.* 26 (3) Journal of Management. 463–488 (2000).

To the extent employers may otherwise make an arrangement to allocate any customer tips to make capital improvements to their establishments (*e.g.,* enlarging the dining area to accommodate more customers), lower restaurant menu prices, provide new benefits to workers (*e.g.,* paid time off), increase work hours, or hire additional workers, these are also potential benefits to employees and the economy overall that may result under the proposed rule. The rule's transfer impacts could be approached with a model of minimum wages being made less binding by the proposed policy; as such, employment in the affected industries and occupations would, on net, be expected to increase. While some baseline workers could be harmed, due to lower overall compensation, both employers and workers who would lack jobs in the relevant occupations in the absence of the rule would experience benefits. Analysis of reduced deadweight loss would be a standard method for quantifying the gains to society of increased employment resulting from a policy such as the one proposed in this NPRM.

Finally, the proposed rule may result in a reduction in litigation. As explained in Part II, above, there has been a significant amount of private litigation in recent years involving the tip pooling and tip retention practices of employers that pay a direct cash wage of at least the Federal minimum wage. Much of that litigation involves the application of the Department's 2011 tip credit regulations providing that an employer's ability to utilize tips received by its employees is restricted even when it has not taken a tip credit. In several cases, employees alleged that their employers, who had paid their tipped employees a direct cash wage of at least the Federal minimum wage, improperly retained some or all of the tips received by employees or mandated that they participate in a tip pool that included non-tipped employees. The proposed rule rescinds those portions of the 2011 regulations that restrict employer use of customer tips when the employer pays at least the full Federal minimum wage and does not claim a section 3(m) tip credit, likely reducing litigation in this area.

ii. Additional Discussions

Reallocation of tips may have implications on employment and earnings, as well as some impact on the tipping behavior of customers. Due to data limitations, it is difficult to quantify these impacts. Accordingly, in this section, the Department provides a qualitative discussion of the possible impacts of the proposed rule on employment and earnings and customer tipping behavior.

1. Possible Employment and Earnings Impacts of the Transfer of Tips

Research on how changes in the minimum required cash wage for tipped employees affect their earnings and employment is scarce, making the effects of these policies difficult to gauge. There is need for more research as tipped employment has been growing considerably. From 1990 to 2016 private sector employment grew by 31.8 percent, while employment in full service restaurants grew by 75 percent.[33]

Intuitively, the effect of this proposed rule will be driven by many economic factors, such as the prevailing wages in the local area, the supply and demand elasticity for labor in the local markets, and the demand elasticity for the restaurant's product. For instance, in a given market, if the equilibrium cash wage for tipped employees is above the minimum required cash wage, an employer has less incentive to change its behavior as a result of the changes proposed in the NPRM. Given that the firm is in a perfectly competitive market, any deviation from the market wage may cause the firm to lose its staff. However, if the conditions in the market are such that the equilibrium cash wage for tipped workers is below the minimum required cash wage, and a worker earns sufficient tips that their cash wage plus the tips that they receive is equal to or greater than the applicable full minimum wage, then their employer may have an incentive to increase the wage to the applicable minimum wage and share the tips that tipped employees receive with, for instance, other lower-wage non-tipped employees. In such a case, an increase in the direct cash wage paid to the tipped workers and the transfer of tips from workers to others can be associated with changes in employment. If the employees' new wage is lower than their prior wage plus tips, and if the tips received by employees are not being redistributed to them, then there may be a decline in the quantity of supplied labor of tipped workers, and therefore in their employment. Alternatively, the employer could effectively redistribute tips to other employees and thus reduce its overall wage bill. If it now requires less direct wages to hire their workers, it may increase the employer's demand for labor.[34] [35]

However, for reasons such as ''sticky wages'' [36] in the short run and inflexibility in substituting between labor and capital, the above discussion of the potential effect on employment and wages in this analysis may be only valid in the medium to long run. Further, the overall consequences of this proposed rule on employment and earnings will be driven by the employers' response to this rule; *i.e.,* whether establishments continue taking the tip credit, and what proportion of employers switch from taking the tip credit to not taking the tip credit.

2. Possible Change in Customers' Tipping Behavior That Could Result From the Transfer of Tips From Employees to Employers

In the United States, tipping is a common practice in the eating and drinking places industries. The main reasons that a customer would tip are future service, social norms and fairness, and quality of service.[37] The theoretical economic justification for tipping is that it incentivizes and rewards good service.[38] From the employer's standpoint, tipping may also be considered an efficient way of monitoring the efforts of service workers, and a screening device for identifying good and motivated workers.[39]

Although consideration of future service is a commonly-stated reason for tipping, evidence suggests that customers do not necessarily regard future service as the main reason for tipping. Even non-repeat customers tip. This leads to the other main cited reason for tipping: Social norms surrounding tipping. Tipping may be the result of a positive utility from feeling generous. In addition, customers often feel empathy for the workers who serve them, and they want to show their

[33] *See* Bureau of Labor Statistics, Current Employment Statistics, *www.bls.gov/ces.* The implicit assumption is that the proportion of tipped workers in these industries remained constant over time, which then implies that there was an increase in tipped employment.

[34] Daniel Hamermesh. *Econometric Studies of Labor Demand and Their Application to Policy Analysis.* The Journal of Human Resources, vol. 11, no. 4, 1976, pp. 507–525. JSTOR, *www.jstor.org/stable/145429.*

[35] Deadweight loss analysis, discussed elsewhere in this regulatory impact analysis, can be used to assess net effects where isolated partial views of the market seem to indicate opposing tendencies.

[36] ''Sticky wages'' refers to the situation in which workers' wages do not adjust quickly to changes in the overall economy.

[37] Ofer H. Azar, *The implications of tipping for economics and management,* 30 (10) International Journal of Social Economics. 1084–1094 (2003).

[38] Samuel Estreicher and Jonathan R. Nash, *The Law and Economics of Tipping: The Laborer's Perspective,* American Law & Economics Association Annual Meetings. 54 (2004).

[39] Ofer H. Azar, *Optimal monitoring with external incentives: the case of tipping,* Southern Economic Journal. 170–181 (2004).

gratitude by leaving a tip. Customers may also tip as they believe that bartenders, waiters, waitresses, and other workers earn too little for their hard work and therefore want to reward them. Moreover, customers often feel obligated to tip because tips are a major source of income for the workers.[40] [41]

From the employer's standpoint, the theoretical economic justification for tipping is that it incentivizes and rewards good service; In other words, if workers who provide good service earn large tips, they are more likely to retain their jobs, whereas those workers who earn smaller tips are more likely to choose to quit. Tipping can also be a way of monitoring the efforts of service workers. Firms find it difficult and expensive to monitor and control the quality of intangible and highly customized services that are rendered by their employees. Therefore, tipping can allow customers to directly monitor service providers at lower cost than if employers had to directly monitor their employees.[42]

The potential impact of the proposed rule on customers' decisions to leave tips for bartenders and servers may depend on how much information the customer has regarding the employer's tip pooling policy. Assuming customers are aware of the employer's policy, changes to tipping behavior, if they occur at all, may differ depending on whether the tips are redistributed into a tip pool that includes a broader group of employees, or otherwise utilized in part (or in full) by the employer. Tipping may also be affected if the change is not welcomed by the staff, leading to poor morale and reduced service quality.

D. Analysis of Regulatory Alternatives

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Department considered two alternatives as part of determining whether to issue this NPRM: (1) Making no regulatory changes; and (2) Removing the regulatory language that addresses an employers' ability to utilize employee tips even when the employer claims a section 3(m) tip credit. The alternatives are discussed in more detail below.

i. Alternative 1

Under the proposed rule, employers would no longer be prohibited from utilizing tips received by employees more broadly so long as they pay at least the full Federal minimum wage in cash and do not claim a section 3(m) tip credit.

For the first alternative, the Department would make no regulatory changes and leave in place the limited nonenforcement policy it announced in July 2013. In *Oregon Restaurant and Lodging Association* v. *Solis,* 948 F. Supp. 2d 1217 (D. Or. 2013), the U.S. District Court for the District of Oregon declared invalid the Department's 2011 regulations that limit an employer's use of its employees' tips when the employer has not taken a tip credit against its minimum wage obligations, and imposed injunctive relief. As discussed above, on February 23, 2016, the Court of Appeals for the Ninth Circuit reversed the judgment entered by the district court. *See Oregon Restaurant and Lodging Ass'n et al.* v. *Perez,* 816 F.3d 1080 (2016), *pet. for reh'g and reh'g en banc denied* 843 F.3d 355 (Sept. 6, 2016). Notwithstanding the Ninth Circuit's decision, the Department continues to be constrained by the injunctive relief entered by the district court until the Ninth Circuit issues its mandate, which formally notifies the district court of the court of appeals' decision. On September 13, 2016, the Ninth Circuit issued a Stay of the Mandate ''until final disposition [of this litigation] by the Supreme Court.'' *Oregon Restaurant and Lodging Ass'n et al.* v. *Perez,* No. 13–35765 (9th Cir., Sept. 13, 2016). For these reasons, the Department is currently prohibited from enforcing its tip retention requirements against the Oregon Restaurant and Lodging Association plaintiffs (which include several associations, one restaurant, and one individual) and members of the plaintiff associations that can demonstrate that they were a member on June 24, 2013. As a matter of enforcement policy, the Department decided at the time the injunction was issued that while the injunction is in place it would not enforce its tip retention requirements against any employer within the Ninth Circuit's jurisdiction that has not taken a tip credit.[43] The Ninth Circuit has appellate jurisdiction over the states of California, Nevada, Washington, Oregon, Alaska, Idaho, Montana, Hawaii, and Arizona; Guam; and the Northern Mariana Islands. The injunction itself does not prevent the Department from investigating cases that are outside the scope of that limited injunctive relief. For instance, the Department can lawfully investigate such cases involving employers located outside the Ninth Circuit and that are not members of the plaintiff associations involved in the ORLA litigation. Making the Department's limited nonenforcement policy permanent without issuing the NPRM, however, would result in different requirements for different geographic regions, or different employers depending on their membership in certain associations. Such a situation, for example, could mean an employer that has locations within, and outside of, the Ninth Circuit would have different compliance requirements. Also, the limited nonenforcement policy does not impact employees' right to bring private actions under section 16(b) of the FLSA to enforce the tip retention regulations, exposing employers to an uncertain landscape. *See* 29 U.S.C. 216(b). Moreover, taking no regulatory action does not address the Department's concerns discussed above. *See, supra,* Need for Rulemaking.

ii. Alternative 2

For the second alternative, the Department considered removing the regulatory language that reiterates the statutory restrictions in section 3(m) addressing an employer's ability to utilize tips received by employees even when the employer claims a tip credit. The regulations from which the Department considered removing this language include 29 CFR 531.52, 531.54, and 531.59. Under this alternative, for employers that claim a tip credit, the Department would enforce the tip retention requirements of section 3(m) based only on the text of the statute.

There is a significant risk, however, that this alternative would create confusion as to tipped employees' right to retain tips when their employer claims a tip credit. The removal of the Department's current regulatory guidance could also increase the risk of employer non-compliance with the statute due to the lack of regulatory guidance.

[40] William E. Even and David A. Macpherson, *The effect of the tipped minimum wage on employees in the US restaurant industry,* 80(3) Southern Economic Journal. 633–655 (2014).

[41] PayScale's Restaurant Report: The Agony and Ecstasy of Food Service Workers, *http://www.payscale.com/data-packages/restaurant-report/full-data.*

[42] Ofer H. Azar, *Optimal Monitoring with External Incentives: The Case of Tipping,* Southern Economic Journal 170–181 (2004).

[43] As noted in section II and footnote 6, the Department expanded the scope of this initial nonenforcement position when it decided to pursue this rulemaking.

E. Classification as a Deregulatory Action and Estimated Regulatory Cost Savings

Under the current regulations, employers are prohibited from reallocating tips or including non-tipped employees in a mandatory tip pool ''whether or not the employer has taken a tip credit under section 3(m) of the FLSA.'' 29 CFR 531.52. This proposed rule would remove such restrictions on the treatment of tips when an employer does not take a tip credit, and would not introduce any new regulatory requirements in replacement of the requirements proposed for elimination. Therefore, it is expected that this proposed rule would, if finalized as proposed, qualify as a ''deregulatory action'' for the purposes of E.O. 13771.

As discussed earlier, the Department estimates that this proposed rule would result in Year 1 regulatory familiarization costs of approximately $3.4 million. *See, supra,* Section VII.B.v. The Department expects that these relatively modest familiarization costs would be more than offset by greater cost savings for employers attributable to the elimination of existing regulatory requirements, but, due to a lack of adequate information about the costs employers presently bear in complying with the regulations identified for elimination, cost savings have not been quantified in this Notice of Proposed Rulemaking. Additionally, the Department notes that reduced deadweight loss in the affected labor markets would likely significantly outweigh the $3.4 million in estimated regulatory familiarization costs.

VIII. Initial Regulatory Flexibility Analysis (IRFA)

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires federal agencies engaged in rulemaking to consider the impact of their proposals on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires the assessment of the impact of a regulation on a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603 and 604. As part of a regulatory proposal, the RFA requires a federal agency to prepare, and make available for public comment, an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities. 5 U.S.C. 603(a).

The Department has conducted, and is publishing here, an initial regulatory flexibility analysis to help small entities better understand the impacts of the proposed rule. The Department invites comments on the number of small entities affected by the proposed rule's requirements, the compliance cost estimates, and whether alternatives exist that will reduce the burden on small entities.

A. Why the Department Is Considering Action

As explained in greater detail earlier in the analysis, the Department has serious concerns that it incorrectly construed the statute in promulgating its current tip regulations to apply to employers that have paid a direct cash wage of at least the full Federal minimum wage to their tipped employees and serious concerns about those regulations as a policy matter. The Department is therefore proposing to rescind those portions of its tip regulations at 29 CFR part 531, subpart D that impose restrictions on employers that pay a direct cash wage of at least the full Federal minimum wage and do not claim a tip credit against their minimum wage obligations.

B. Statement of Objectives and Legal Basis for the Proposed Rule

The Department's regulations addressing the treatment of tipped employees under federal law at 29 CFR part 531, subpart D are derived from section 3(m) of the FLSA. *See* 29 U.S.C. 203(m). As explained earlier, the Department now has serious concerns that it incorrectly construed the statute in promulgating its current tip regulations to apply to employers that do not take a tip credit, *i.e.,* where an employee receives at least the full $7.25 Federal minimum wage directly from the employer, and serious concerns about the regulations as a policy matter, especially in light of changed circumstances.

The purpose of Section 3(m)'s tip credit provision is to allow an employer to subsidize a portion of its Federal minimum wage obligation through a credit against the tips given to employees by customers. If an employer pays its tipped employees a direct cash wage of at least the full Federal minimum wage (currently $7.25 per hour) but reallocates equal or greater amount of the tips received by its employees, there is a question as to whether the employer is circumventing the protections of Section 3(m) because it is utilizing tips received by its employees towards its minimum wage obligations to a greater extent than permitted under the statute. Where, however, an employer has paid employees a direct cash wage of at least the full Federal minimum wage and does not reallocate the employee tips directly, but requires that employee tips be distributed to non-tipped employees through a tip pool, there is a strong argument that the statutory protections of Section 3(m) are not circumvented.

C. Description of the Number of Small Entities to Which the Proposed Rule Will Apply

This section describes the industry or economic sector that will be affected by the proposed rule in total and its small and large entity segments, includes a description of the industry or sector at the time of the proposal, and explains any existing dynamics, such as trends in employment or birth of entities.

i. Definition of a Small Entity

A ''small entity'' is one that is ''independently owned and operated and which is not dominant in its field of operation.'' [44] The definition of ''small business'' varies from industry to industry to properly reflect industry size differences. An agency must either use the Small Business Administration (SBA) definition for a small entity or establish an alternative definition for the relevant industries to which a rule applies.

In our analysis, the Department uses the Small Business Administration (SBA) size standards, which determine when a business qualifies for small business status.[45] According to the 2017 standards, Full-service Restaurants (NAICS 722511) and Drinking Places (Alcoholic Beverages) (NAICS 722410) have a size standard of $7.5 million in annual revenue.[46] The Department used this number to estimate the number of small entities in this analysis. Any firms with annual sales revenue less than this

[44] The RFA adopts the definition of ''small business concern'' used in the Small Business Act, 15 U.S.C. 632(a)(1).

[45] U.S. Small Business Administration, Summary of Size Standards by Industry Sector, February 2016. Retrieved June 21, 2017 from *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/summary-size-standards-industry-sector. See also* full US SBA Size Standard listings at *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards.*

[46] *Id.,* Subsector 722.

amount will be considered a small business entity in this analysis.

ii. Data Sources and Methods

The Department used data from several different sources to estimate the number of small entities to which the rule will apply, *i.e.,* affected firms. The Department used the U.S. Census Bureau, 2012 Economic Census [47] to obtain the number of firms, total number of paid employees, and annual sales/receipts for the two industries in the analysis: Full-service Restaurants (NAICS 722511) and Drinking Places (Alcoholic Beverages) (NAICS 722410).

From annual receipts/sales, the Department can estimate how many firms fall under the size standard. Table 4 below shows the number of private firms in the two industries by revenue. The *number of firms and number of employees* are obtained directly from the U.S. Economic Census (2012) data.[48]

To obtain the *number of bartenders & waiters/waitresses* in the two industries, the Department used the BLS industry-occupation mix (2014).[49] Using the staffing mix of industries to estimate bartenders and wait staff allows for use of the very latest industry data, which builds on the highly-regarded QCEW data set. About 42.9 percent of workers in the Full-service Restaurant industry (NAICS 722511) are bartenders or waiters/waitresses (5 percent are bartenders; 37.9 percent are waiters/waitresses). In Drinking Places (Alcoholic Beverages) (722410), about 63.5 percent are bartenders and waiters/waitresses (46.1 percent are bartenders; 17.4 percent are waiters/waitresses). The Department applied these percentages uniformly to total paid employees in these two industries to obtain the number of bartenders and waiters/waitresses across all firm sizes.

To determine the number of tipped bartenders & waiters/waitresses, the Department used 57 percent of all bartenders and waiters/waitresses in both industries, based on the share in the CPS data that report usually receiving tips.[50]

The annual cost per firm is calculated based on the regulatory familiarization cost ($3.4 million), which amounts to $12.17 per establishment. The Department applied this cost to all sizes of firms since this will be incurred by each firm regardless of the number of affected workers. Finally, the impact of this provision is calculated as the ratio of annual cost per firm to receipts per firm. As shown, the per-firm cost incurred in the first year ($12.17) is less than one percent of annual receipts per small firm under this proposed rule; thus, it does not have any significant burden on small entities.

TABLE 4—ANNUAL COST TO SMALL ENTITIES

Annual revenue/sales/receipts (2012)	Number of firms	Number of paid employees	Average annual sales per firm ($)	Number of bartenders and servers [a]	Number of tipped bartenders and servers	Annual cost per firm ($) [b]	Annual cost per firm as percent of sales/receipts
Firms with revenue less than $100,000	10,071	24,455	$61,885	10,491	5,246	$12.17	Less than 0.1%.
Firms with revenue of $100,000 to $249,999	28,344	129,413	175,461	55,518	27,759	12.17	Less than 0.1%.
Firms with revenue of $250,000 to $499,999	38,105	324,566	366,027	139,239	69,620	12.17	Less than 0.1%.
Firms with revenue of $500,000 to $999,999	40,970	652,792	714,479	280,048	140,024	12.17	Less than 0.1%.
Firms with revenue of $1,000,000 to $2,499,999	32,965	1,066,544	1,514,178	457,547	228,774	12.17	Less than 0.1%.
Firms with revenue of $2,500,000 to $4,999,999	7,806	499,989	3,330,922	214,495	107,248	12.17	Less than 0.1%.
Firms with revenue of $5,000,000 to $9,999,999	2,021	237,316	6,653,982	101,809	50,905	12.17	Less than 0.1%.
Firms with revenue less than $100,000	4,584	N/A	–	–	–	12.17	
Firms with revenue of $100,000 to $249,999	11,517	44,508	171,075	28,263	14,132	12.17	Less than 0.1%.
Firms with revenue of $250,000 to $499,999	8,873	60,159	350,496	38,201	19,101	12.17	Less than 0.1%.
Firms with revenue of $500,000 to $999,999	5,029	65,124	689,494	41,354	20,677	12.17	Less than 0.1%.
Firms with revenue of $1,000,000 to $2,499,999	3,046	82,871	1,492,272	52,623	26,312	12.17	Less than 0.1%.
Firms with revenue of $2,500,000 to $4,999,999	668	36,013	3,370,838	22,868	11,434	12.17	Less than 0.1%.
Firms with revenue of $5,000,000 to $9,999,999	156	13,785	6,740,077	8,753	4,377	12.17	Less than 0.1%.

[a] "Servers" stands for waiters & waitresses; 'N/A' Not available in Economic census, 2012, withheld to avoid disclosing data for individual companies; data are included in higher level totals; '–' value not calculated as one or more inputs are missing.
[b] The Annual Cost per firm is the regulatory familiarization cost per firm calculated in Section VII.B.iv.i.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

The FLSA sets minimum wage, overtime pay, and recordkeeping requirements for employment subject to its provisions. The FLSA allows an employer to claim a tip credit, as defined by section 3(m) of the statute, toward meeting its minimum wage obligation for employees who customarily and regularly receive more than $30.00 per month in tips. FLSA section 11(c) requires all covered employers to make, keep, and preserve records of employees and of wages, hours, and other conditions of employment. Employers use the records to document compliance with the FLSA, including showing the tips received is not less than the tip credit claimed. The Department has promulgated regulations at 29 CFR part 516 to establish the basic FLSA recordkeeping requirements; this proposal does not alter these recordkeeping requirements. The recordkeeping regulation at 29 CFR 516.28 applies to tipped employees. Since the employees who may be impacted by the proposed changes to the regulations are those for whom the employer pays a direct cash wage of at least the FLSA minimum wage under section 6(a)(1)(C) with no tip credit taken, such employers would not face additional recordkeeping requirements within the scope of 29 CFR 516.28. Therefore, there are no additional recordkeeping requirements beyond those required by other sections of the FLSA under the proposed rule. Similarly, the proposed rule does not

[47] U.S. Census Bureau, 2012 Economic Census *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_72SSSZ1&prodType=table.*

[48] The small business size standard for the two industries is $7.5 million in annual revenue. However, the final size category reported in the table is $5 million–$9 million. This is a data limitation because the 2012 Economic Census reported this category of $5 million–$9 million and not $5 million–$7.5 million. Thus, the total number of firms used in the calculation may be slightly higher.

[49] BLS Industry-Occupation Matrix Data, By Industry, *https://www.bls.gov/emp/ep_table_109.htm.*

[50] As noted above, *see, supra,* section VII.B.ii, approximately 57 percent of waiters/waitresses and bartenders in the 2016 CPS–MORG survey responded affirmatively when asked if they usually receive tips or commissions. The Department considers employees who responded affirmatively to this question to be tipped employees.

have reporting or other compliance requirements.

i. Costs to Small Entities

The direct costs to employers, specifically, regulatory familiarization, are quantified in the Regulatory Impact Analysis. Regulatory familiarization costs are the costs incurred to read and become familiar with the requirements of the rule. Regardless of business size, the Department estimates that each establishment will spend 15 minutes for regulatory familiarization. As a direct result of this proposed rule, the Department expects total direct employer costs (regulatory familiarization) of $2,362,866 will be incurred by all small entities combined in the first year after the promulgation of the proposed rule: $12.17—the cost of 15 minutes of work by a Compensation/benefits specialist (SOC 13–1141), *see, supra,* VII.B.iv—multiplied by 194,155, the number of small entities (see below). Regulatory familiarization costs are only incurred in the first year. The per-firm costs incurred in the first year ($12.17) are less than one percent of the annual average revenue per firm for the small entities shown in Table 4 in Section VIII.C.ii.

ii. Number of Small Entities Impacted by the Proposed Rule

As noted above, the SBA size standard for Full-service Restaurants (722511) and Drinking Places (Alcoholic Beverages) (722410) is $7.5 million in annual revenue.[51] There are 194,155 small entities that fall below this size standard in these two selected industries, which accounts for 78 percent of total number of firms in these industries, employing about 3,237,535 employees. As per the calculation in Section VIII.C, the Department estimates the proposed rule would have no significant negative impact.

E. Regulatory Alternatives That Minimize the Impact on Small Entities

Section 603(c) of the RFA requires that each initial regulatory flexibility analysis contain a description of any significant alternatives to the proposal that accomplish the statutory objectives and minimize the significant economic impact of the proposal on small entities. The Department considered the following alternatives:

i. Differing compliance or reporting requirements that take into account the resources available to small entities. This NPRM makes no changes to existing recordkeeping and reporting requirements. Accordingly, it is not necessary to establish different compliance or reporting requirements for small businesses.

ii. The clarification, consolidation, or simplification of compliance and reporting requirements for small entities. The proposed rule imposes no new compliance or reporting requirements. The Department makes available a variety of resources to employers for understanding their obligation and for achieving compliance.

iii. The use of performance rather than design standards. Under the proposed rule, employers may achieve compliance through a variety of means. Employers may elect to continue (or not) to take a tip credit under section 3(m) of the FLSA. For those employers who take such a tip credit, the statutory restrictions on employer use of customer tips continue to apply. However, for those employers who pay at least the Federal minimum wage and do not take a section 3(m) tip credit, the proposed rule rescinds those regulatory restrictions. The Department makes available a variety of resources to employers for understanding their obligation and for achieving compliance.

iv. An exemption from coverage of the rule, or any part thereof, for such small entities. Creating an exemption from coverage of the NPRM for small businesses is not necessary as this proposed rule proposes to rescind employer restrictions on employer use of customer tips when the employer pays at least the Federal minimum wage in cash and does not take a section 3(m) tip credit.

F. Differing Compliance and Reporting Requirements for Small Entities

Due to the deregulatory nature of this rulemaking, the Department does not believe that different compliance and reporting requirements for small entities are required.

G. Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The Department is not aware of any federal rules that duplicate, overlap, or conflict with this NPRM.

IX. Unfunded Mandates Reform Act Analysis

The Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1532, requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing any Federal mandate that may result in excess of $100 million (adjusted annually for inflation) in expenditures in any one year by state, local, and tribal governments in the aggregate, or by the private sector. This rulemaking is not expected to affect state, local, or tribal governments. While this rulemaking would affect employers in the private sector, it is not expected to result in expenditures greater than $100 million in any one year. Please see Section VII.B–C for an assessment of anticipated costs and benefits to the private sector.

X. Executive Order 13132, Federalism

The Department has (1) reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism and (2) determined that it does not have federalism implications. The proposed rule would 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.

XI. Executive Order 13175, Indian Tribal Governments

This proposed rule would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

XII. Effects on Families

The undersigned hereby certifies that the proposed rule would not adversely affect the well-being of families, as discussed under section 654 of the Treasury and General Government Appropriations Act, 1999.

XIII. Executive Order 13045, Protection of Children

This proposed rule would have no environmental health risk or safety risk that may disproportionately affect children.

XIV. Environmental Impact Assessment

A review of this proposed rule in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* the regulations of the Council on Environmental Quality, 40 CFR part 1500 *et seq.;* and the Departmental NEPA procedures, 29 CFR part 11, indicates that the rule would not have a significant impact on the quality of the human environment. There is, thus, no corresponding environmental

[51] Because of the limitations of the size-class data, the analysis looks at firms with annual revenues up to $9,999,999.

assessment or an environmental impact statement.

XV. Executive Order 13211, Energy Supply

This proposed rule is not subject to Executive Order 13211. It will not have a significant adverse effect on the supply, distribution, or use of energy.

XVI. Executive Order 12630, Constitutionally Protected Property Rights

This proposed rule is not subject to Executive Order 12630 because it does not involve implementation of a policy that has takings implications or that could impose limitations on private property use.

XVII. Executive Order 12988, Civil Justice Reform Analysis

This proposed rule was drafted and reviewed in accordance with Executive Order 12988 and will not unduly burden the Federal court system. The proposed rule was: (1) Reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct and to promote burden reduction.

XVIII. Summary of Proposed Changes

The Department proposes to remove or amend the portions of §§ 531.52, 531.54, and 531.59 that impose restrictions on employers that pay a direct cash wage of least the Federal minimum wage and do not claim the section 3(m) tip credit. The proposed rule deletes the fourth sentence of section 531.52, which currently states that ''[t]ips are the property of the employee whether or not the employer has taken a tip credit under section 3(m) of the FLSA.'' The proposed rule also revises the fifth sentence of sections 531.52, the last sentence of section 531.54, and the final sentence of section 531.59(b) to remove language placing restrictions on an employer's use of tips when that employer has not taken a tip credit while retaining language that reflects the statutory restrictions on an employer's use of tips received by its employees when it does take a tip credit.

List of Subjects in 29 CFR Part 531

Employment, Labor, Minimum wages, Wages.

Bryan L. Jarrett,

Acting Administrator, Wage and Hour Division.

For the reasons set forth above, the Department proposes to amend Title 29, part 531 of the Code of Federal Regulations as follows:

PART 531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

■ 1. The authority citation for part 531 continues to read as follows:

Authority: Sec. 3(m), 52 Stat. 1060; sec. 2, 75 Stat. 65; sec. 101, 80 Stat. 830; sec. 29(B), 88 Stat. 55, Pub. L. 93–259; Pub. L. 95–151, 29 U.S.C. 203(m) and (t); Pub. L. 104–188, 2105(b); Pub. L. 110–28, 121 Stat. 112.

■ 2. Revise § 531.52 to read as follows:

§ 531.52 General characteristics of ''tips.''

A tip is a sum presented by a customer as a gift or gratuity in recognition of some service performed for him. It is to be distinguished from payment of a charge, if any, made for the service. Whether a tip is to be given, and its amount, are matters determined solely by the customer, who has the right to determine who shall be the recipient of the gratuity. An employer that takes a tip credit is prohibited from using an employee's tips for any reason other than that which is statutorily permitted in section 3(m): As a credit against its minimum wage obligations to the employee, or in furtherance of a valid tip pool. Only tips actually received by an employee as money belonging to the employee may be counted in determining whether the person is a ''tipped employee'' within the meaning of the Act and in applying the provisions of section 3(m) which govern wage credits for tips.

* * * * *

■ 3. Revise the last sentence of § 531.54 to read as follows:

§ 531.54 Tip pooling.

* * * However, an employer that takes a tip credit must notify its employees of any required tip pool contribution amount, may only take a tip credit for the amount of tips each employee ultimately receives, and may not retain any of the employees' tips for any other purpose.

■ 4. In § 531.59, revise the last sentence of paragraph (b) to read as follows:

§ 531.59 The tip wage credit.

* * * * *

(b) * * * With the exception of tips contributed to a valid tip pool as described in § 531.54, the tip credit provisions of section 3(m) also require employers that take a tip credit to permit employees to retain all tips received by the employee.

[FR Doc. 2017–25802 Filed 12–4–17; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0964]

RIN 1625–AA00

Safety Zone; Oregon Inlet, Dare County, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the navigable waters of Oregon Inlet in Dare County, North Carolina in support of construction of the new Herbert C. Bonner Bridge. This temporary safety zone is intended to protect mariners, vessels, and construction crews from the hazards associated with installing the navigation span, and will restrict vessel traffic from the bridge's navigation span as it is under construction by preventing vessel traffic on a portion of Oregon Inlet. Entry of vessels or persons into this safety zone is prohibited. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before December 20, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0964 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, contact Petty Officer Matthew Tyson, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone: (910) 772–2221, email: *Matthew.I.Tyson@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
COTP Captain of the Port

II. Background, Purpose, and Legal Basis

On October 10, 2017, the North Carolina Department of Transportation

notified the Coast Guard that they will be installing the navigation span of the new Herbert C. Bonner Bridge on January 8 through March 3, 2018, with alternate dates of March 4 through April 15, 2018. The construction will take place over an estimated 33 days during this period. A safety zone is proposed in Oregon Inlet within an area beginning at approximate position 35°46′23″ N., 75°32′18″ W., thence southeast to 35°46′18″ N., 75°32′12″ W., thence southwest to 35°46′16″ N., 75°32′16″ W., thence northwest to 35°46′20″ N., 75°32′23″ W., thence northeast back to the point of origin (NAD 1983) in Dare County, North Carolina. The construction involves crane barges on both sides of the navigation channel and various construction vessels and equipment. The COTP North Carolina has determined that potential safety hazards associated with the construction would be a concern for anyone transiting the Oregon Inlet navigation channel.

The purpose of this rule is to protect persons, vessels, and the marine environment on the navigable waters in Oregon Inlet during this construction phase. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone to be enforced from January 8 through March 3, 2018, with alternate dates of March 4 through April 15, 2018. Construction is expected to take place on 33 separate days during this period. The safety zone will be active for 2 hours each of those days, with the exact times announced via Broadcast Notices to Mariners at least 48 hours prior to enforcement. The safety zone will include all navigable waters of Oregon Inlet from approximate position 35°46′23″ N., 75°32′18″ W., thence southeast to 35°46′18″ N., 75°32′12″ W., thence southwest to 35°46′16″ N., 75°32′16″ W., thence northwest to 35°46′20″ N., 75°32′23″ W., thence northeast back to the point of origin, (NAD 1983). This zone is intended to protect persons, vessels, and the marine environment on the navigable waters in Oregon Inlet during this construction phase. No vessel or person will be permitted to enter the safety zone during the designated times. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the proposed safety zone. Vessel traffic will not be allowed to enter or transit a portion of Oregon Inlet during specific two hour periods on 33 separate days from January 8 through March 3, 2018, with alternate dates of March 4 through April 15, 2018. The specific 2 hour period for each work day will be broadcast at least 48 hours in advance and vessels will be able to transit Oregon Inlet at all other times. The Coast Guard will issue a Local Notice to Mariners and transmit a Broadcast Notice to Mariners via VHF–FM marine channel 16 regarding the safety zone. This portion of Oregon Inlet has been determined to be a medium to low traffic area at this time of the year. This rule does not allow vessels to request permission to enter the safety zone covering the Oregon Inlet navigation channel during the designated times.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting for 2 hours on 33 separate days that would prohibit entry into a portion of Oregon Inlet for bridge construction. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0964 to read as follows:

§ 165.T05–0964 Safety Zone; Oregon Inlet, Dare County, NC.

(a) *Location.* The following area is a safety zone: All navigable waters of Oregon Inlet, from approximate position 35°46′23″ N., 75°32′18″ W., thence southeast to 35°46′18″ N., 75°32′12″ W., thence southwest to 35°46′16″ N., 75°32′16″ W., thence northwest to 35°46′20″ N., 75°32′23″ W., thence northeast back to the point of origin (NAD 1983) in Dare County, NC.

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

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port North Carolina (COTP) for the enforcement of the safety zone.

Captain of the Port means the Commander, Sector North Carolina.

Construction crews means persons and vessels involved in support of construction.

(c) *Regulations.* (1) The general regulations governing safety zones in § 165.23 apply to the area described in paragraph (a) of this section.

(2) With the exception of construction crews, entry into or remaining in this safety zone is prohibited.

(3) All vessels within this safety zone when this section becomes effective must depart the zone immediately.

(4) The Captain of the Port, North Carolina can be reached through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina at telephone number 910–343–3882.

(5) The Coast Guard and designated security vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 MHz) and channel 16 (156.8 MHz).

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

(e) *Enforcement Period.* This regulation will be enforced from January 8 through March 3, 2018, with alternate dates of March 4 through April 15, 2018.

(f) *Public Notification.* The Coast Guard will notify the public of the specific two hour closures at least 48 hours in advance by transmitting Broadcast Notice to Mariners via VHF–FM marine channel 16.

Dated: November 27, 2017.

Bion B. Stewart,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2017–26147 Filed 12–4–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0590; FRL–9971–59-Region 1]

Air Plan Approval; Massachusetts; Logan Airport Parking Freeze

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a

State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This SIP revision increases the total number of commercial parking spaces allowed in the Logan Airport Parking Freeze Area by 5,000 parking spaces. The intended effect of this action is to reduce carbon monoxide (CO) and nitrogen oxide (NO_X) emissions by reducing the increased vehicle miles traveled (VMT) resulting from insufficient available parking. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before January 4, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0590 at *http://www.regulations.gov,* or via email to *mcwilliams.anne@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the ''For Further Information Contact'' section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Anne McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109—3912, telephone number: (617) 918–1697, email: *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Background

Since 1975, Boston Logan International Airport (Logan Airport) has been subject to a freeze on the number of commercial parking spaces available for use by Logan Airport travelers and visitors. In the mid-seventies, EPA developed the Logan Parking Freeze as part of a comprehensive strategy to reduce air pollution caused by automobile emissions. The goal was to achieve the ozone and CO National Ambient Air Quality Standards (NAAQS) established by EPA under the Clean Air Act (CAA).

The Logan Airport Parking Freeze was reaffirmed and committed to as a Reasonable Available Control Measure (RACM) in the 1979 and 1982 State Implementation Plan revisions required by the Clean Air Act Amendments of 1977. Through the 1979 and 1982 SIP revisions, the Commonwealth incorporated the Federal Implementation Plan's parking freeze provisions by reference, committing the Commonwealth to implement and enforce the parking freeze as a state regulation, 310 Code of Massachusetts Regulations (CMR) 7.30 Massachusetts Port Authority (Massport)/Logan Airport Parking Freeze, as well as Federal law.

In 1989, the Logan Airport Parking Freeze was amended and the East Boston Parking Freeze was adopted by the Commonwealth of Massachusetts. Unlike the 1975 Logan Freeze, which targeted only commercial parking, the 1989 state action limited and regulated the management of all major airport-related parking in the Logan Airport and East Boston Parking Freeze areas. The parking supply at Logan Airport was capped at 19,315 parking spaces. In addition, Logan-related park-and-fly and rental car parking spaces in East Boston were capped at existing levels. On April 26, 1991, the Massachusetts Department of Environmental Protection (MassDEP) certified the parking freeze numbers for the East Boston Parking Freeze area at 4,012 rental motor vehicle parking spaces and 2,475 park-and-fly parking spaces. EPA approved the Logan Airport Parking Freeze and East Boston Parking Freeze amendments into the Massachusetts SIP on March 16, 1993. See 58 FR 14153–14157.

The Logan Airport and East Boston Parking Freezes were designed to meet the following objectives: Mitigating the traffic-related air quality impacts of airport access on both a regional and neighborhood level; reducing the number of vehicle trips (*i.e.,* employee and air traveler drop-off/pick up trips) by providing a mix of on-airport parking and off-airport satellite parking centers outside of the parking freeze area; managing the parking supply for Logan to stabilize overall ground access; and developing a unified access management plan for Logan Airport. One of the goals of the current Logan Airport Parking Freeze and East Boston Parking Freeze is to encourage the relocation of park-and-fly parking spaces from the East Boston neighborhoods to reduce localized traffic and air quality impacts.

On March 21, 2001, EPA approved revisions to 310 CMR 7.30 Massport/Logan Airport Parking Freeze and 310 CMR 7.31 City of Boston/East Boston Parking Freeze which allow the permanent relocation of certain categories of parking spaces from the East Boston Parking Freeze area inventory to the Logan Airport Parking Freeze area. See 66 FR 14318. One of the goals of the amendments was to encourage the relocation of the park-and-fly spaces from the East Boston neighborhoods, reducing localized traffic and air quality impacts.

According to the most recent Logan Airport Spaces Inventory, the number of existing Total Parking Freeze Spaces is 21,088. In the Massport Policy Memorandum submitted by MassDEP,[1] Massport details how parking is becoming more constrained at Logan Airport. Since 1975, there has been a 220% increase in passengers at Logan, but only an 80% increase in Logan's commercial parking supply.

II. State Submittal

On July 13, 2017, MassDEP submitted amendments to 310 CMR 7.30 Massport/Logan Airport Parking Freeze as a formal revision to the Massachusetts State Implementation Plan (SIP). Revised 310 CMR 7.30 increases the total number of commercial spaces in the Logan Parking Freeze area by 5,000 spaces to a total of 26,088. In the event that the remaining 702 park-and-fly spaces in the East Boston Parking Freeze cap were converted to commercial spaces at Logan Airport in the future, the maximum total number of spaces permitted would be 26,790.

The revision also requires Massport to complete the following studies within 24 months of June 30, 2017: (1) Potential

[1] The Massport Policy Memorandum submitted to MassDEP in a letter dated June 6, 2016 can be found in the docket for this rulemaking.

improvements to high occupancy vehicle access to Logan; (2) a cost and pricing assessment for different modes of transportation to and from Logan in order to generate revenue for the promotion of HOV use by airport travelers and visitors; and (3) the feasibility and effectiveness of potential operational measures to reduce non-HOV pick-up/drop-off modes of transportation to Logan Airport.

Finally, the revision allows Massport to satisfy its annual reporting requirements through its submission of annual Environmental Data Reports or similar airport-wide documents under the Massachusetts Environmental Policy Act (MEPA).

III. EPA's Assessment of the State Submittal

The Technical Analysis submitted by MassDEP [2] demonstrates the current insufficient parking at Logan Airport. In 2014, Massport diverted or valet-parked passenger vehicles on 103 out of 260 working days.[3] On such days, vehicles are diverted to other on-airport facilities or to off-site facilities such as Suffolk Downs, or vehicles are valet-parked, stacked at parking facilities or at other on-airport locations. Such operations are inconvenient to passengers, increases VMT at the airport, and has potential long-term ramifications for future mode choice. Passengers who are unable to park at Logan Airport are more likely to use pick-up/drop-off modes in the future.

The Technical Analysis concludes that building more parking spaces meets the current and future parking demand. Parking on site results in fewer trips than drop-off/pick-up modes per air passenger. The air quality analysis shows that emissions of VOC, NO_X, and CO_2 are reduced by 20–25 percent if additional on-airport parking is built compared to a no build scenario.[4] In addition, MassDEP emphasizes that any new parking garage built as a consequence of the revised regulation would be subject to review under the Massachusetts Environmental Policy Act (MEPA), which would require Massport to submit and review an Environmental Notification Report (ENR) and Environmental Impact Report (EIR). Massport would also be required to commit, through the MEPA Section 61 Findings, to additional mitigation measures with respect to the garage's environmental impacts.

Clean Air Act (CAA) section 110(*l*) provides that EPA shall not approve any implementation plan revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA, *i.e.* demonstrate anti-backsliding. The Massport/Logan Parking Freeze was originally implemented to reduce mobile source emissions in order to achieve the CO and Ozone NAAQS. Massachusetts is currently meeting both standards.[5] However, the current constrained parking encourages more people to choose drop-off/pick-up travel modes, which increases the vehicle miles traveled and air emissions. The submitted amendment will result in reduced vehicle trips and thereby reduce air emissions.

MassDEP has demonstrated that the addition of 5,000 parking spaces to the Logan Airport Freeze area will result in a decrease in VMT which in turn will reduce VOC, NO_X and CO air emissions. EPA proposes to find that the revisions to 310 CMR 7.30 meet the requirements of CAA section 110(*l*). In addition, EPA proposes to approve revised 310 CMR 7.30 into the SIP because it will strengthen the SIP by reducing pollutant emissions. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

IV. Proposed Action

EPA is proposing to approve and incorporate into the Massachusetts SIP revised 310 CMR 7.30 Massport/Logan Airport Parking Freeze submitted on July 13, 2017. The revision increases the total number of commercial parking spaces allowed in the Logan Airport Parking Freeze Area by 5,000 parking spaces.

V. 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 310 CMR 7.30 Massport/Logan Airport Parking Freeze. The EPA has made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov* and/or in hard copy at the appropriate EPA office.

VI. Statutory and Executive Order Reviews

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

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

[2] "Technical Analysis" prepared by Vanasse Hangen Brustlin (VHB) dated December 11, 2015 listed as Exhibit B is available in the docket for this rulemaking.

[3] It should be noted that Massport continued to be in full compliance with the Logan Airport Parking Freeze throughout 2014.

[4] See Section VII. *Analysis of Vehicle Emissions Resulting from VMT Changes* of the "Technical Analysis."

[5] For the most recent air quality design values, see *www.epa.gov/air-trends/air-quality-design-values.*

methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

Dated: November 13, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–26182 Filed 12–4–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0555; FRL–9971–57–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Removal of Source-Specific Requirements for Permanently Shutdown Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision pertains to the removal of source-specific SIP requirements for the following five facilities in West Virginia that have permanently shutdown: Mountaineer Carbon Company; Standard Lafarge; Follansbee Steel Corporation; International Mill Service, Inc.; and Columbian Chemicals Company. These sources have permanently ceased operation; therefore, SIP requirements for these sources are obsolete and no longer necessary for attaining and maintaining the national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 4, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0555 at *http://www.regulations.gov,* or via email to *pino.maria@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The West Virginia SIP at 40 Code of Federal Regulations (CFR) part 52, subpart XX, § 52.2520(d) contains source-specific requirements, which were incorporated into the West Virginia SIP over the course of many years to allow the State to demonstrate attainment with various NAAQS. Subsequently, several of these sources have permanently ceased operation rendering source-specific requirements for these facilities obsolete.

SIP revisions pertaining to the removal of obsolete SIP requirements for sources that have permanently shutdown are considered administrative, non-substantive changes. If a source has permanently shutdown, the emissions are permanently reduced to zero, so removing source-specific SIP requirements for that source will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. *See* CAA section 110(l).

II. Summary of SIP Revision and EPA Analysis

On August 25, 2017, West Virginia submitted a SIP revision requesting that the consent orders for the sources listed in Table 1 be removed from the West Virginia SIP located at 40 CFR part 52, subpart XX, § 52.2520(d).

TABLE 1—SOURCE-SPECIFIC REQUIREMENTS PROPOSED FOR REMOVAL FROM THE WEST VIRGINIA SIP

Source name	Order	State effective date	EPA Approval date/ **Federal Register** (FR) citation
Mountaineer Carbon Company	Consent Order	7/2/82	9/1/82, 47 FR 38532
Standard Lafarge	Consent Order CO–SIP–91–30	11/14/91	7/25/94, 59 FR 37696
Follansbee Steel Corporation	Consent Order CO–SIP–91–31	11/14/91	7/25/94, 59 FR 37696
International Mill Service, Inc	Consent Order CO–SIP–91–33	11/14/91	7/25/94, 59 FR 37696
Columbian Chemicals Company	Consent Order CO–SIP–2000–3	1/31/00	8/2/00, 65 FR 47339

According to West Virginia, the five facilities listed in Table 1 have permanently shutdown and ceased operation. West Virginia's August 25, 2017 submittal lists the dates of facility closures and closure inspections, and provides relevant documentation verifying the permanent closure of these sources (*see* Table 2). EPA has confirmed that all permits, where applicable, have been surrendered and are inactive (*see* Table 2). Because these five sources have permanently ceased operation and their emissions have been permanently reduced to zero, their source-specific SIP requirements have been rendered obsolete.

TABLE 2—CLOSURE DATES AND CLOSURE INSPECTION DATES FOR FIVE PERMANENTLY SHUTDOWN FACILITIES

Source name	Source location	Title V facility	Permanent closure date	Verification of closure inspection conducted by West Virginia	Permit surrendered
Mountaineer Carbon Company ...	Marshall County	Yes	10/9/2015	6/2/2017	Yes.
Standard Lafarge	Hancock County	No	7/20/2011	6/2/2017	Yes.
Follansbee Steel Corporation	Brooke County	No	7/12/2012	5/31/2017	Not applicable.[1]
International Mill Service, Inc	Brooke County	No	6/27/2000	5/31/2017	Not applicable.[2]
Columbian Chemicals Company	Marshall County	Yes	10/9/2015	6/2/2017	Yes.

[1] Follansbee Steel Corporation was grandfathered into the West Virginia Department of Environmental Protection—Division of Air Quality's (WVDEP—DAQ) permitting program. Therefore, no permits were ever issued for this facility.
[2] International Mill Service, Inc. was grandfathered into the WVDEP—DAQ permitting program. Therefore, no permits were ever issued for this facility.

III. Proposed Action

EPA has reviewed West Virginia's SIP revision seeking removal of obsolete source-specific SIP requirements from the West Virginia SIP. These five sources have permanently ceased operation, rendering source-specific SIP requirements for these sources obsolete. EPA has confirmed that all permits have been surrendered and are inactive. Therefore, EPA is proposing to approve the West Virginia August 25, 2017 SIP revision, which sought removal of source-specific revisions related to five now closed facilities in accordance with section 110 of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: November 22, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2017–26183 Filed 12–4–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 160908833–7999–01]

RIN 0648–BG34

Requirements of the Vessel Monitoring System Type-Approval

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

ACTION: Proposed rule; request for comments.

SUMMARY: All owners of vessels participating in a NOAA Vessel Monitoring System (VMS) program are required to acquire a NMFS-approved Enhanced Mobile Transmitting Unit (EMTU) or Mobile Transmitting Unit (MTU) to comply with the Vessel Monitoring System requirements. This proposed action would amend the existing VMS Type-Approval regulations by removing the requirement for VMS vendors to periodically renew their EMTU/MTU type-approvals. This renewal process has proved to be unnecessary, has cost fishermen and approved VMS vendors additional time and expense, and has imposed unnecessary costs on the government. Removing the type-approval renewal requirement will spare fishermen, VMS vendors and the government the time and expense associated with the renewal process.

DATES: Comments must be received January 4, 2018.

ADDRESSES: You may submit comments on this proposed rule identified by ''NOAA–HQ–2017–0141'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2017-0141,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Kelly Spalding, 1315 East West Highway, Room 3207, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Kelly Spalding, Vessel Monitoring System Program Manager, Headquarters: 301–427–8269 or *Kelly.spalding@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In December 2014, NMFS published a final rule to codify national VMS type-approval standards for the approval by NMFS of an EMTU/MTU, any associated software, and mobile communications service (MCS; collectively referred to as a VMS) before they are authorized for use in the NMFS VMS program. See 79 FR 77399 (December 24, 2014). Those standards are set out in 50 CFR part 600, subpart Q, *Vessel Monitoring System Type-Approval.*

Fishers must comply with applicable Federal fishery VMS regulations, and in doing so, may select from a variety of EMTU/MTU vendors that have been approved by NMFS to participate in the VMS program for specific fisheries. The NOAA Office of Law Enforcement (OLE) maintains the list of type-approved VMS units at *http://www.nmfs.noaa.gov/ole/about/our_programs/vessel_monitoring.html.* The EMTU/MTU allows OLE to determine the geographic position of the vessel at specified intervals or during specific events, via mobile communications services between NMFS OLE and the vessel using a NMFS-approved MCS provider. These communications are secure and the information is only made available to authorized personnel.

This proposed action would remove the two sections of 50 CFR part 600, subpart Q, that require VMS type-approval holders (VMS vendors) to periodically renew their type-approvals. Currently, § 600.1512 of the VMS type approval regulations provides that type-approvals are valid for three years from the date on which NMFS publishes a notice in the **Federal Register** of the approval. Prior to the expiration of the three-year type-approval period, the VMS vendor must apply for a type-approval renewal pursuant to § 600.1513. In the nearly three years since the type-approval regulations were issued, NMFS has found that the renewal process is unnecessary, has cost fishermen and approved VMS vendors additional time and expense, and has imposed unnecessary cost on the government. Removing the type-approval renewal requirement will spare fishermen, VMS vendors and the government the time and expense associated with the renewal process without impairing the effectiveness of the VMS program.

Section 600.1513 of Subpart Q sets out the type-approval renewal process. A VMS vendor seeking renewal of a VMS type-approval must submit a written renewal request and supporting materials to NOAA OLE at least 30 days, but not more than six months, prior to the end of the three-year type approval period. To do so, the type-approval holder must submit a written request letter containing the following information and documentation.

The type-approval holder must certify that the features, components, configuration and services of their type-approved EMTU/MTU and/or MCS remain in compliance with the standards set out in 50 CFR 600.1502 through 600.1509 (or for an MTU, requirements applicable when the MTU was originally type-approved) and with applicable VMS regulations and requirements in effect for the region(s) and Federal fisheries for which they are type-approved. The type-approval holder must also certify that, since the holder's type-approval or last renewal (whichever was later), there have been no modifications to or replacements of any functional component or piece of their type-approved configuration. The renewal request letter must also include a table that lists in one column each requirement set out in §§ 600.1502–600.1509. The subsequent columns must show for each requirement:

(1) Whether the requirement applies to their type-approval;

(2) Whether the requirement is still being met;

(3) Whether any modifications or replacements were made to the type-approved configuration or process since type-approval or the last renewal;

(4) An explanation of any modifications or replacements that were made since type-approval or the last renewal; and

(5) The date that any modifications or replacements were made.

If the type-approval renewal is for an MCS or EMTU/MTU and MCS combined, the renewal request letter must also include vessel position report statistics regarding the processing and transmission of position reports from the onboard EMTUs and MTUs to the MCS or MCSP's VMS data processing center. At a minimum, the statistics must include successful position report transmission and delivery rates, the rate of position report latencies, and the minimum/maximum/average lengths of time for those latencies. The showing must be demonstrated in graph form, be divided out by each NMFS region and any relevant international agreement area and relevant high seas area, and cover 6 full and consecutive months of data for all of the type-approval holder's U.S. federal fishery customers.

Currently, NMFS reviews all documentation, analyses and data, and addresses any omissions, inconsistencies and failures. Within 30 days of receipt of a complete renewal request letter, NMFS notifies the type-approval holder of the approval or partial approval of the renewal request

or send a letter to the type-approval holder that explains the reasons for denial or partial denial of the request.

These type-approval renewal provisions were designed to provide for an in-depth look at the type-approval holder's overall record of compliance with type-approval requirements. However, NMFS' experience with the renewal process has shown that it is cumbersome for both type-approval holders and NMFS OLE. In some cases, type-approval holders have opted to apply for type-approval of newer VMS units rather than seek renewal of their older VMS units. When a type-approval lapses due to non-renewal, fishermen are required to replace their VMS units that are no longer type approved, despite the fact that the unit may still be functional and compliant with all current VMS standards. Doing so imposes unnecessary cost on fishermen who must purchase a new VMS unit and may lead to lost fishing opportunities while the VMS unit is being replaced.

In addition to being costly and burdensome for type-approval holders, fishermen and NMFS, the renewal process is not necessary because § 600.1514 sets out an EMTU type-approval revocation process. In the event that a type-approved EMTU model fails to meet the VMS EMTU specifications, NMFS can remove it from the VMS program through this revocation process. The revocation process provides OLE with a timely way to remove an underperforming EMTU/MTU, if necessary. The VMS Program works with the fishermen and VMS industry on a daily basis and is continuously monitoring issues, concerns and anomalies that arise with any EMTU's performance. When an EMTU has performance issues, or anomalies that cannot be resolved informally, NMFS can initiate the type-approval revocation process as provided in § 600.1514. The type-approval period and renewal process at § 600.1512 and § 600.1513 are therefore unnecessary in addition to being burdensome and costly. With the proposed removal of the three-year period for type-approval and the renewal requirement, type-approval would remain valid indefinitely unless NMFS initiates the revocation process pursuant to § 600.1514, or the type-approval holder chooses or agrees to forfeit their type-approval.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

This proposed rule is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the accompanying Regulatory Impact Review available from October 2016.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis for that determination was summarized in the letter to SBA as follows:

The proposed rule would remove the two sections of Subpart Q that require VMS type-approval holders to periodically renew their type-approvals. Section 600.1512 of the VMS type-approval regulations provides that type-approvals are valid for three years, after which time, the VMS vendor must apply for a type-approval renewal pursuant to section 600.1513.

The objective of the proposed action is to eliminate the unnecessary time and cost to the fishermen, VMS vendors, and the government associated with VMS type-approval renewal process. The type-approval renewal provisions were designed to provide for an in-depth look at the type-approval holder's overall record of compliance with type-approval requirements. However, NMFS' experience with the renewal process has shown that it is cumbersome for both type-approval holders and NMFS OLE. The type-approval holder must certify that the features, components, configuration and services of their type-approved EMTU and/or MCS remain in compliance with the standards set out in 50 CFR 600.1502 through 600.1509 and with applicable VMS regulations and requirements in effect for the region(s) and Federal fisheries for which they are type-approved. The type-approval holder must also certify that, since the holder's type-approval or last renewal (whichever was later), there have been no modifications to or replacements of any functional component or piece of their type-approved configuration. The renewal request letter must also include a table that lists each requirement set out in §§ 600.1502–600.1509 and whether those requirements are still being met. Within 30 days of receipt of a complete renewal request letter, NMFS must review the renewal request and notify the type-approval holder of the approval or partial approval of the renewal request or send a letter to the type-approval holder that explains the reasons for denial or partial denial of the request.

The process is not only cumbersome, but also unnecessary because NMFS OLE works with fishermen and the VMS industry on a daily basis and is continuously monitoring issues and anomalies that may arise with the performance and reliability of type-approved VMS units. In the event that NMFS cannot correct the issues through informal discussion with the type-approval holder, section 600.1514 of Subpart Q sets out a VMS type-approval revocation process, which NMFS can initiate to remove a VMS unit from the VMS type-approved list.

The renewal process can also indirectly impose costs on fishers. In some cases, type-approval holders have opted to apply for type-approval of newer VMS units rather than seek renewal of their older VMS units. When a type-approval lapses due to non-renewal, fishermen are required to replace their VMS units that are no longer type approved, despite the fact that the unit may still be functional and compliant with all current VMS standards. Doing so imposes unnecessary cost on fishermen who must purchase a new VMS unit and may lead to lost fishing opportunities while the VMS unit is being replaced.

The economic effects of this proposed rule would not result in any significant adverse economic impacts on the six existing VMS vendors, and would actually reduce the business costs currently associated with the type-approval renewal process every three years. NMFS estimates that this renewal process involves up to 16 hours of engineering labor and 8 hours of product management labor to compile the compliance report for renewal along with any supporting materials. Based on the Bureau of Labor Statistics May 2016 National Occupational Employment and Wage Estimates, the mean hourly wage for engineers is approximately $46 per hour and for general and operations managers it is approximately $59 per hour. Based on those labor rate estimates, NMFS estimates eliminating the renewal process will result in reduced costs of up to $1,208 per type-approval that would have occurred every three years under the current regulations.

Overall, there would not be a significant economic impact to VMS type-approval holders as a result of this rule. The removal of the type-approval renewal requirement would reduce

costs to type-approval holders, fishermen and NMFS associated with the renewal process. The change in the regulations are not expected to place small entities at a significant competitive disadvantage to large entities and removing the type-approval renewal process may in fact help smaller vendors more given their more limited resources for dealing with the administrative and technical costs associated with the current type-approval renewal process.

Thus, NMFS certifies that this proposed rule to remove the type-approval period and renewal process will not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

NMFS requests public comment on this decision, the associated analysis and all other aspects of this proposed rule. Send comments to NMFS Headquarters at the **ADDRESSES** above.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 30, 2017.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 600 is proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. In § 600.1510, revise paragraph (a) to read as follows:

§ 600.1510 Notification of type-approval.

(a) If a request made pursuant to § 600.1501 (type-approval) is approved or partially approved, NMFS will issue a type approval letter and publish a notice in the **Federal Register** to indicate the specific EMTU model, MCSP or bundle that is approved for use, the MCS or class of MCSs permitted for use with the type-approved EMTU, and the regions or fisheries in which the EMTU, MCSP, or bundle is approved for use.

* * * * *

§§ 600.1512–600.1518 [Amended]

■ 3. Remove §§ 600.1512 and 600.1513 and redesignate §§ 600.1514 through 600.1518 as §§ 600.1512 through 600.1516, respectively.

[FR Doc. 2017–26197 Filed 12–4–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 232
Tuesday, December 5, 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

Notice of Request for a Revision to and Extension of an Information Collection; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Office of the Chief Information Officer, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Office of the Chief Information Officer, as part of its continuing effort to reduce paperwork and respondent burden, invites the public to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' for approval under the Paperwork Reduction Act. This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this collection to Office of Management and Budget (OMB) for approval and solicit comments on specific aspects for the proposed information collection.

DATES: Consideration will be given to all comments received by February 5, 2018.

ADDRESSES: Submit comments by one of the following methods:

- *Web site: www.regulations.gov.*
- *Email: Ruth.Brown@ocio.usda.gov* and
- *Fax:* 202–692–0203.

Comments submitted in response to this notice may be made available to the public. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information (PII) or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Ruth Brown, 202–720–8958.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improve service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population. This feedback will, (1) provide insights into customer or stakeholder perceptions, experiences and expectations, (2) provide an early warning of issues with service and, (3) focus attention on areas where communication, training or changes in operations might improve delivery of products or services. This collection will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data usage requires more rigorous designs that address the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: Revision/Extension of approval for a collection of information.

Type of Review: Revision.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Number of Respondents: 30,000.

Below we provide projected average estimates for the next 3-years:

Average Expected Annual Number of Activities: 20.

Average Number of Respondents per Activity: 1.

Annual Responses: 30,000.

Frequency of Response: Once per request.

Average Minutes per Response: 30.

Burden Hours: 15,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions to (1) develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; (2) train personnel and be able to respond to a collection of information, to search data sources, (3) complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection at *Regulations.gov.* 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 Office of Management and Budget control number.

Gary Washington,

Acting Chief Information Officer.

[FR Doc. 2017–26109 Filed 12–4–17; 8:45 am]

BILLING CODE 3410–KR–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0086]

Availability of an Environmental Assessment for Release of *Aceria drabae* for Biological Control of Hoary Cress

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment relative to permitting the release of *Aceria drabae* for biological control of hoary cress in the continental United States. The environmental assessment considers the effects of, and alternatives to, the field release of a mite, *Aceria drabae,* into the contiguous United States for use as a biological control agent to reduce the severity of hoary cress 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 January 4, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0086.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0086, 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-2017-0086* 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) 851–2237; email: *Colin.Stewart@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Hoary cress species (*Lepidium draba, L. appelianum,* and *L. chalapense*) are herbaceous, perennial plants that grow in a variety of habitat and soil types. The hoary cress complex of invasive weeds is native to the Balkans, the Caspian Sea region of southwestern Asia, and the Middle East, and is found throughout Europe. Hoary cress was introduced into the United States from Europe in the late 19th century either with ship ballast or contaminated alfalfa, grass, or grain. Since then, hoary cress has spread to all regions of the United States except the Southeast.

Hoary cress is a perennial weed that reproduces from seeds and a spreading root system. The root system consists of vertical and lateral roots from which rosettes and shoots arise. Hoary cress inhibits and diminishes recreational opportunities, directly impedes crop production, minimizes grazing potential of affected rangelands, degrades wildlife habitat and native plant communities, and restricts waterfowl use of wetlands and stream banks. As a result, farmers, ranchers, recreationists, sportsmen, hunters, and the general public are adversely affected by hoary cress.

Aceria drabae, a mite, was chosen as a potential biological control agent to combat hoary cress due to its very narrow host range and impact on its host, and since the mite is relatively widespread in Europe, it should adapt to varying environmental conditions in North America. The applicant's purpose for releasing *A. drabae* is to reduce the severity of infestations of invasive hoary cress in the contiguous United States.

The Animal and Plant Health Inspection Service's (APHIS') review and analysis of the potential environmental impacts associated with the proposed release are documented in detail in an environmental assessment (EA) entitled ''Field release of the gall mite, *Aceria drabae* (Acari: Eriophyidae), for classical biological control of hoary cress (*Lepidium draba* L., *Lepidium chalapense* L., and *Lepidium appelianum* Al-Shehbaz) (Brassicaceae), in the contiguous United States'' (September 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 also 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 29th day of November 2017.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–26154 Filed 12–4–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0099]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Baby Squash and Baby Courgettes From Zambia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of baby squash and baby courgettes from Zambia into the continental United States.

DATES: We will consider all comments that we receive on or before February 5, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0099.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0099, 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-2017-0099* 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: For information on the importation of baby squash and baby courgettes from Zambia, contact Ms. Dorothy Wayson, Senior Regulatory Specialist, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2036. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Baby Squash and Baby Courgettes From Zambia.

OMB Control Number: 0579–0347.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–81).

Section 319.56–48 provides for the importation of baby squash and baby courgettes from Zambia into the continental United States under certain conditions. These regulations require the use of certain information collection activities, such as inspection of greenhouses, labeling of cartons, maintaining required trapping records, greenhouse approval, greenhouse pest detection notification, and phytosanitary certificates issued by the national plant protection organization (NPPO) of Zambia with an additional declaration that the baby squash and/or baby courgettes were produced in accordance with the regulations.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 1 hour per response.

Respondents: Growers, packinghouse officials, and the NPPO of Zambia.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 5.

Estimated annual number of responses: 10.

Estimated total annual burden on respondents: 10 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 29th day of November 2017.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–26152 Filed 12–4–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0097]

Texas A&M AgriLife Research; Availability of Petition for Determination of Nonregulated Status of Cotton Genetically Engineered for Ultra-Low Gossypol Levels in the Cottonseed

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Texas A&M AgriLife Research seeking a determination of nonregulated status of cotton designated as event TAM66274, which has been genetically engineered for ultra-low gossypol levels in the cottonseed. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. We are making the Texas A&M AgriLife Research petition available for review and comment to help us identify potential environmental and interrelated economic issues and impacts that the Animal and Plant Health Inspection Service may determine should be considered in our evaluation of the petition.

DATES: We will consider all comments that we receive on or before February 5, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0097.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0097, 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-2017-0097* 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.

The petition is also available on the APHIS Web site at: *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS petition 17–292–01p.

FOR FURTHER INFORMATION CONTACT: Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3954, email: *john.t.turner@aphis.usda.gov.* To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received a petition (APHIS Petition Number 17–292–01p) from Texas A&M AgriLife Research of College Station, TX (Texas A&M), seeking a determination of nonregulated status of cotton (*Gossypium hirsutum*) designated as event TAM66274, which has been genetically engineered for ultra-low gossypol levels in the cottonseed. The Texas A&M petition states that information collected during field trials and laboratory analyses indicates that TAM66274 cotton is not likely to be a plant pest and therefore should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the petition, TAM66274 cotton was developed through agrobacterium-mediated transformation of *G. hirsutum* cotton tissues from non-transgenic cultivar (cv.) Coker 312 using plasmid pART27–LCT66. TAM66274 cotton is currently regulated under 7 CFR part 340. Interstate movements and field tests of TAM66274 cotton have been conducted under notifications acknowledged by APHIS.

Field tests conducted under APHIS oversight allowed for evaluation in a natural agricultural setting while imposing measures to minimize the likelihood of persistence in the environment after completion of the tests. Data are gathered on multiple parameters and used by the applicant to evaluate agronomic characteristics and product performance. These and other data are used by APHIS to determine if the new variety poses a plant pest risk.

Paragraph (d) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** providing 60 days for public comment for petitions for a determination of nonregulated status. On March 6, 2012, we published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice [1] describing our process for soliciting public comment when considering petitions for determinations of nonregulated status for GE organisms. In that notice we indicated that APHIS would accept written comments regarding a petition once APHIS deemed it complete.

In accordance with § 340.6(d) of the regulations and our process for soliciting public input when considering petitions for determinations of nonregulated status for GE organisms, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. The petition is available for public review and comment, and copies are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. We are interested in receiving comments regarding potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition. We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. Any substantive issues identified by APHIS based on our review of the petition and

[1] To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

our evaluation and analysis of comments will be considered in the development of our decisionmaking documents. As part of our decisionmaking process regarding a GE organism's regulatory status, APHIS prepares a plant pest risk assessment to assess its plant pest risk and the appropriate environmental documentation—either an environmental assessment (EA) or an environmental impact statement (EIS)—in accordance with the National Environmental Policy Act (NEPA), to provide the Agency with a review and analysis of any potential environmental impacts associated with the petition request. For petitions for which APHIS prepares an EA, APHIS will follow our published process for soliciting public comment (see footnote 1) and publish a separate notice in the **Federal Register** announcing the availability of APHIS' EA and plant pest risk assessment.

Should APHIS determine that an EIS is necessary, APHIS will complete the NEPA EIS process in accordance with Council on Environmental Quality regulations (40 CFR part 1500–1508) and APHIS' NEPA implementing regulations (7 CFR part 372).

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 29th day of November 2017.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–26155 Filed 12–4–17; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Connecticut Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Connecticut Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EST) on: Wednesday, December 20, 2017. The purpose of the meeting is to review and approve (vote) on the Advisory Memorandum on Solitary Confinement.

DATES: Wednesday, December 20, 2017 at 12:00 p.m. (EST).

Public call-in information: Conference call-in number: 1–888–438–5448 and conference call 3640132.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–888–438–5448 and conference call 3640132. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–888–438–5448 and conference call 3640132.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=239;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

Wednesday, December 20, 2017 at 12 p.m. (EST)

- Open—Roll Call
- Work on Advisory Memorandum
- Vote on Memorandum, if ready
- Open Comment
- Adjourn

Dated: November 30, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–26134 Filed 12–4–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–152–2017]

Approval of Expansion of Subzone 214A; Consolidated Diesel Company, Enfield, North Carolina

On September 26, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the North Carolina Department of Transportation, grantee of FTZ 214, requesting the expansion of Subzone 214A subject to the existing activation limit of FTZ 214, on behalf of Consolidated Diesel Company, in Enfield, North Carolina.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 46036, October 3, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 214A and to remove existing Site 3 was approved on November 28, 2017, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 214's 2,000-acre activation limit.

Dated: November 29, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–26166 Filed 12–4–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–977, C–570–978]

High Pressure Steel Cylinders From the People's Republic of China: Continuation of Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determination by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on high pressure steel cylinders (Steel Cylinders) from the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping and countervailable subsidies and material injury to an industry in the United States, the Department is publishing a notice of continuation of the AD and CVD orders.

DATES: Applicable December 5, 2017.

FOR FURTHER INFORMATION CONTACT: Mark Kennedy, AD/CVD Operations, Office I, or Paul Walker, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7883 and (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2012, the Department published in the **Federal Register** the AD and CVD orders on Steel Cylinders from the PRC.[1] On May 1, 2017, the Department published the notice of initiation of the first sunset reviews of the AD and CVD orders on Steel Cylinders [2] from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On May 1, 2017, the ITC instituted its review of the orders.[3]

As a result of these expedited sunset reviews, the Department determined that revocation of the AD order on Steel Cylinders from the PRC would likely lead to continuation or recurrence of dumping, and that revocation of the CVD order on Steel Cylinders from the PRC would likely lead to continuation or recurrence of of countervailable subsidies. The Department, therefore, notified the ITC of the magnitude of the dumping margins and countervailable subsidy rates likely to prevail should the AD and CVD orders be revoked.[4]

On November 3, 2017, pursuant to sections 751(c) and 752(a) of the Act, the ITC published a notice of its determination that revocation of the AD and CVD orders on Steel Cylinders would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Orders

The merchandise covered by these orders is seamless steel cylinders designed for storage or transport of compressed or liquefied gas (high pressure steel cylinders). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (DOT)-approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT–E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by these investigations have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of these orders are high pressure steel cylinders manufactured to UN–ISO–9809–1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Merchandise covered by these orders is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7311.00.00.30. Subject merchandise may also enter under HTSUS subheadings 7311.00.00.60 or 7311.00.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the ITC that revocation of the AD and CVD orders would likely lead to continuation or recurrence of dumping and countervailable subsidies 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 AD and CVD orders on Steel Cylinders from the PRC.

U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders 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 these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act, and 19 CFR 351.218(f)(4).

Dated: November 29, 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. 2017–26164 Filed 12–4–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See High Pressure Steel Cylinders from the People's Republic of China: Antidumping Duty Order,* 77 FR 37377 (June 21, 2012) *(AD Order); see also High Pressure Steel Cylinders from the People's Republic of China: Countervailing Duty Order,* 77 FR 37384 (June 21, 2012) *(CVD Order).*

[2] *See Initiation of Five-Year ''Sunset'' Review,* 82 FR 20314 (May 1, 2017).

[3] *See High Pressure Steel Cylinders from China,* 82 FR 20373 (May 1, 2017).

[4] *See High Pressure Steel Cylinders from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order,* 82 FR 41607 (September 1, 2017); *see also High Pressure Steel Cylinders from the People's Republic of China: Final Results of Expedited Sunset Review of the Countervailing Duty Order,* 82 FR 41936 (September 5, 2017).

[5] *See High Pressure Steel Cylinders from China,* 82 FR 51290 (November 3, 2017) and ITC Publication titled *Steel Cylinders from the PRC: Investigation No. 701–480 (First Review)* (October 31, 2017).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 3, 2017, the Department of Commerce (the Department) published the preliminary results of the antidumping duty administrative review of certain pasta (pasta) from Italy. The period of review (POR) is July 1, 2015, through June 30, 2016. As a result of our analysis of the comments and information received,

these final results differ from the *Preliminary Results* with respect to Ghigi 1870 S.p.A. and Pasta Zara S.p.A. (collectively, Ghigi/Zara).[1] For the final weighted-average dumping margins, *see* the ''Final Results of Review'' section below.

DATES: Applicable December 5, 2017.

FOR FURTHER INFORMATION CONTACT: Joy Zhang (Ghigi/Zara) or George McMahon (Indalco), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1168 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 2017, the Department of Commerce (the Department) published the *Preliminary Results*.[2] In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results.* On September 5, 2017, the petitioners and Ghigi/Zara submitted their case briefs. On September 11, 2017, the petitioners and Ghigi/Zara submitted their rebuttal briefs.[3] On September 5, 2017 Ghigi/Zara submitted a request for a hearing, which it withdrew on October 20, 2017.[4]

Scope of the Order

Imports covered by the order are shipments of certain non-egg dry pasta. The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on-file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have recalculated Ghigi/Zara's weighted-average dumping margin.[6] As a result of the recalculation of the rate for Ghigi/Zara, the weighted-average dumping margin for the non-selected companies has changed. The weighted-average dumping margin for Indalco remains unchanged from the *Preliminary Results.*

Final Results of the Review

As a result of this review, the Department calculated a weighted-average dumping margin that is above *de minimis* for Ghigi/Zara and a *de minimis* margin for Indalco for the period July 1, 2015, through June 30, 2016. Therefore, in accordance with section 735(c)(5)(A) of the Act, the Department assigned the weighted-average dumping margin calculated for Ghigi/Zara to the four non-selected companies in these final results, as referenced below.

Producer and/or exporter	Weighted-average dumping margin (percent)
Ghigi 1870 S.p.A. and Pasta Zara S.p.A. (Zara) (collectively Ghigi/Zara) [7]	5.30
Industria Alimentare Colavita S.p.A. (Indalco)	0.00
GR.A.M.M. S.r.l.	5.30
Pastificio Andalini S.p.A. (Andalini)	5.30
Pastificio Zaffiri S.r.l. (Zaffiri)	5.30
Tesa SrL (Tesa)	5.30

Duty Assessment

The Department shall determine and Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries.[8] For any individually examined respondent whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), the Department will issue instructions directly to CBP to assess antidumping duties on appropriate entries. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with the Department's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by each respondent for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue assessment instructions directly to CBP 15 days

[1] *See* Memorandum titled ''2015–2016 Antidumping Duty Administrative Review of Certain Pasta from Italy: Ghigi and Zara Collapsing Memorandum,'' dated July 31, 2017.

[2] *See Certain Pasta from Italy: Preliminary Results of Antidumping Duty Administrative Review;* 2015–2016, 82 FR 36126 (August 3, 2017) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[3] *See* Petitioners' case brief, dated September 5, 2017, Ghigi/Zara's case brief, dated September 5, 2017, Petitioners' rebuttal brief, dated September 11, 2017 and Ghigi/Zara's rebuttal brief, dated September 11, 2017.

[4] *See* letter titled ''Certain Pasta from Italy: Request for a Hearing,'' dated September 5, 2017; *see also* letter titled ''Certain Pasta from Italy: Withdrawal of Request for Hearing,'' dated October 20, 2017.

[5] For a full description of the scope of the order, *see* the ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review and Partial Rescission: Certain Pasta from Italy; 2014–2015'', dated concurrently with this notice (Issues and Decision Memorandum) and incorporated herein by reference.

[6] *See* Issues and Decision Memorandum; *see also* Memorandum to the File, Through Eric B. Greynolds, Program Manager, Office III, from Joy Zhang, Case Analyst, Office III, titled ''Certain Pasta from Italy: Calculation Memorandum—Liguori,'' dated concurrently with this notice, and Memorandum to the File, Through Eric B. Greynolds, Program Manager, Office III, from George McMahon, Case Analyst, Office III, titled ''Certain Pasta from Italy: Calculation Memorandum—Indalco,'' dated concurrently with this notice.

[7] *See* Memorandum titled ''2015–2016 Antidumping Duty Administrative Review of Certain Pasta from Italy: Ghigi and Zara Collapsing Memorandum,'' dated July 31, 2017.

[8] In these final results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for respondents noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.45 percent, the all-others rate established in the antidumping investigation as modified by the section 129 determination. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: November 29, 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.

Appendix

List of Topics Discussed in the Final Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. List of Comments
V. Analysis of Comments
  Comment 1: Whether to Include Expenses Related to Contract Cancellation Charges in Ghigi's General and Administrative (G&A) Expense Calculation
  Comment 2: Whether to Adjust Zara's G&A Expense Calculation to Reclassify Certain Expenses
  Comment 3: Whether to Revise Manufacturer Field Coding
  Comment 4: Whether to Revise Differential Pricing Methodology
VI. Recommendation

[FR Doc. 2017–26165 Filed 12–4–17; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0066: Financial Resource Requirements for Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed extension of a collection of certain information by the agency. Under the Paperwork Reduction Act (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on certain financial resource reporting requirements applicable to derivatives clearing organizations.

DATES: Comments must be submitted on or before February 5, 2018.

ADDRESSES: You may submit comments, identified by ''OMB Control Number 3038–0066'' 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. 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: Jocelyn Partridge, Special Counsel, Division of Clearing and Risk, (202) 418–5926, email: *jpartridge@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires a Federal agency to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the collection of information listed below.

Title: Financial Resource Requirements for Derivatives Clearing Organizations (OMB Control No. 3038–0066). This is a request for an extension

of a currently approved information collection.

Abstract: This collection of information involves the financial resource reporting requirements set forth in section 39.11 of the Commission's regulations.

Section 5b(c)(2) of the Commodity Exchange Act (CEA or Act) [1] sets forth certain core principles with which a derivatives clearing organization (DCO) must comply in order to become registered with the Commission and to maintain such registration. One of these core principles, core principle B, sets forth the financial resource requirements applicable to DCOs. Section 5b(c)(2) also requires DCOs to comply with the regulations promulgated by the Commission pursuant to section 8a(5) of the Act.[2] Section 39.11 of the Commission's regulations, which implements core principle B, includes the financial resource reporting requirements that are the subject of this information collection. The information collection is necessary for, and would be used by, the Commission to evaluate a DCO's compliance with the financial resource requirements for DCOs prescribed in the Commodity Exchange Act, including core principle B, and the Commission's regulations.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in section 145.9 of the Commission's regulations.[3] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection requirement will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: As noted above, this information collection renewal involves the requirement that a DCO that is registered with the Commission report certain information regarding its financial resources, the value thereof, and the basis for these calculations that is necessary for the Commission to assess the DCO's compliance with the financial resource requirements of the CEA and the Commission's regulations. The reporting requirements are contained in section 39.11 of the Commission's regulations. The Commission has revised its estimate of the total annual burden hours for this collection to account for an increase in the number of respondents (from 14 to 17), but has maintained the original burden hour estimate of 10 hours per quarterly report as the reporting requirements have remain unchanged.

The respondent burden for this collection is estimated to be as follows:

Estimated Annual Number of Respondents: 17.

Estimated Annual Number of Reports per Respondent: 4.

Estimated Total Annual Number of Responses: 68.

Estimated Average Number of Hours per Response: 10.

Estimated Average Annual Burden Hours per Respondent: 40.

Estimated Total Annual Burden Hours: 680 hours.

Frequency of collection: Quarterly and on occasion.

Type of Respondents: Derivatives clearing organizations.

There are no capital or start-up costs associated with this information collection, nor are there any operating or maintenance costs associated with this information collection.

(Authority 44 U.S.C. 3501 *et seq.*)

Dated: November 29, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017–26141 Filed 12–4–17; 8:45 am]

BILLING CODE 6351–01–P

[1] 7 U.S.C. 7a–1(c)(2).

[2] Section 8a(5) of the CEA authorizes the Commission to promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA. 7 U.S.C. 12a(5).

[3] 17 CFR 145.9.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Disaster Response Cooperative Agreements

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Disaster Response Cooperative Agreements for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments may be submitted, identified by the title of the information collection activity, by January 4, 2018.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: smar@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Chad Stover at 202–606–6925 or email to *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 OMB is particularly interested in comments which:

- 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;

• Propose ways to enhance the quality, utility, and clarity of the information to be collected; and

• Propose 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

A 60-day notice requesting public comment was published in the **Federal Register** on July 13, 2017 at Vol. 82 Page 32346. This comment period ended September 11, 2017. No public comments were received from this notice.

Description: CNCS seeks to renew the current information collection. The information collection will 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.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Disaster Response Cooperative Agreement (DRCA).

OMB Number: 3045–0133.

Agency Number: None.

Affected Public: Current grantees and CNCS-supported programs.

Total Respondents: 20.

Frequency: Once a year.

Average Time per Response: Averages two hours.

Dated: November 30, 2017.

Jennifer Murphy,

Lead Disaster Service Specialist, Disaster Services Unit.

[FR Doc. 2017–26186 Filed 12–4–17; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0010; OMB Control Number 0704–0341]

Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System 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 January 4, 2018.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology, and the associated clauses at 252–239–7000 and 252–239–7006; OMB Control Number 0704–0341.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 750.

Responses per Respondent: 14, approximately.

Annual Responses: 10,500.

Average Burden per Response: 0.62 hour, approximately.

Annual Burden Hours: 6,542.

Needs and Uses: This requirement provides for the collection of information from contractors regarding security of information technology; tariffs pertaining to telecommunications services; and proposals from common carriers to perform special construction under contracts for telecommunications services. Contracting officers and other DoD personnel use the information to ensure that information systems are protected; to participate in the establishment of tariffs for telecommunications services; and to establish reasonable prices for special construction by common carriers.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent 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, identified by docket number and title, by the following method:

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

DoD Clearance Officer: Mr. Frederick C. 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, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2017–26181 Filed 12–4–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket DARS–2017–0011; OMB Control Number 0704–0390]

Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System 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 January 4, 2018.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 229, Taxes, and related clause at 252.229; OMB Control Number 0704–0390.

Type of Request: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Reporting Frequency: On occasion.

Number of Respondents: 11.

Responses per Respondent: 1.

Annual Responses: 11.

Average Hours per Response: 4.

Annual Burden Hours: 44.

Needs and Uses: The clause at DFARS 252.229–7010, Relief from Customs Duty on Fuel (United Kingdom), is prescribed at DFARS 229.402–70(j) for use in solicitations issued and contracts awarded in the United Kingdom that require the use of fuels (gasoline or diesel) and lubricants in taxis or vehicles other than passenger vehicles. The clause requires the contractor to provide the contracting officer with evidence that the contractor has initiated an attempt to obtain relief from customs duty on fuels and lubricants, as permitted by an agreement between the United States and the United Kingdom.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent 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, identified by docket number and title, by the following method:

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

DoD Clearance Officer: Mr. Frederick C. 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, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2017–26180 Filed 12–4–17; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: The original notice for this meeting was published at 82 FR 55355 on November 21, 2017.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m.–12:00 p.m., November 27, 2017.

CHANGES IN THE MEETING: This meeting will now occur over the course of two days. The first day is December 6, 2017, from 10:00 a.m. to 12:00 p.m. The second day is December 18, 2017, from 10:00 a.m. to 12:00 p.m.

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: November 30, 2017.

Joseph Bruce Hamilton,

Vice Chairman.

[FR Doc. 2017–26284 Filed 12–1–17; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0151]

Agency Information Collection Activities; Comment Request; OSERS Peer Review Data Form

AGENCY: Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before February 5, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0151. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–44, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Patricia Wright, 202–245–7620.

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: OSERS Peer Review Data Form.

OMB Control Number: 1820–0583.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 1,500.

Total Estimated Number of Annual Burden Hours: 250.

Abstract: The OSERS Peer Reviewer Data Form (OPRDF) is used by OSERS staff to identify potential reviewers who would be qualified to review specific types of grant applications for funding; to provide background contact information for each potential reviewer; and to provide information on any reasonable accommodations that might be required by the individual. The previous version of the OPRDF, 1820–0583, expired on September 30, 2017. The revised version of the OSERS Peer Data Form included in this information collection request contains additional questions to better match field experts with the review of OSERS funding opportunities. There are also additional questions aimed to better meet the needs of peer reviewers who require reasonable accommodations.

Dated: November 29, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–26095 Filed 12–4–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0152]

Agency Information Collection Activities; Comment Request; College Affordability and Transparency Explanation Form (CATEF) 2018–2020

AGENCY: Department of Education (ED), Office of Postsecondary Education (OPE).

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 February 5, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0152. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Freddie Cross, 202–453–7224.

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: College Affordability and Transparency Explanation Form (CATEF) 2018–2020.

OMB Control Number: 1840–0822.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 631.

Total Estimated Number of Annual Burden Hours: 2,063.

Abstract: The Office of Postsecondary Education (OPE) is seeking a renewed three-year clearance for the College Affordability and Transparency Explanation Form (CATEF) data collection. OPE has collected this information since 2011–12 and the collection of information through CATEF is required by § 132 of the Higher Education Act of 1965 as amended (HEA), 20 U.S.C. 1015a with the goal of increasing the transparency of college tuition prices for consumers. This submission is for the 2017–18, 2018–19, and 2019–20 collection years. CATEF collects follow-up information from institutions that appear on the tuition and fees and/or net price increase College Affordability and Transparency Center (CATC) Lists for being in the five percent of institutions in their institutional sector that have the highest increases, expressed as a percentage change, over the three-year time period for which the most recent data are available. The information collected through CATEF is used to write a summary report for Congress which is also posted on the CATC Web site (accessible through the College Navigator).

Dated: November 29, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–26131 Filed 12–4–17; 8:45 am]

BILLING CODE 4000–01–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: RP18–185–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rates—ConEd to Next Utility—795426 & 795428 to be effective 11/28/2017.

Filed Date: 11/28/17.

Accession Number: 20171128–5015.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–186–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Southern Star Central Gas Pipeline, Inc. submits tariff filing per 154.203: Annual Cash-Out Activity Report 2017 to be effective.

Filed Date: 11/28/17.

Accession Number: 20171128–5032.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–187–000.

Applicants: Gas Transmission Northwest LLC.

Description: Annual Fuel Charge Adjustment of Gas Transmission Northwest LLC under RP18–187.

Filed Date: 11/28/17.

Accession Number: 20171128–5045.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–188–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Colorado Interstate Gas Company, L.L.C. submits tariff filing per 154.403(d)(2): Quarterly LUF True Up Filing to be effective 1/1/2018.

Filed Date: 11/28/17.

Accession Number: 20171128–5068.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–189–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: El Paso Natural Gas Company, L.L.C. submits tariff filing per 154.601: Negotiated Rate Agreement Update (SoCal Dec 17) to be effective 12/1/2017.

Filed Date: 11/28/17.

Accession Number: 20171128–5070.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–190–000.

Applicants: Sierrita Gas Pipeline LLC.

Description: Operational Purchases and Sales Report of Sierrita Gas Pipeline LLC under RP18–190.

Filed Date: 11/28/17.

Accession Number: 20171128–5088.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–191–000.

Applicants: National Fuel Gas Supply Corporation.

Description: National Fuel Gas Supply Corporation submits tariff filing per 154.203: TSCA—Informational Filing (11/28/17) to be effective.

Filed Date: 11/28/17.

Accession Number: 20171128–5090.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–192–000.

Applicants: UGI Mt. Bethel Pipeline Company, LLC.

Description: Operational Purchases and Sales Report of UGI Mt. Bethel Pipeline Company, LLC under RP18–192.
Filed Date: 11/28/17.
Accession Number: 20171128–5093.
Comments Due: 5 p.m. ET 12/11/17.
Docket Numbers: RP18–193–000.
Applicants: UGI Sunbury, LLC.
Description: Operational Purchases and Sales Report of UGI Sunbury, LLC under RP18–193.
Filed Date: 11/28/17.
Accession Number: 20171128–5100.
Comments Due: 5 p.m. ET 12/11/17.
Docket Numbers: RP18–194–000.
Applicants: Northwest Pipeline LLC.
Description: Northwest Pipeline LLC submits tariff filing per 154.204: 2017 Miscellaneous Filing to be effective 1/1/2018.
Filed Date: 11/28/17.
Accession Number: 20171128–5134.
Comments Due: 5 p.m. ET 12/11/17.
Docket Numbers: RP18–195–000.
Applicants: Northwest Pipeline LLC.
Description: Northwest Pipeline LLC submits tariff filing per 154.204: Interconnect Facilities Credit Provisions Filing to be effective 1/1/2018.
Filed Date: 11/28/17.
Accession Number: 20171128–5140.
Comments Due: 5 p.m. ET 12/11/17.
Docket Numbers: CP18–19–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Authorization to Abandon Service under CP18–19.
Filed Date: 11/15/17.
Accession Number: 20171115–5093.
Comments Due: 5 p.m. ET 12/6/17.
Docket Number: PR17–64–001.
Applicants: Boardwalk Texas Intrastate, LLC.
Description: Tariff filing per 284.123(b), (e)+(g): Revised Petition for Rate Approval to be effective 10/1/2017.
Filed Date: 11/27/17.
Accession Number: 201711275012.
Comments Due: 5 p.m. ET 12/18/17.
284.123(g) Protests Due: 5 p.m. ET 12/18/17.

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: November 29, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26133 Filed 12–4–17; 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 corporate filings:

Docket Numbers: EC18–26–000.
Applicants: Deseret Generation & Transmission Co-operative, Inc.
Description: Application for Expedited Approval of Acquisition of Assets Pursuant to Section 203 of the Federal Power Act of Deseret Generation & Transmission Co-operative, Inc.
Filed Date: 11/28/17.
Accession Number: 20171128–5165.
Comments Due: 5 p.m. ET 12/19/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2541–001.
Applicants: Estill Solar I, LLC.
Description: Notice of Non-Material Change in Status of Estill Solar I, LLC.
Filed Date: 11/28/17.
Accession Number: 20171128–5151.
Comments Due: 5 p.m. ET 12/19/17.
Docket Numbers: ER18–15–001.
Applicants: Westwood Generation, LLC.
Description: Compliance filing: Response to FERC Deficiency Notice to be effective N/A.
Filed Date: 11/28/17.
Accession Number: 20171128–5143.
Comments Due: 5 p.m. ET 12/19/17.
Docket Numbers: ER18–158–001.
Applicants: EnPowered.
Description: Tariff Amendment: EnPowered USA, Inc. Market Based Rate Tariff to be effective 10/31/2017.
Filed Date: 11/29/17.
Accession Number: 20171129–5097.
Comments Due: 5 p.m. ET 12/20/17.
Docket Numbers: ER18–336–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–11–28_4th Quarter Tariff Clean-Up Filing to be effective 11/29/2017.
Filed Date: 11/28/17.
Accession Number: 20171128–5113.
Comments Due: 5 p.m. ET 12/19/17.
Docket Numbers: ER18–337–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: City of Hurricane Requirements Contract to be effective 12/1/2017.
Filed Date: 11/28/17.
Accession Number: 20171128–5114.
Comments Due: 5 p.m. ET 12/19/17.
Docket Numbers: ER18–339–000.
Applicants: Bishop Hill Interconnection LLC.
Description: Compliance filing: Bishop Hill Interconnection LLC Certificate of Concurrence to be effective 10/15/2017.
Filed Date: 11/28/17.
Accession Number: 20171128–5132.
Comments Due: 5 p.m. ET 12/19/17.
Docket Numbers: ER18–340–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–11–29_SA 749 ATC–CWP IA Termination to be effective 11/30/2017.
Filed Date: 11/29/17.
Accession Number: 20171129–5027.
Comments Due: 5 p.m. ET 12/20/17.
Docket Numbers: ER18–341–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 4743; Queue No. AC1–046 to be effective 12/18/2017.
Filed Date: 11/29/17.
Accession Number: 20171129–5036.
Comments Due: 5 p.m. ET 12/20/17.
Docket Numbers: ER18–342–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 4744; Queue No. AC1–047 to be effective 12/18/2017.
Filed Date: 11/29/17.
Accession Number: 20171129–5037.
Comments Due: 5 p.m. ET 12/20/17.
Docket Numbers: ER18–343–000.
Applicants: Citigroup Energy Inc.
Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 11/30/2017.
Filed Date: 11/29/17.
Accession Number: 20171129–5056.
Comments Due: 5 p.m. ET 12/20/17.
Docket Numbers: ER18–344–000.
Applicants: C.P. Crane LLC.
Description: Request for Waiver of C.P. Crane LLC.
Filed Date: 11/29/17.
Accession Number: 20171129–5057.
Comments Due: 5 p.m. ET 12/20/17.
Docket Numbers: ER18–345–000.
Applicants: Citigroup Energy Canada ULC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 11/30/2017.

Filed Date: 11/29/17.

Accession Number: 20171129–5058.

Comments Due: 5 p.m. ET 12/20/17.

Docket Numbers: ER18–346–000.

Applicants: New England Power Company.

Description: § 205(d) Rate Filing: Related Facilities Agreement with Granite Reliable Power, LLC to be effective 11/1/2017.

Filed Date: 11/29/17.

Accession Number: 20171129–5085.

Comments Due: 5 p.m. ET 12/20/17.

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: November 29, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26132 Filed 12–4–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF17–10–000]

National Fuel Gas Supply Corporation; Notice of Intent To Prepare an Environmental Assessment for the Planned FM100 Modernization Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the FM100 Modernization Project involving construction and operation of facilities by National Fuel Gas Supply Corporation (National Fuel) in Cameron, Clearfield, Elk, McKean, and Potter Counties, Pennsylvania. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before December 29, 2017.

If you sent comments on this project to the Commission before the opening of this docket on September 14, 2017, you will need to file those comments in Docket No. PF17–10–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (PF17–10–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Planned Project

National Fuel plans to abandon, construct, and operate certain pipeline and compressor facilities in order to modernize its system to meet existing delivery requirements. The FM100 Modernization Project would consist of the following facilities and actions:

- Abandonment in place of approximately 12 miles of 12-inch-diameter pipeline (Line FM120) in Cameron and Elk Counties;
- abandonment in place of approximately 44.9 miles of 12-inch-diameter pipeline (Line FM100) in Clearfield, Cameron, Elk, and Potter Counties;
- abandonment by removal of the existing Costello Compressor Station in Potter County;
- installation of 28.9 miles of new 12- or 16-inch-diameter natural gas pipeline in McKean and Potter Counties; [1]
- installation of the new Marvindale Compressor Station (up to 2,000 horsepower) in McKean County;

[1] National Fuel is currently gauging interest from shippers along this section of new pipeline. If enough interest is received, National Fuel may expand the pipeline diameter from 12 to 16 inches, resulting in an increase in capacity on National Fuel's system, making the project an expansion project.

- installation of 1.2 miles of 24-inch-diameter natural gas pipeline loop [2] in Potter County;
- installation of approximately 12.5 miles of 6-inch-diameter FlexSteel© pipeline into National Fuel's existing Line FM120 in Elk and Cameron Counties;
- installation of approximately 355 feet of 6-inch-diameter pipeline and aboveground piping/valves to replace the existing FM120 pipeline in order to keep an existing producer delivery point tied into the system in Cameron County; and
- installation of interconnects, valves, metering, and other appurtenant facilities.

The general location of the project facilities is shown in appendix 1.[3]

Land Requirements for Construction

Preliminary calculations are that construction of the planned facilities would disturb about 369 acres of land for the aboveground facilities, insertion, and the construction of the pipelines. Following construction, National Fuel would maintain about 188 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. About 93 percent of the planned pipeline route parallels existing pipeline, utility, or road rights-of-way. National Fuel is still determining the disturbance required for the abandonment of lines FM100 and FM120.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- socioeconomics;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EA.[5] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Pennsylvania State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[6] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. *If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).*

[2] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

[3] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

[5] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[6] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Becoming an Intervenor

Once National Fuel files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF17–10). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: November 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–26140 Filed 12–4–17; 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 corporate filings:

Docket Numbers: EC17–138–001.
Applicants: 83WI 8me, LLC.
Description: Notification of certain non-material changes of 83WI 8me, LLC.
Filed Date: 11/27/17.
Accession Number: 20171127–5146.
Comments Due: 5 p.m. ET 12/18/17.

Docket Numbers: EC18–25–000.
Applicants: Imperial Valley Solar 3, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act for the Acquisition of Jurisdictional Facilities and Request for Expedited Consideration of Imperial Valley Solar 3, LLC.
Filed Date: 11/28/17.
Accession Number: 20171128–5091.
Comments Due: 5 p.m. ET 12/19/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2318–001.
Applicants: Cuyama Solar, LLC.
Description: Notice of Change in Status of Cuyama Solar, LLC.
Filed Date: 11/28/17.
Accession Number: 20171128–5098.
Comments Due: 5 p.m. ET 12/19/17.

Docket Numbers: ER18–319–001.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Errata to Compliance Filing in ER18–319 to be effective 10/19/2017.
Filed Date: 11/28/17.
Accession Number: 20171128–5051.
Comments Due: 5 p.m. ET 12/19/17.

Docket Numbers: ER18–331–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Queue #Z1–069/AB1–160, Second Revised Service Agreement No. 4315 to be effective 10/26/2017.
Filed Date: 11/27/17.
Accession Number: 20171127–5108.
Comments Due: 5 p.m. ET 12/18/17.

Docket Numbers: ER18–332–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3378 MKEC & Ninnescah Rural Electric Interconnection Agr to be effective 11/15/2017.
Filed Date: 11/28/17.
Accession Number: 20171128–5001.
Comments Due: 5 p.m. ET 12/19/17.

Docket Numbers: ER18–333–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: E&P Agreement for Proxima Solar, LLC to be effective 11/29/2017.
Filed Date: 11/28/17.
Accession Number: 20171128–5067.
Comments Due: 5 p.m. ET 12/19/17.

Docket Numbers: ER18–334–000.
Applicants: Cuyama Solar, LLC.
Description: § 205(d) Rate Filing: Revised Market Based Rate Tariff to be effective 1/28/2018.
Filed Date: 11/28/17.
Accession Number: 20171128–5087.
Comments Due: 5 p.m. ET 12/19/17.

Docket Numbers: ER18–335–000.
Applicants: Luning Energy Holdings LLC.
Description: Tariff Cancellation: Notice of Cancellation of Market-Based Rate Tariff to be effective 1/28/2018.
Filed Date: 11/28/17.
Accession Number: 20171128–5092.
Comments Due: 5 p.m. ET 12/19/17.

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: November 28, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26097 Filed 12–4–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–469–000]

WBI Energy Transmission, Inc.; Notice of Schedule for Environmental Review of the Billy Creek Storage Field Abandonment Project

On June 30, 2017, WBI Energy Transmission, Inc. (WBI) filed an

application in Docket No. CP17–469–000 requesting a Certificate of Public Convenience and Necessity pursuant to Sections 7(b) and 7(c) of the Natural Gas Act to abandon the Billy Creek Storage Field, and construct certain natural gas facilities to recover the storage field's cushion gas. The proposed project is known as the Billy Creek Storage Field Abandonment Project (Project), and would involve the abandonment of the storage field and related facilities in Johnson County, Wyoming.

On July 17, 2017, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA: February 2, 2018.

90-day Federal Authorization Decision Deadline: May 3, 2018.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

WBI proposes to abandon the Billy Creek Storage Field and related facilities and recover and sell the estimated 2.3 billion cubic feet of cushion gas prior to abandonment of the field. WBI proposes a combination of any of these three options to recover the remaining cushion gas:

1. Utilize and/or modify existing storage field facilities (Option 1);

2. install a temporary 200 horsepower (or less) replacement compressor unit (Option 2); and/or

3. drill one new natural gas recovery well in one of two locations (Option 3).

Following cushion gas withdrawal, WBI would abandon pipeline and aboveground facilities in-place and by removal, including the additional compressor unit and/or recovery well listed in Options 2 and 3. WBI states that the storage field is no longer reliable due to water encroachment and that the firm storage deliverability is now provided by another WBI storage field.

Background

On August 17, 2017, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Billy Creek Storage Field Abandonment Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; Native American tribes; and local libraries. In response to the NOI, the Commission received comments from the Wyoming Department of Environmental Quality and the Wyoming Game and Fish Department. The primary issues raised by commentors are impacts on water quality and surface waterbodies, restoration and the development of a reclamation plan, invasive species prevention and mitigation, and applicable permits.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP17–469), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–26137 Filed 12–4–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link.

Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited		
1. CP17–101–000	11–14–2017	William Franklin.
Exempt		
1. CP14–554–000, CP15–16–000, CP15–17–000	11–13–2017	U.S. Senators.[1]
2. CP15–558–000	11–13–2017	Delaware Township, Hunterdon County, New Jersey.
3. P–14604–000	11–14–2017	United States Department of the Interior, Bureau of Land Management.
4. P–2082–062, P–14803–000	11–14–2017	U.S. House Representative Jared Huffman.

[1] Senators Sheldon Whitehouse and Michael F. Bennet.

Dated: November 28, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26101 Filed 12–4–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–438]

Grand River Dam Authority; Notice of Public Information Session

On December 13, 2017, Federal Energy Regulatory Commission (Commission) staff will host a public information session regarding the procedure for relicensing Grand River Dam Authority's (GRDA) Pensacola Hydroelectric Project No. 1494 (Pensacola Project). The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

a. *Date, Time, and Location of Meeting:* Wednesday, December 13, 2017, from 6:30 p.m. to 8:30 p.m.; Coleman Theatre Ballroom, 103 N. Main St., Miami, OK 74354; (918) 540–2425

b. *FERC Contact:* Rachel McNamara, 202–502–8340 or *rachel.mcnamara@ferc.gov.*

c. *Purpose of Meeting:* In January 2018, the Commission will commence relicensing of the project under the Integrated Licensing Process (ILP). To assist local, state, and federal agencies, Indian tribes, and other interested entities and individuals in participating during the relicensing process, Commission staff invite the public to attend information sessions about the ILP and how stakeholders can best participate in the process.

d. *Proposed Agenda:* The meeting will include an overview of the ILP and discussion of the specific process plan (schedule) for the Pensacola Project, opportunities for public comment, and how the Commission assesses information needs during the study planning process. There will also be time for stakeholders to ask any additional questions related to the relicensing process.

Dated: November 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–26138 Filed 12–4–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–550–000; CP15–551–001]

Venture Global Calcasieu Pass, LLC; TransCameron Pipeline, LLC; Notice of Schedule for Environmental Review of the Calcasieu Pass Project

On September 4, 2015, Venture Global Calcasieu Pass, LLC filed an application in Docket No. CP15–550–000 requesting authorization under Section 3 of the Natural Gas Act to site, construct, and operate new liquefaction facilities. On the same day, TransCameron Pipeline, LLC filed an application in Docket No. CP15–551–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct, operate, and maintain certain natural gas pipeline facilities. The combined proposed projects are known as the Calcasieu Pass Project (Project) and would liquefy and export 10.0 million tonnes per annum of liquefied natural gas (LNG).

On September 18, 2015, the Federal Energy Regulatory Commission (FERC or Commission) issued its Notice of Application for the Project. Among other things, that notice alerted other agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on the request for a federal authorization within 90 days of the date of issuance of the Commission staff's final Environmental Impact Statement (EIS) for the Project. This instant notice identifies the FERC staff's planned schedule for completion of the final EIS for the Project, which is based on an issuance of the draft EIS in March 2018.

Schedule for Environmental Review

Issuance of Notice of Availability of the final EIS: July 3, 2018.

90-day Federal Authorization Decision Deadline: October 1, 2018.

If a schedule change becomes necessary for the final EIS, an additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Venture Global Calcasieu Pass, LLC's proposed facilities include nine single mixed refrigerant liquefaction blocks, two LNG storage tanks, a 720 megawatt electric generating plant, a marine terminal consisting of a turning basin and LNG carrier berths, LNG piping, transfer lines, and loading facilities. TransCameron Pipeline, LLC's proposed facilities include approximately 23.4 miles of 42-inch-diameter pipeline, one meter station, three mainline valves, one pig launcher, and one pig receiver. All facilities would be in Cameron Parish, Louisiana.

Background

On October 10, 2014, the Commission staff granted Venture Global Calcasieu Pass, LLC's and TransCameron Pipeline, LLC's joint request to use the FERC's Pre-filing environmental review process and assigned the Calcasieu Pass Project Docket No. PF15–2–000. On January 20, 2015, the Commission issued a *Notice of*

Intent to Prepare an Environmental Impact Statement for the Proposed Calcasieu Pass Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting (NOI). On August 2, 2016, the Commission issued a Supplemental NOI that discussed TransCameron Pipeline, LLC's June 28, 2016 amendment, which included removal of the West Lateral pipeline as well as minor workspace adjustments along the East Lateral pipeline.

The original and Supplemental NOIs were sent to federal, state, and local government agencies; elected officials; affected landowners; environmental and public interest groups; Native American tribes and regional organizations; commentors and other interested parties; and local libraries and newspapers. Major issues raised during scoping include project design, alternatives, water resources, wildlife, vegetation, land use, recreation, transportation, traffic, socioeconomics, and cultural resources.

The U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Department of Transportation, U.S. Environmental Protection Agency, and U.S. Department of Energy are cooperating agencies in the preparation of the EIS.

Additional Information

In order to receive notification of the issuance of the EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP15–550 or CP15–551), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–26139 Filed 12–4–17; 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 exempt wholesale generator filings:

Docket Numbers: EG18–19–000.

Applicants: Hamakua Energy, LLC.

Description: Self-Certification of EWG Status of Hamakua Energy, LLC.

Filed Date: 11/24/17.

Accession Number: 20171124–5021.

Comments Due: 5 p.m. ET 12/15/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–328–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4848, Queue Position No. AB2–166 to be effective 10/26/2017.

Filed Date: 11/22/17.

Accession Number: 20171122–5099.

Comments Due: 5 p.m. ET 12/13/17.

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: November 24, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26136 Filed 12–4–17; 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:

Filings Instituting Proceedings

Docket Numbers: RP16–856–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.501: Docket No. RP06–569–009 et al. Refund Report to be effective N/A.

Filed Date: 11/21/17.

Accession Number: 20171121–5001.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP18–179–000.

Applicants: Young Gas Storage Company, Ltd.

Description: Young Gas Storage Company, Ltd. submits tariff filing per 154.403(d)(2): Fuel Reimbursement Filing to be effective 1/1/2018 under RP18–179.

Filed Date: 11/21/17.

Accession Number: 20171121–5075.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP18–180–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Tennessee Gas Pipeline Company, L.L.C. submits tariff filing per 154.203: Cashout Report 2016–2017 to be effective N/A.

Filed Date: 11/21/17.

Accession Number: 20171121–5128.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP17–1128–000.

Applicants: Dominion Energy Transmission, Inc.

Description: Dominion Energy Transmission, Inc. submits tariff filing per DETI—CP14–497 Facilities In-Service Notification—November 21, 2017 to be effective N/A.

Filed Date: 11/22/17.

Accession Number: 20171122–5001.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: CP18–19–000.

Applicants: Dominion Energy Transmission, Inc.

Description: Transcontinental Gas Pipe Line Company L.C.C. for Authorization to Abandon service.

Filed Date: 11/15/17.

Accession Number: 20171115–5093.

Comments Due: 5 p.m. ET 12/6/17.

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: November 22, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26099 Filed 12–4–17; 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: RP17–724–000.

Applicants: Venice Gathering System, L.L.C.

Description: Report Filing: VGS Refund Report—Docket Nos. RP15–1237–000, RP16–975–000 and RP16–975–002 to be effective N/A.

Filed Date: 11/20/17.

Accession Number: 20171120–5033.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP18–181–000.

Applicants: Alliance Pipeline L.P.

Description: § 4(d) Rate Filing: Capacity Release Revisions—Nov 2017 to be effective 12/22/2017.

Filed Date: 11/22/17.

Accession Number: 20171122–5110.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP18–182–000.

Applicants: Northern Natural Gas Company.

Description: Petition for a Limited Waiver of Northern Natural Gas Company.

Filed Date: 11/22/17.

Accession Number: 20171122–5132.

Comments Due: 5 p.m. ET 12/5/17.

Docket Numbers: RP18–183–000.

Applicants: Enterprise Products Operating LLC, Tenaska Marketing Ventures.

Description: Joint Petition for Temporary Waiver of Capacity Release Regulations and Related Pipeline Tariff Provisions, et al. of Enterprise Products Operating LLC, et al.

Filed Date: 11/22/17.

Accession Number: 20171122–5133.

Comments Due: 5 p.m. ET 12/5/17.

Docket Numbers: RP18–184–000.

Applicants: Gas Transmission Northwest LLC.

Description: § 4(d) Rate Filing: GTN Hourly Services Filing to be effective 1/1/2018.

Filed Date: 11/27/17.

Accession Number: 20171127–5089.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–185–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—ConEd to Next Utility—795426 & 795428 to be effective 11/28/2017.

Filed Date: 11/28/17.

Accession Number: 20171128–5015.

Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–186–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Compliance filing Annual Cash-Out Activity Report 2017 to be effective N/A.

Filed Date: 11/28/17.

Accession Number: 20171128–5032.

Comments Due: 5 p.m. ET 12/11/17.

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: November 28, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26100 Filed 12–4–17; 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:

Filings Instituting Proceedings

Docket Numbers: RP18–176–000.

Applicants: Kern River Gas Transmission Company.

Description: § 4(d) Rate Filing: 2017 Negotiated Mid-November to be effective 11/21/2017.

Filed Date: 11/20/17.

Accession Number: 20171120–5037.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP18–177–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Baystate Amended NRA 510066 to be effective 12/1/2017.

Filed Date: 11/20/17.

Accession Number: 20171120–5048.

Comments Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP18–178–000.

Applicants: Enable Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Filing—November 2017 Black Hills 1006439 to be effective 11/20/2017.

Filed Date: 11/20/17.

Accession Number: 20171120–5120.

Comments Due: 5 p.m. ET 12/4/17.

Docket Number: PR18–10–000.

Applicants: UGI Penn Natural Gas, Inc.

Description: Tariff filing per 284.123(b),(e)+(g): Rate Election to be effective 11/17/2017.

Filed Date: 11/17/17.

Accession Number: 201711175054.

Comments Due: 5 p.m. ET 12/8/17.

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: November 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26098 Filed 12–4–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2007–0469; FRL–9971–65–OLEM]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Continuous Release Reporting Requirements; Reporting Air Releases of Hazardous Substances From Animal Wastes at Farms Under CERCLA Section 103

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Continuous Release Reporting Requirements; Reporting Air Releases of Hazardous Substances From Animal Wastes at Farms Under CERCLA Section 103'' (EPA ICR No. 1445.13, OMB Control No. 2050–0086) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a request for approval of a collection for a sector (farms) that were not included in the ICR currently approved by OMB (Control No. 2050–0086) (EPA ICR No. 1445.12). A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments may be submitted on or before December 15, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–SFUND–2007–0469, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This information collection request (ICR) addresses the reporting and recordkeeping activities required for farms to comply with EPA's Continuous Release Reporting Regulation (CRRR; 40 CFR 302.8) implementing Section 103(f)(2) of CERCLA. The CRRR clarifies the types of releases that qualify for reporting under CERCLA Section 103(f)(2) and establishes the reporting requirements applicable to qualifying releases. This ICR estimates the burden and cost impacts on farms reporting air releases of hazardous substances from animal wastes at farms under CERCLA Section 103(f).

- **Statutory Background**

CERCLA Section 103(a) requires persons in charge of a facility or vessel to immediately notify the National Response Center (NRC) of any hazardous substance release that equals or exceeds its reportable quantity (RQ) and is not federally permitted. EPA regulations implementing CERCLA Section 103 is codified in 40 CFR part 302. The information collection for episodic releases (immediate release notification) is covered under OMB Control Number 2050–0046. Section 103(f)(2) of CERCLA provides relief from the per-occurrence notification requirements of Section 103(a) for hazardous substance releases that are ''continuous,'' and ''stable in quantity and rate,'' provided that such releases are reported ''annually, or at such time as there is any statistically significant increase'' in the quantity of the release. Section 103(f)(2) contemplates that, in the case of certain ''continuous'' and ''stable'' releases, the notification objectives of CERCLA can be achieved with less frequent reporting.

- **Background for this ICR**

On December 18, 2008, EPA published a final rule, ''CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances From Animal Waste at Farms,'' that exempted farms releasing hazardous substances from animal waste to the air at or above threshold levels from reporting under CERCLA Section 103. The final rule also exempted reporting of such releases under EPCRA section 304 if the farm had fewer animals than a large concentrated animal feeding operation (CAFO).

On April 11, 2017, the D.C. Circuit Court vacated this final rule, thus eliminating the exemptions. Therefore, farms that were previously not subject to reporting requirements for air releases of hazardous substances from animal wastes are now required to report. This means that farms are now subject to CERCLA Section 103 reporting requirements for air releases of hazardous substances from animal waste at the farms. In this ICR, EPA assumes that farms may utilize the streamlined reporting option, Continuous Release Reporting, to report air releases of hazardous substances from animal wastes. This ICR (1445.13) amends the current approved ICR (1445.12, OMB Control No. 2050–0086) to add farms sector and their burden and costs associated with continuous release reporting requirements.

Form Number: 6200–15.

Respondents/affected entities: 44,900 farms.

Respondent's obligation to respond: Mandatory under CERCLA Section 103.

Estimated number of respondents: 44,900 (total).

Frequency of response: Farms may utilize the streamlined reporting option, continuous release reporting, of hazardous substances above their reportable quantities from animal wastes rather than providing immediate notification on a per-occurrence basis.

Total estimated burden: 496,893 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $14,958,973 (per year), includes $455,061 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 496,893 hours per year in the total estimated respondent burden compared with the ICR currently approved by OMB (EPA ICR No. 1445.12). This increase is due to the vacatur of the December 18, 2008 Final Rule which exempted farms from reporting air releases of hazardous substances from animal wastes at farms. All farms are now subject to CERCLA reporting for air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period.

Dated: November 29, 2017.

Reggie Cheatham,

Director, Office of Emergency Management.

[FR Doc. 2017–26185 Filed 12–4–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) VI will hold its third meeting.

DATES: December 12, 2017.

ADDRESSES: Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jeffery Goldthorp, Designated Federal Officer, (202) 418–1096 (voice) or *jeffery.goldthorp@fcc.gov* (email); or Suzon Cameron, Deputy Designated Federal Officer, (202) 418–1916 (voice) or *suzon.cameron@fcc.gov* (email).

SUPPLEMENTARY INFORMATION: The meeting will be held on December 12, 2017, from 1:00 p.m. to 5:00 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street SW., Washington, DC 20554.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the FCC to improve the security, reliability, and interoperability of communications systems. On March 19, 2017, the FCC, pursuant to the Federal Advisory Committee Act, renewed the charter for the CSRIC for a period of two years through March 18, 2019. The meeting on December 12, 2017, will be the third meeting of the CSRIC under the current charter. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to Jeffery Goldthorp, CSRIC Designated Federal Officer, by email to *jeffery.goldthorp@fcc.gov* or U.S. Postal Service Mail to Jeffery Goldthorp, Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW., Room 7–A325, Washington, DC 20554.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–26159 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1156]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 5, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to

further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–1156.

Title: 47 CFR 43.82, Annual International Circuit Capacity Reports.

Form No.: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit.

Number of Respondents: 65 respondents; 185 responses.

Estimated Time per Response: 1–14 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission's statutory authority for this information collection under Sections 1, 4(i), 4(j), 11, 201–205, 214, 219–220, 303(r), 309, and 403 of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 161, 201–205, 214, 219–220, 303(r), 309, and 403, the Cable Landing License Act of 1921, 47 U.S.C. 34–39, and 3 U.S.C. 301.

Total Annual Burden: 1,085 hours.

Annual Cost Burden: $2,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information. The Commission, however, will allow filing entities to seek confidential treatment of their data.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the

Office of Management and Budget (OMB) approve a revision of an existing information collection, titled ''47 CFR 43.62, Annual Reporting Requirements for U.S. Providers of International Services and Circuits.'' The purpose of the revision is to obtain OMB approval of the annual reporting requirements under the newly adopted 47 CFR 43.82 which will require that entities holding capacity on submarine cables file electronically annual circuit capacity reports, in a format set out in a Filing Manual.

The Commission is requesting a revision of OMB Control No. 3060–1156 in order to obtain final approval for the requirements in 47 CFR 43.82, the filing manual, and the electronic filing of the data.

Previously, U.S. providers of international services were required to file annual traffic and revenue reports and circuit capacity reports as required by 47 CFR 43.62. The Commission has adopted rules changes that eliminate the traffic and revenue reports and further streamline the circuit capacity reports. Upon OMB approval of this collection, 47 CFR 43.62 will be eliminated and replaced with 47 CFR 43.82 for the filing of circuit capacity reports.

The current title of OMB Control No. 3060–1156 is ''47 CFR 43.62, Annual Reporting Requirements for U.S. Providers of International Services and Circuits.'' The Commission would like to change the title to ''47 CFR 43.82, Annual International Circuit Capacity Reports'' in order to more accurately describe the information collection requirements under 47 CFR Section 43.82.

The uses to which the Commission puts the information from the annual circuit capacity report, and the Registration Form are as follows:

(a) Annual Circuit Capacity Reports [Section 43.82 (a)]

The circuit capacity reports are comprised of two parts. First, licensees of a submarine cable extending between the United States and a foreign point as of December 31 of the reporting period report the available capacity and planned capacity of the cable—the cable operators report. Second, each cable landing licensee and common carrier that holds capacity on the U.S. end of a submarine cable extending between the United States and a foreign point as of December 31 of the reporting period (''capacity holders'') reports its available capacity on the U.S. end of every submarine cable between the United States and any foreign point on which it holds capacity as of that date—the capacity holders report. A holding of capacity is an interest in the U.S. end of an international submarine cable through cable ownership, an indefeasible right of use (IRU), or an inter-carrier lease (ICL).

The Commission uses the circuit capacity data for such purposes as analyzing international transport markets in merger reviews. More importantly, these data are essential for our national security and public safety responsibilities in regulating communications, an important linchpin of the Commission's statutory authority. Submarine cables are critical infrastructure and the circuit capacity data are important for the Commission's contributions to the national security and defense of the United States. The Commission uses the data, for example, to have a complete understanding of the ownership and use of submarine cable capacity and to assist in the protection, restoration, and resiliency of the infrastructure during national security or public safety emergencies, such as hurricanes. The Department of Homeland Security (DHS) filed comments stating that it also finds this information to be critical to its national and homeland security functions, and states that this information, when combined with other data sources, is used to protect and preserve national security and for its emergency response purposes.

There are no alternative reliable third party commercial sources for the reported data. Although some sources collect general capacity information from cable owners, neither the FCC nor DHS has found any alternative sources for capacity holder data. Commercial source data may include capacity information, but the data are not verified by company officials and do not include capacity holder data. Although the Commission obtains the ownership and location of individual cables through the licensing process, distribution of a cable's capacity among providers is not required to be reported under our current submarine cable licensing rules and is provided only annually through the Circuit Capacity Reports. Further, the Commission's licensing rules do not require an applicant to include the entities that have acquired capacity on the cable through an IRU or ICL.

(b) Registration Form [Section 43.82 (b)]

The Registration Form provides basic information about the filing and about the entity itself—such as address, phone number, email address, and the international Section 214 authorizations and cable landing licenses held by the filer. This information will assist in keeping track of who holds international circuit capacity and how to contact them. The Registration Form also includes a certification by the filing entity to certify the accuracy and completeness of its report. The Registration Form provides the means by which the filing entity may request confidential treatment of the data filed in the report.

(c) Filing Manual [Section 43.82(c)]

The Filing Manual sets forth instructions on how to file the reports.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–26163 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0387]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 5, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0387.

Title: Sections 15.201(d), 15.209, 15.211, 15.213 and 15.221(c), On-Site Verification of Field Disturbance Sensors.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 150 respondents; 150 responses.

Estimated Time per Response: 18 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 4(i), 301, 302, 303(e), 303(f), 303(r) and 303(s), and 304 and 307 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,700 hours.

Total Annual Cost: $37,500.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Applicants may request that information be withheld from public inspection pursuant to 47 CFR 0.457(d) for trade secrets which may be submitted to the Commission as part of the documentation of test results. No other assurances of confidentiality are provided to respondents.

Needs and Uses: The collection will be submitted as an extension after this 60 day comment period to the Office of Management and Budget (OMB) in order to obtain the full three year clearance.

Section 15.201(d) of the Commission rules permit the operation of field disturbance sensors in the low VHF region of the spectrum. In order to monitor non-licensed field disturbance sensors operating in the low VHF television bands, a unique procedure for on-site equipment testing of the systems is required to ensure suitable safeguards for the operation of these devices. Data are retained by the holder of the equipment authorized/issued by the Commission and made available only at the request of the Commission.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–26160 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0149]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information

subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 4, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0149.

Title: Part 63, Application and Supplemental Information Requirements; Technology Transitions, GN Docket No. 13–5, et al.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 60 respondents; 60 responses.

Estimated Time per Response: 6 hours per response.

Frequency of Response: One-time reporting requirement and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 214 and 402 of the Communications Act of 1934, as amended.

Total Annual Burden: 360 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information filed in section 214 applications has generally been non-confidential. Requests from parties seeking confidential treatment are considered by Commission staff pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for a revision to a currently approved collection. Section 214 of the Communications Act of 1934, as amended, requires that a carrier first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communications, or (2) discontinue, reduce or impair service over a line of communications. Part 63 of Title 47 of the Code of Federal Regulations (CFR) implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video which was approved under this OMB Control Number 3060–0149. In 2009, the Commission modified Part 63 to extend to providers of interconnected Voice of Internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended. In 2014, the Commission adopted improved administrative filing procedures for domestic transfers of control, domestic discontinuances and notices of network changes, and among other adjustments, modified Part 63 to require electronic filing for applications for authorization to discontinue, reduce, or impair service under section 214(a) of the Act. In July 2016, the Commission revised certain section 214(a) discontinuance procedures. To reduce burdens on carriers, the Commission revised its rules to: (1) Allow carriers to provide notice via email or other alternative methods to offer additional options to customers, and (2) provide for streamlined treatment of applications to discontinue services for which the carrier has had no existing customers or reasonable requests for service during the previous 180 days. It also addressed a gap in the Commission's rules by making a competitive LEC's application for discontinuance deemed granted on the effective date of any copper retirement that made the discontinuance unavoidable. The Commission further concluded that applicants must provide notice of discontinuance applications to federally-recognized Tribal Nations. The Commission estimates that there will be only minimal impact on the annual burden hours associated with discontinuance applications as a result of these revisions. Specifically, the Commission estimates that carriers will need no more than one additional hour, per application for purposes of determining which, if any, Tribal Nations are located in the service areas to be affected by the planned discontinuance and providing such notice. The estimated number of respondents, responses, and burden hours associated with this collection differ from those set forth in the 60-day notice published on October 28, 2016 (81 FR 75054), which covered additional section 214(a) discontinuance rules adopted in 2016 that will now be addressed separately. As a result, the burden hours herein are substantially reduced from those contained in the 60-day notice.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–26162 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX]

Information Collection Being Submitted to the Office of Management and Budget (OMB) for Emergency Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 4, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email: *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission is requesting emergency OMB processing of the information collection requirements contained in this notice and has requested OMB approval by January 10, 2018.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–XXXX.

Title: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03–123, Financial Data, Complaints, and Other Compliance Information.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit; Individuals or household.

Number of Respondents and Responses: 72 respondents; 3,614 responses.

Estimated Time per Response: 30 minutes (0.5 hours) to 50 hours.

Frequency of Response: Annually, monthly, on occasion, and one-time reporting requirements; Recordkeeping and Third-Party Disclosure requirements.

Obligation to Respond: Required to obtain or retain benefit. The statutory authority for the information collection requirements is found at section 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101–336, 104 Stat. 327, 366–69.

Total Annual Burden: 5,537 hours.

Total Annual Cost: $9,000.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–1, ''Informal Complaints, Inquiries, and Requests for Dispute Assistance.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 ''Informal Complaints, Inquiries, and Requests for Dispute Assistance,'' in the **Federal Register** on August 15, 2014 (79 FR 48152) which became effective on September 24, 2014.

Privacy Impact Assessment: The FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007. It may be reviewed at *http://www.fcc.gov/omd/privacyact/Privacy-Impact-Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: On December 21, 2001, the Commission released the *2001 TRS Cost Recovery Order,* document FCC 01–371, in which the Commission:

(a) Directed the Interstate Telecommunications Relay Services (TRS) Fund (TRS Fund) administrator to continue to use the average cost per minute compensation methodology for the traditional TRS compensation rate;

(b) required TRS providers to submit certain projected TRS-related cost and demand data to the TRS Fund Administrator to be used to calculate the rate; and

(c) directed the TRS Fund administrator to expand its form for providers to itemize their actual and projected costs and demand data, to include specific sections to capture speech-to-speech (STS) and video relay service (VRS) costs and minutes of use.

On November 19, 2007, the Commission released the *2007 Cost Recovery Order,* document FCC 07–486, in which the Commission:

(a) Adopted a new cost recovery methodology for interstate traditional TRS and interstate STS based on the Multi-state Average Rate Structure (MARS) plan, under which interstate

TRS compensation rates are determined by weighted average of the states' intrastate compensation rates, and which includes for STS additional compensation approved by the Commission for STS outreach;

(b) adopted a new cost recovery methodology for interstate captioned telephone service (CTS), as well as Internet Protocol captioned telephone service (IP CTS), based on the MARS plan;

(c) adopted a cost recovery methodology for Internet Protocol (IP) Relay based on price caps;

(d) adopted a cost recovery methodology for VRS that adopted tiered rates based on call volume;

(e) clarified the nature and extent that certain categories of costs are compensable from the Fund; and

(f) addressed certain issues concerning the management and oversight of the Fund, including prohibiting financial incentives offered to consumers to make relay calls and the role of the Interstate TRS Fund Advisory Council.

47 CFR 64.604(c)(5)(iii)(D), mandatory minimum standards adopted in the *2007 Cost Recovery Order,* requires that TRS providers submit to the TRS Fund administrator information reasonably requested by the administrator, including the following for intrastate traditional TRS, STS, and CTS:

(a) The per-minute compensation rate(s);

(b) whether the rate applies to session minutes or conversation minutes;

(c) the number of intrastate session minutes; and

(d) the number of intrastate conversation minutes.

47 CFR 64.604(a)(7) requires that in order for VRS providers to be compensated from the TRS Fund for U.S. residents making VRS calls from international points to the U.S., the providers must pre-register the users before they leave the country for the purpose of making VRS calls from international points for up to a maximum period of 4 weeks.

47 CFR 64.604(c)(1) requires each state and interstate TRS provider to maintain a log of consumer complaints and annually file a summary of the complaint log with the Commission.

47 CFR 64.604(c)(2) requires each state and interstate TRS provider to submit contact information to the Commission.

47 CFR 64.604(c)(5)(iii)(D)(*3*) requires providers to submit speed of answer data.

47 CFR 64.604(c)(5)(iii)(G) requires each new TRS provider to submit to the TRS Fund administrator a notification of its intent to participate in the TRS Fund 30 days prior to submitting its first report of TRS interstate minutes of use.

47 CFR 64.604(c)(6) provides procedures for consumers to file informal complaints alleging violations of the TRS rules, for TRS providers to respond to these complaints, and for the Commission to refer complaints concerning intrastate TRS to the states.

47 CFR 64.604(c)(7) requires that contracts between state TRS administrators and the TRS vendor provide for the transfer of TRS customer profile data from the outgoing TRS vendor to the incoming TRS vendor.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–26158 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1133]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 5, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1133.

Title: Application for Permit to Deliver Programs to Foreign Broadcast Stations (FCC Form 308); 47 CFR Section 73.3545 and 73.3580.

Form No.: FCC Form 308.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents/Responses: 26 respondents; 70 responses.

Estimated Time per Response: 1–2 hours.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 325(c) of the Communications Act of 1934, as amended.

Total Annual Burden: 73 hours.

Annual Cost Burden: $26,451.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: The Federal Communications Commission (''Commission'') is requesting that the Office of Management and Budget (OMB) approve the establishment of a new information collection titled, ''Application for Permit to Deliver Programs to Foreign Broadcast Stations (FCC Form 308).'' Applicants use the FCC Form 308 to apply, under Section 325(c) of the Communications Act of 1934, as amended, for authority to locate, use, or maintain a studio in the United States for the purpose of supplying program material to a foreign radio or TV broadcast station whose signals are consistently received in the United States, or for extension of existing authority.

Currently, the FCC Form 308 is only available to the public in paper form. The Commission obtained OMB approval of a revised FCC Form 308, in Excel format, that will be made available to the public on the FCC Forms page of the FCC's Web site, *www.fcc.gov.* The form was revised to make it more user friendly and to include questions to obtain only the legal and technical information that is essential to grant authority to U.S. broadcasters to supply program material to a foreign radio or TV broadcast station whose signals are consistently received in the U.S. or to extend the current authority. After the applicant completes the form, it is mailed to the U.S. Bank along with the application fee. Then, it is forwarded to the International Bureau with the exception of fee exempt applications which are filed directly with the FCC Secretary's Office and then forwarded to the Bureau.

FCC Form 308 applicants now have the option to file their applicants in the Electronic Comment Filing System (ECFS) and make their payment of their application filing fees electronically in the FCC Fee Filer System. Please note that this method is optional rather than mandatory. We believe that the availability of this option will substantially decrease or eliminate paper filings of FCC Form 308's with the Commission. This option will save time for the applicant and Commission staff. There are no other changes to the information collection, including burden estimates.

Without this collection of information, the Commission would not be able to ascertain whether the main studio owner in the U.S. meets various legal requirements or the foreign broadcast facility, which receives and retransmits programming from the main studio in the U.S., meets various technical requirements that prevent harmful interference to other broadcast stations or telecommunications facilities.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–26161 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0859]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 5, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0859.

Title: Suggested Guidelines for Petitions for Ruling Under Section 253 of the Communications Act of 1934, as amended.

Form Number: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and State, Local, or Tribal Government.

Number of Respondents and Responses: 24 respondents; 24 responses.

Estimated Time per Response: 63–125 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C. Section 253 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,698 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. Any respondent that submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the OMB after this 60 day comment period in order to obtain the full three-year clearance from them. The Commission is requesting an extension (with no change in the reporting requirement). There is no reduction in the estimated number of respondents/responses and the annual burden hours. Although very few petitions for preemption under section 253 have been filed in the past few years, there is reason to believe that the current estimate is more likely to reflect future developments than a reduction in the number of estimated filings.

The Commission published a Public Notice in November 1998 which established suggested guidelines for the filing of petitions for preemption pursuant to section 253 of the Communications Act of 1934, as amended, as well as suggested guidelines for the filing of comments opposing such requests for preemption. The Commission will use this information to resolve petitions for preemption of state or local statutes, regulations, or other state or local legal requirements that are alleged to prohibit or have the effect of prohibiting any entity from providing a telecommunications service.

Section 253 of the Communications Act of 1934, as amended, which was added by the Telecommunications Act of 1996, requires the Commission, with certain important exceptions, to preempt (to the extent necessary) the enforcement of any state or local statute or regulation, or other state or local legal requirement that prohibits or has the effect of prohibiting any entity from providing any interstate or intrastate telecommunications service. The Commission's consideration of preemption under section 253 typically begins with the filing of a petition by an aggrieved party. The Commission typically places such petitions on public notice and requests comment by interested parties. The Commission's decision is based on the public record, generally composed of the petition and comments. The Commission has considered a number of preemption items since the passage of the Telecommunications Act of 1996, and believes it is in the public interest to inform the public of the information necessary for full consideration of the issues likely to be involved in section 253 preemption proceedings. In order to render a timely and informed decision, the Commission expects petitioners and commenters to provide it with relevant information sufficient to describe the legal regime involved in the controversy and to provide the factual information necessary for a decision.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–26156 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1210]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 5, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1210.

Title: Wireless E911 Location Accuracy Requirements.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or tribal governments.

Number of Respondents and Responses: 4,394 respondents; 29,028 responses.

Estimated Time per Response: 2–10 hours.

Frequency of Response: Recordkeeping, on occasion; one-time; quarterly and semi-annual reporting requirements, and third-party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47. U.S.C. Sections 1, 2, 4(i), 7, 10, 201, 214, 222,

251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 143,138 hours.

Total Annual Cost: No Cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is requesting that respondents submit confidential information to the Commission in the context of the test bed. Nationwide Commercial Mobile Radio Service (CMRS) providers must make data from the test bed available to small and regional CMRS providers so that the smaller providers can deploy technology throughout their networks that is consistent with a deployment that was successfully tested in the test bed. CMRS providers also may request confidential treatment of live 911 call data reports, but the Commission reserves the right to release aggregate or anonymized data on a limited basis to facilitate compliance with its rules.

Needs and Uses: The Commission has developed a proposed reporting template to assist CMRS providers in submitting aggregate live 911 call data as required under Section 20.18(i)(3)(ii) of the rules and seeks Office of Management and Budget (OMB) approval of the proposed template. The Commission also is requesting OMB to extend its approval of these collections for an additional three years. The information collections are described below. The proposed reporting template for live 911 call data is described below in the discussion of Section 20.18(i)(3)(ii). The proposed template will not change the paperwork burden associated with this collection, and there is no change to any other reporting obligation in this collection. The information sought in this collection is necessary and vital to the effective implementation of improved location accuracy, which will enable Public Safety Answering Points (PSAPs) to dispatch to and first responders to respond to emergencies.

Section 20.18(i)(2)(ii)(A) requires that, within three years of the effective date of rules, CMRS providers shall deliver to uncompensated barometric pressure data from any device capable of delivering such data to PSAPs. This requirement is necessary to ensure that PSAPs are receiving all location information possible to be used for dispatch. This requirement is also necessary to ensure that CMRS providers implement a vertical location solution in the event that the proposed ''dispatchable location'' solution does not function as intended by the three-year mark and beyond.

Section 20.18(i)(2)(ii)(B) requires that the four nationwide providers submit to the Commission for review and approval a reasonable metric for z-axis (vertical) location accuracy no later than 3 years from the effective date of rules. The requirement is critical to ensure that the vertical location framework adopted in the Fourth Report and Order is effectively implemented.

Section 20.18(i)(2)(iii) requires CMRS providers to certify compliance with the Commission's rules at various benchmarks throughout implementation of improved location accuracy. This requirement is necessary to ensure that CMRS providers remain ''on track'' to reach the goals that they themselves agreed to.

Section 20.18(i)(3)(i) requires that within 12 months of the effective date, the four nationwide CMRS providers must establish the test bed described in the Fourth Report and Order, which will validate technologies intended for indoor location. The test bed is necessary for the compliance certification framework adopted in the Fourth Report and Order.

Section 20.18(i)(3)(ii) requires that beginning 18 months from the effective date of the rules, CMRS providers providing service in any of the six Test Cities identified by ATIS (Atlanta, Denver/Front Range, San Francisco, Philadelphia, Chicago, and Manhattan Borough of New York City) or portions thereof must collect and report aggregate data on the location technologies used for live 911 calls. Nationwide CMRS providers must submit call data on a quarterly basis; non-nationwide CMRS providers need only submit this data every six months. Non-nationwide providers that do not provide service in any of the Test Cities may satisfy this requirement by collecting and reporting data based on the largest county within the carrier's footprint. This reporting requirement is necessary to validate and verify the compliance certifications made by CMRS providers.

The Commission has developed a proposed reporting template to assist CMRS providers in collecting, formatting, and submitting aggregate live 911 call data in accordance with the requirements in the rules. The proposed template will also assist the Commission in evaluating the progress CMRS providers have made toward meeting the 911 location accuracy benchmarks. The proposed template is an Excel spreadsheet and will be available for downloading on the Commission's Web site. The Commission may also develop an online filing mechanism for these reports in the future.

Section 20.18(i)(4)(ii) requires that no later than 18 months from the effective date, each CMRS provider shall submit to the Commission a report on its progress toward implementing improved indoor location accuracy. Non-nationwide CMRS providers will have an additional 6 months to submit their progress reports. All CMRS providers shall provide an additional progress report no later than 36 months from the effective date of the adoption of this rule. The 36-month reports shall indicate what progress the provider has made consistent with its implementation plan.

Section 20.18(i)(4)(iii) requires that prior to activation of the NEAD but no later than 18 months from the effective date of the adoption of this rule, the nationwide CMRS providers shall file with the Commission and request approval for a security and privacy plan for the administration and operation of the NEAD. This requirement is necessary to ensure that the four nationwide CMRS providers are building in privacy and security measures to the NEAD from its inception.

Section 20.18(i)(4)(iv) requires that before use of the NEAD or any information contained therein, CMRS providers must certify that they will not use the NEAD or associated data for any non-911 purpose, except as otherwise required by law. This requirement is necessary to ensure the privacy and security of any personally identifiable information that may be collected by the NEAD.

Section 20.18(j) requires CMRS providers to provide standardized confidence and uncertainty (C/U) data for all wireless 911 calls, whether from outdoor or indoor locations, on a per-call basis upon the request of a PSAP. This requirement will serve to make the use of C/U data easier for PSAPs.

Section 20.18(k) requires that CMRS providers must record information on all live 911 calls, including, but not limited to, the positioning source method used to provide a location fix associated with the call, as well as confidence and uncertainty data. This information must be made available to PSAPs upon request, as a measure to promote transparency and accountability for this set of rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–26157 Filed 12–4–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 81 FR 84583–84591, dated November 23, 2016) is amended to reflect the reorganization of the Office of Financial Resources, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and the mission and function statements for the *Office of Grants Services (CAJEY)* and insert the following:

Office of Grants Services (CAJEY). Office of Grants Services (OGS) (1) provides leadership, direction, and guidance for operations and policies in matters relating to CDC/ATSDR cooperative agreements and grants; (2) plans, develops, and implements policies, procedures, and practices to ensure effective customer service, consultation, and oversight in grants processes; (3) engages CDC/ATSDR Centers/Institute/Offices (CIOs), as well as other key stakeholders to align agency-wide grants processes with applicable laws, regulations, and policies, and with CDC/ATSDR public health goals; and (4) provides all support necessary to help ensure that appropriated funds are utilized in compliance with Congressional mandate, for the sole purpose of preventing and controlling diseases domestically and globally.

Office of the Director (CAJEY1). (1) Provides overall leadership, supervision, and management of the grants staff; (2) ensures policies, processes, and procedures adhere to all rules and regulations and are in alignment with CDC's public health goals; (3) develops and implements organizational strategic planning goals and objectives; (4) provides budgetary, human resource management, and administrative support; (5) leads the development of grants policy agendas with federal agencies and organizations; (6) provides cost advisory support to assistance activities with responsibility for initiating requests for audits and evaluations, and providing recommendations to grants management officer, as required; (7) conducts continuing studies and analysis of grants activities; (8) provides technical and managerial direction for the development, implementation, and maintenance of grants systems; (9) ensures adherence to laws, policies, procedures, regulations, and alignment with CDC's public health goals; (10) provides technical and managerial direction for functions related to objective review and grants close out; (11) serves as a central CDC receipt and referral point for all applications for assistance funds, including interfacing with the automated grants systems and relevant Department of Health and Human Services (DHHS) line of business agencies; (12) distributes draft public health program announcements for review; (13) develops formal training in grants management for awardees and CDC staff; and (14) develops and implements organizational and CDC-wide policies and procedures for grants to support CDC's public health science and programs.

Infectious Disease Services Branch (CAJEYB). Infectious Disease Services Branch supports one or more CIOs. The branch (1) plans, directs, and conducts assistance management activities for CDC through the awards of domestic grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with DHHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; and (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files.

Chronic Disease and Birth Defects Services Branch (CAJEYC). Chronic Disease and Birth Defects Services Branch supports one or more CIOs. The branch (1) plans, directs, and conducts assistance management activities for CDC through the awards of domestic grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with DHHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; and (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files.

OD, Environmental, Occupational Health and Injury Prevention Services Branch (CAJEYD). OD, Environmental, Occupational Health and Injury Prevention Services Branch supports one or more CIOs. The branch (1) plans, directs, and conducts assistance management activities for CDC through the awards of domestic grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with DHHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; and (9) collects and reports business management and public health programmatic data,

analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files.

Global Health Services Branch (CAJEYE). Global Health Services Branch supports one or more CIOs. The branch (1) plans, directs, and conducts assistance management activities for CDC through the awards of global (international) grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with DHHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files; and (10) provides innovative problem-solving methods in the coordination of international grants for a wide range of public health partners in virtually all major domestic and international health organizations including resolving issues with the Department of State.

Global Health Security Branch (CAJEYG). Global Health Security Branch supports one or more CIOs. The branch (1) plans, directs, and conducts assistance management activities for CDC through the awards of global (international) grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with DHHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files; and (10) provides innovative problem-solving methods in the coordination of international grants for a wide range of public health partners in virtually all major domestic and international health organizations including resolving issues with the Department of State.

Risk and Performance Management Services Branch (CAJEYH). Risk and Performance Management Services Branch supports all agency grants operations. The branch (1) maintains situational awareness to identify issues/concerns and communicates them to OGS leadership for consideration, strategy development, and issue resolution; (2) conducts grant pre-award activities to identify potential high risk grantees; (3) manages grantee audits and monitors grantee submission of responses to audits and corrective action plans (CAPs); (4) conducts follow-up audits to determine if CAPs effectively resolved deficiencies; (5) provides audit support for matters of interest to the agency to determine suitability for referral to the Office of Inspector General or other investigative agencies; (6) coordinates and manages annual grant forecasting activities; (7) validates, analyzes, and provides data for annual planning meetings, annual reports, data calls, end-of-year coordination, and ad-hoc requests; (8) leads business processes improvement initiatives and the development of strategic plans, performance metrics, dashboards, and OGS strategic direction materials; (9) identifies systemic operational issues and works with OGS leadership to develop strategies to mitigate risk; (10) facilitates problem/issue resolution and continuous improvements based on best practices; and (11) gathers and analyzes workforce challenges, constraints and opportunities for leadership awareness and possible future initiatives.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2017–26151 Filed 12–4–17; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 81 FR 84583–84591 dated November 23, 2016) is amended to reflect the reorganization of the Office of the Chief Operating Officer, Office of the Director, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the functional statement for the *Freedom of Information Act Office (CAJR13), Office of the Chief Information Officer (CAJR), Office of the Chief Operating Officer (CAJ).*

After the functional statement for the *Office of the Director (CAJ1), Office of the Chief Operating Officer (CAJ),* insert the following:

Freedom of Information Act Office (CAJ12). (1) Leads and administers the Freedom of Information Act (FOIA) program for CDC and ATSDR; (2) reviews, analyzes, redacts as necessary, and releases documents to the public under the provisions of the Act; (3) tracks and monitors FOIA requests and responses to ensure timely and appropriate responses; (4) provides guidance to employees, supervisors, management, the Office of the General Counsel and high-level agency officials on various aspects of the Act; (5) interprets and applies legal and technical precedents, laws and regulations relating to FOIA issues; and (6) provides training to program staff and management concerning FOIA requirements and processing.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2017–26149 Filed 12–4–17; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 81 FR 84583–84591, dated November 23, 2016) is amended to reflect the reorganization of the Division of Viral Diseases, National Center for Immunization and Respiratory Diseases, Office of Infectious Disease, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete and replace the title and the mission and function statements for the *Division of Viral Disease (CVGE)* and insert the following:

Division of Viral Disease (CVGE). The Division of Viral Diseases (DVD) prevents disease, disability, and death through immunization and by control of respiratory, enteric, and related viral diseases. In carrying out this mission, the DVD: (1) Conducts surveillance and related activities; supports and provides technical assistance to state and local health departments to conduct surveillance and related activities to monitor the impact of vaccination and other prevention programs; and determine patterns of infection and disease; (2) conducts epidemiologic and laboratory studies to define patterns of, and risk factors for, infection, disease, and disease burden; estimates vaccine effectiveness, determines cost effectiveness of vaccines, and evaluates other aspects of immunization practices; identifies and evaluates non-vaccine prevention strategies; and provides epidemiological and laboratory expertise to other Nation Centers (NCs), collaborators, and partners on vaccine and other prevention strategies; (3) provides consultation on viral vaccine preventable, respiratory, and enteric diseases, and the use of vaccines and other measures to prevent infections; (4) provides consultation and support and/or participates in investigations of national and international outbreaks of viral vaccine preventable and other respiratory and enteric viral diseases, and recommends appropriate control measures; (5) provides scientific leadership and advice, analyzes available data, and develops science-based statements for viral vaccines to the Advisory Committee on Immunization Practices (ACIP) and other groups to support the development and evaluation of immunization practices and policies domestically and internationally; (6) provides laboratory support for surveillance and epidemiologic studies and maintains reference/diagnostic services and expertise; (7) conducts studies of immunology and pathogenesis of disease and the biology, biochemical, genetic and antigenic characteristics of the agents; (8) develops, evaluates, and improves diagnostic methods and reagents, and transfers assays and techniques to other public health laboratories; (9) facilitates and participates in the development and evaluation of antiviral compounds, vaccines, and vaccination programs; (10) provides and supports public health training; (11) responds to and assists internal and external partners on other public health problems of national and international significance, as needed; (12) provides technical support to state immunization programs for all aspects of vaccine-preventable diseases and their vaccines; (13) provides leadership in vaccine science; and (14) supports CDC's Immunization Safety Office in vaccine safety risk assessment and leadership in vaccine safety risk management.

Office of the Director (CVGE1). (1) Manages, directs, and coordinates the activities of the division; (2) provides leadership and guidance in policy formulation, program planning and development, program management, and operations of the division; (3) identifies needs and resources for ongoing and new initiatives and assigns responsibilities for their development; (4) prepares, reviews, and coordinates informational, scientific, and programmatic documents; (5) oversees the division's activities and expenditures; (6) assures the overall quality of the science conducted by the division; (7) provides overall guidance and direction for the division's surveillance, research, and other scientific and immunization activities; (8) provides overall guidance and direction for division's epidemiologic, laboratory, and outbreak response capacity and activities; (9) oversees and facilitates the division's scientific support to other groups within CDC, the national and international healthcare, and public health communities regarding viral respiratory and enteric diseases and viral immunization programs; (10) guides and facilitates efficient coordination and cooperation for administrative, programmatic, and scientific activities within the division and with other groups inside and outside of CDC; and (11) provides division leadership, expertise, and technical collaboration for the application of statistics, economics, operations research, geography, other quantitative sciences, and data management to prevent disease, disability and death through immunization and control of respiratory, enteric, and related viral diseases.

Analysis and Data Management Activity (CVGE12). (1) Coordinates quantitative science and data management planning, policy development, and project monitoring and evaluation; (2) designs and develops statistical, economic, cost, resource allocation, geospatial and data management strategies, models, and methodologies in the public health arena; and (3) collaborates with scientists, program experts, and senior public health officials throughout the division to implement these strategies, models, and methodologies in support of respiratory, enteric and related viral diseases surveillance and prevention studies, prevention resource allocation issues, and prevention program activities.

Respiratory Viruses Branch (CVGEB). (1) Conducts surveillance, laboratory assistance, and related activities, and supports and provides technical assistance to state and local health departments to conduct surveillance and related activities to monitor the impact of prevention programs, and determine patterns of infection and disease; (2) conducts and provides laboratory support and expertise for epidemiologic and laboratory studies to define patterns of and risk factors for infection, disease, and disease burden; (3) provides epidemiology and laboratory consultation and support and/or participates in investigations of national and international outbreaks of viral respiratory diseases, and recommends appropriate control measures; (4) provides scientific, both epidemiologic and laboratory, leadership and advice; (5) analyzes available data, and develops science-based statements for potential respiratory viral vaccines to the ACIP and other groups to support the development and evaluation of immunization practices and policies in the U.S and internationally; (6) provides and supports public health training; (7) responds to and assists internal and

external partners on other public health problems of national and international significance, as needed; (8) provides laboratory support for surveillance and epidemiologic studies and maintains reference/diagnostic services and expertise; (9) conducts studies of immunology and pathogenesis of disease and the biology, biochemical, genetic, and antigenic characteristics of the agents; (10) develops, evaluates, and improves diagnostic methods and reagents, and transfers assays and techniques to other public health laboratories and provides and supports laboratory training; (11) facilitates and participates in the development and evaluation of antiviral compounds, vaccines, and vaccination programs; and (12) responds to and assists internal and external partners on other public health problems of national and international significance as needed.

Polio and Picornavirus Laboratory Branch (CVGEC). (1) Provides laboratory assistance, technical expertise and support for surveillance and related activities to monitor impact of vaccination and other prevention programs, and determine patterns of infection and disease; (2) provides laboratory support and technical expertise for epidemiologic and laboratory studies to define patterns and risk factors for infection, disease, and disease burden; (3) studies vaccine-related issues; (4) identifies and evaluate non-vaccine prevention strategies; (5) provides laboratory consultation and technical expertise regarding use of vaccines and other measures to prevent infections to other NCs, collaborators, and partners; (6) provides laboratory consultation and support and/or participates in investigations of national and international outbreaks of viral vaccine preventable and other respiratory and enteric viral diseases; (7) provides laboratory leadership and technical expertise to develop science-based statements to Global Polio Eradication Initiative, the ACIP, and other groups to support the development and evaluation of immunization practices and policies in the U.S and internationally; (8) provides epidemiology and laboratory consultation and support and/or participates in investigations of national and international outbreaks of viral respiratory diseases, and recommends appropriate control measures; (9) provides scientific, both epidemiologic and laboratory, leadership and advice; (10) provides laboratory support for surveillance and epidemiologic studies and maintains reference/diagnostic services and expertise; (11) conducts studies of immunology and pathogenesis of disease and the biology, biochemical, genetic, and antigenic characteristics of the agents; (12) develops, evaluates, and improves diagnostic methods and reagents, transfers assays and techniques to national and international public health laboratories, and provides and supports training for laboratorians; (13) facilitates and participates in the development and evaluation of antiviral compounds, vaccines, and vaccination programs; (14) responds to and assists internal and external partners on other public health problems of national and international significance as needed; and (15) serves as the National Reference Laboratory (poliovirus and enteroviruses), World Health Organization (WHO) Collaborating Center for Poliovirus and Enteroviruses Virus Reference and Research, and WHO Global Specialized Polio Reference Laboratory.

Viral Vaccine Preventable Diseases Branch (CVGED). (1) Conducts surveillance, provides laboratory assistance, technical expertise, and support for surveillance and related activities to monitor the impact of vaccination on the prevention of viral disease and to determine patterns of infection and disease; (2) conducts epidemiologic and laboratory studies to define patterns of and risk factors for infection, disease, and disease burden; (3) estimates vaccine effectiveness, evaluates other aspects of immunization practices; (4) identifies and evaluates non-vaccine prevention strategies; (5) provides epidemiological and laboratory expertise and technical support to other NCs, collaborators, and partners across center working groups on vaccines and other prevention strategies; (6) supports the development of vaccine practices and policies by providing consultation and epidemiologic and laboratory expertise to other federal agencies, state health departments, ministries of health, WHO, PAHO, private industry, academia and other governmental organizations on viral vaccine preventable diseases, and on the use of vaccines and other measures to prevent infections; (7) provides laboratory consultation and support and/or participates in investigations of national and international outbreaks of viral vaccine preventable diseases and recommends appropriate control measures; (8) assists internal and external partners on other public health problems of national and international significance; (9) provides scientific leadership and advice, analyzes available data, and develops science-based statements for viral vaccines to the ACIP and other groups to support the development and evaluation of immunization practices and policies in the U.S and internationally; (10) responsible for human papilloma virus (HPV), measles, mumps, rubella (MMR), domestic polio, zoster, and varicella vaccine policy in the United States by working with ACIP; (11) provides and supports public health training; (12) responds to public inquires and prepares communication materials; (13) works with health economists to determine cost effectiveness of vaccination strategies; (14) provides laboratory support for surveillance and epidemiologic studies and maintains reference and diagnostic services and expertise; (15) assists in investigation of adverse events following vaccination; (16) conducts studies of immunology and pathogenesis of disease and the biological, biochemical, genetic, and antigenic characteristics of viral agents; (17) develops, evaluates, and improves diagnostic methods and reagents; (17) transfers assays and techniques to other public health laboratories; (18) provides and supports laboratory training; (19) serves as the National Reference Laboratory for MMR, and varicella zoster virus and the PAHO Regional and WHO Global Specialized Laboratory for measles and rubella; and (20) works closely with the laboratory that handles HPV to define and conduct epidemiologic investigations.

Viral Gastroenteritis Branch (CVGEE) (1) Provides epidemiologic and laboratory assistance studies and related activities to better understand the evolution, (molecular) epidemiology and immunity of rotavirus, norovirus and other gastroenteritis viruses; (2) provides consultation on the safety and impact of rotavirus vaccination and other prevention programs (rotavirus, norovirus); (3) provides consultation and technical assistance to state and local health departments to monitor the burden of disease and epidemiology of gastroenteritis virus infections (rotavirus, norovirus); (4) provides consultation and support on the research and development of new rotavirus vaccines and other prevention technologies; (5) provides consultation and support and/or participates in investigations of national and international outbreaks of viral vaccine preventable and other enteric viral diseases, and recommends appropriate control measures; (6) provides scientific leadership and advice, analyzes available data, and develops science-based statements for rotavirus vaccines to the ACIP and other groups to support the development and evaluation of

immunization practices and policies in the U.S and internationally; (7) provides and supports public health training; (8) responds to and assists internal and external partners on other public health problems of national and international significance, as needed; (9) serves as the National Reference Laboratory (rotavirus and norovirus) and other agents of viral gastroenteritis; and (10) serves as the WHO Global Reference Center for Rotavirus and other agents of viral gastroenteritis.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2017–26150 Filed 12–4–17; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 81 FR 84583–84591, dated November 23, 2016) is amended to reflect the reorganization of the Center for Surveillance, Epidemiology and Laboratory Services, Office of Public Health Preparedness and Response, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title for the *Center for Surveillance, Epidemiology and Laboratory Service (CPN)* and insert the following title which includes the Oxford comma: *Center for Surveillance, Epidemiology, and Laboratory Service (CPN).*

Delete in its entirety the title and the mission and function statements for the *Division of Laboratory Systems (CPNB)* and insert the following:

Division of Laboratory Systems (CPNB). The mission of the Division of Laboratory Systems (DLS) is to strengthen the nation's clinical and public health laboratory system by continually improving quality and safety, informatics and data science, and workforce competency.

Office of the Director (CPNB1). (1) Provides leadership and guidance on development of strategic goals, objectives, and milestones to advance the vision and mission of the Division of Laboratory Systems (DLS), the Center for Surveillance Epidemiology and Laboratory Services (CSELS), and CDC; (2) ensures optimal planning and allocation of resources to achieve program objectives, conducts management and operations analyses, and oversees required reporting; (3) provides administrative management support, advice, and guidance to DLS regarding administrative policies, fiscal management, property management, human resources, and travel; (4) leads coordination and stewardship of DLS procurement, grants, cooperative agreements, materials management, interagency agreements, and extramural resources; (5) fosters collaborations and cross-cutting activities with other CDC components and external organizations to support the mission, activities, and operations of DLS; (6) enhances internal and external partnerships and partner/stakeholder communication; (7) provides leadership in evaluating and improving program performance, monitoring progress and accomplishments to ensure that programmatic goals are achieved with measurable impact; (8) manages issues, policy development, and tracks regulatory and legislative activities; (9) manages CDC Specimen Policy Board and the CDC/ATSDR Specimen Packaging, Inventory, and Repository (CASPIR) Advisory Committee; (10) collaborates with leadership of the Centers for Medicare & Medicaid Services (CMS) and the Food and Drug Administration (FDA) in advancement of the Clinical Laboratory Improvement Amendments (CLIA) program and oversees CDC responsibilities therein; (11) provides scientific oversight for DLS, performing scientific review and clearance for DLS publications, presentations, and reports; (12) provides DLS communications, Web support, responses to media requests, and communication outreach efforts; and (13) coordinates requests from other CDC programs for international technical assistance among DLS capabilities.

Training and Workforce Development Branch (CPNBC). (1) Provides leadership and support of laboratory workforce through initiatives that strengthen recruitment, retention, management, and training; (2) supports the development, promotion, adoption, and implementation of competencies relevant to the laboratory workforce; (3) develops frameworks, models, and resources that support competency-based laboratory training, fellowships, and education; (4) engages agency and laboratory community experts to collaboratively assess and develop effective training products to maintain a competent, prepared, and sustainable national and global laboratory workforce; (5) designs and implements training pertaining to clinical and public health laboratory methodology, technology, quality and safety and practice for public health, clinical, CDC, and other federal agency laboratory professionals; and (6) evaluates the efficiency and effectiveness of public health laboratory education and training, including measuring the outcomes of all training to ensure the effective transfer of knowledge and skills to improved laboratory practice.

Quality and Safety Systems Branch (CPNBD). (1) Develops, promotes, implements, and evaluates intervention strategies to improve quality and safety in clinical and public health laboratory systems; (2) provides scientific and technical support for the Clinical Laboratory Improvement Amendments (CLIA) program to assure the quality, including safety, of clinical and public health laboratory testing nationwide; (3) facilitates and conducts studies to provide scientific evidence and assess the impact of CLIA regulations and voluntary guidelines for laboratory quality and safety; (4) provides expertise and guidance in the development or revision of CLIA technical standards and voluntary guidelines for laboratory quality and safety, especially in light of new and evolving laboratory technology and practices; (5) develops, disseminates, promotes, and evaluates the impact of educational materials to support the understanding of and compliance with CLIA regulations and voluntary quality and safety guidelines; (6) hosts and manages the Clinical Laboratory Improvement Advisory Committee (CLIAC) and its workgroups on behalf of a tri-agency partnership among CDC, CMS, and FDA; (7) provides information to the laboratory medicine and public health communities, as well as policy makers, regarding the interpretation and application of the CLIA technical standards and other issues of laboratory quality and safety; (8) provides technical assistance in the review of laboratory accreditation and state licensure programs, and CLIA-approved proficiency testing programs; (9) facilitates and supports collaborations with federal partners and other stakeholders (including other CDC programs upon request) for the exchange of information about

laboratory quality and safety practices, research, standards, and guidelines, and coordinates clinical and public health laboratory improvement efforts among all; (10) provides safety and quality subject matter expertise to the Training and Workforce Development Branch for the development of training courses for internal CDC laboratories and external clinical and public health laboratories; (11) provides advice and oversight of safety and quality measures, controls, practices and documents to ensure compliance of DLS laboratory areas with CDC policies, regulations, and guidelines for laboratory quality and safety (*e.g.,* Roybal campus—Building 18 Training Laboratory and Lawrenceville campus laboratories); (12) provides scientific and technical support and guidance for CDC initiatives, programs, committees, work groups, and task forces involving use, handling, shipping, import/export, transport or storage of biological specimens and their support materials; (13) provides safety and quality-related content expertise for the development of the Laboratory Leadership Service (LLS) Fellows curriculum and serve as course instructors for LLS training classes (and to other laboratory-related workforce efforts as may be requested by other programs); and (14) serves as quality and safety advisors and liaisons to other CDC programs and offices involving clinical laboratory activities upon request.

Informatics and Data Science Branch (CPNBE). (1) Supports the CDC Specimen Policy Board and OADLSS in the development of CDC specimen management and collection policies, and oversees implementation of those policies at CASPIR in collaboration with the CASPIR Advisory Committee; (2) develops, promotes, implements, and evaluates data science approaches for improved research of large and complex data sets in support of CLIA standards and laboratory practice; (3) maintains and leverages data acquired from national laboratory systems and other large health databases to evaluate laboratory testing events, capabilities, capacity, and public health outcomes; (4) develops solutions to strengthen the management of laboratory test service capability and capacity data, biorepositories, access to materials for standardizing laboratory testing, as well as support laboratory preparedness and workforce development activities; (5) develops and implements solutions, often with external partners and collaborators, to strengthen clinical and public health laboratory information systems, reporting of laboratory results between diagnostic facilities and healthcare providers, electronic reporting of laboratory information to electronic health records, and general preparedness of the laboratory system to respond to public health emergencies; (6) develops and implements computer-based decision support tools and mobile applications that help to inform better laboratory-related decision-making by healthcare providers; and (7) collaborates with other CDC programs to develop and promote informatics solutions for improving laboratory management, practice, and preparedness.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2017–26148 Filed 12–4–17; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Public Comments Request; New Data Collection; National Center on Law and Elder Rights (NCLER)

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on ACL's intention to collect information from legal and aging/disability service professionals. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of Information and to allow 60 days for public comment in response on the proposed action. This notice solicits comments on proposed information collection requirements relating to ACL funded training, case consultation, and technical assistance for aging/disability networks assisting older adults in social or economic need facing legal issues.

DATES: Submit written or electronic comments on the collection of information by February 5, 2018.

ADDRESSES: Submit electronic comments on the collection of information to Omar Valverde at *omar.valverde@acl.hhs.gov.* Submit written comments on the collection of information by mail to Omar Valverde, Administration for Community Living, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Omar Valverde at *omar.valverde@acl.hhs.gov* or (202) 795–7460.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or update of an existing collection of information, before submitting the collection to OMB for approval. The proposed collection of information represents new information requested from aging/disability networks to fulfill requirements regarding the provision of services and overall performance of ACL legal assistance programs.

To comply with the above requirement, ACL is publishing a notice regarding the proposed collection of information set forth in this document. ACL contracts with a national legal assistance resource center, the National Center on Law and Elder Rights, to provide the required services. Through the contract, ACL provides aging, disability, and related legal professionals with training and complex case consultations and support for demonstration projects regarding contractually identified priority legal topics.

The purpose of the information requested is for ACL to ensure that the resource center creates and prioritizes the training, case consultations and technical assistance resources it was contracted to provide and to ensure that the center targets the contractually designated aging network practitioners about the priority subject matters. This approach enables ACL to make data-informed decisions about the deployment of its resource center assets. These data are necessary for ACL to evaluate contractual compliance with established performance indicators. These metrics include quantifiable increases in uptake by stakeholders of training, case consultation and technical assistance, and measures of satisfaction with and perceived benefit from these services. For example, the metrics measure successful problem resolution as a result of the services provided,

quantifiable data on fulfillment of requests for training, technical assistance, and consultation related to the contractually designated legal and systems development topic areas.

Interested persons are invited to send comments regarding burden estimates or any other aspect of this collection of information, including the following subjects: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Proposed Collection of Information

ACL plans to submit the proposed data collection to the Office of Management and Budget for approval following receipt of any comments received in response to this notice. The information to be requested by ACL from legal and aging/disability professionals fall into the following areas: (1) Requests for training, case consultation, and technical assistance through an online, secure Uniform Resource Support Request Tool; (2) general requests for Legal Training (including the volume of Webinar registrations); Case Consultation and Technical Assistance; and (3) information about satisfaction and use of the services and support received in order to enable ACL to measure performance outcomes.

(1) Resource Support Requests

ACL proposes to ask aging/disability service providers and legal service providers who may need various forms of resource support a series of questions regarding appropriate delivery of needed assistance in a targeted and efficient manner. These questions will be presented through a web based Uniform Resource Support Request Tool (URSRT) that will be used for soliciting and accepting requests for Legal Training, Case Consultation, and Technical Assistance (Link to URSRT).

Estimated Number of Responses

ACL expects to receive (30) responses to questions presented in the URSRT from Legal Assistance Developers (LADs) (Title VII, Section 731) housed in SUAs and (50) responses from Older Americans Act (OAA) Title III–B legal providers in the first year. In subsequent years, the URSRT will be targeted for use by other groups within aging/disability and elder rights networks and may experience a large increase in responses.

Total Estimated Burden Hours

The burden hours are calculated as (*1) minute and 54 seconds* to complete the URSRT per respondent, with a total of *2.53* hours, annually. *Attachment A,* which is posted along with the draft forms on the *acl.gov* Web site, explains the estimated response rate and burden calculations.

(2) Legal Training, Case Consultation, Technical Assistance Requests

ACL proposes to ask legal and aging/disability providers who request Legal Training, Case Consultation, or Technical Assistance through the web-based Uniform Resource Support Request Tool (URSRT) for background information and the following substantive data:

- Type of Organization (Title III–B attorney, Legal Services Corporation attorney, Other Legal Services attorney, Other Elder Law attorney, Other Legal Services professional, Aging and/or Disability Network Professional, Other); and
- Services requested: (Legal Training, Case Consultation, Technical Assistance on Legal Services Delivery, or General Information).

Estimated Number of Responses

Based on the results of prior data collections, ACL expects between *13,000 and 14,000* requests annually through the web-based Uniform Resource Support Request Tool (URSRT). In subsequent years, enhanced public awareness of the availability of Legal Training, Case Consultation, and Technical Assistance within aging/disability/legal networks may increase potential responses to as high as *16,000.*

Total Estimated Burden Hours

The burden of hours is calculated at *(1) minute 42 seconds* for each respondent to make a request for Training, Case Consultation, or Technical Assistance. ACL estimates a high end of *14,000* responses with burden hours totaling *396* hours, annually. *Attachment A,* which is posted along with the draft forms on the *acl.gov* Web site, explains the estimated response rate and the burden calculation.

(3) Performance Outcome Measurement

ACL proposes to ask legal and aging/disability providers, who request Legal Training, Case Consultation or Technical Assistance, the following series of survey questions in order to properly assess audience targeting, participant satisfaction, and outcomes of the training and technical assistance delivered:

- Type of Organization (Title III–B attorney, Legal Services Corporation attorney, Other Legal Services attorney, Other Elder Law attorney, Other Legal Services professional, Aging and/or Disability Network Professional, and Other Job Title (*e.g.,* Executive Director, Management, Staff Attorney, Counselor);
- Please rank the quality of assistance provided in this (Legal Training/Case Consultation/Technical Assistance);
- Did the assistance provided by this (Legal Training/Case Consultation/Technical Assistance) contribute to a successful resolution of a specific client issue?
- If requesting assistance on legal services delivery, will the assistance provided contribute to the successful completion of legal needs and capacity assessments, legal services delivery plans, legal service delivery standards, or data collection/reporting systems?

Estimated Number of Responses

ACL expects between *3,000 and 3,500* responses to follow up surveys presented through the web-based Uniform Resource Support Request Tool (URSRT) gaging participant satisfaction and service impacts derived from Training, Case Consultation, or Technical Assistance. In subsequent years, due to an increase in the volume of resource support provided, survey responses may increase to as high as *4,500* due to ongoing efforts to increase awareness of the availability of resource support through NCLER.

Total Estimated Burden Hours

The burden of hours is calculated at *(1) minute and 3 seconds* for each respondent to complete a survey gaging satisfaction and service impact. ACL estimates a high end of *3,500* responses with a burden of hours totaling *61.25* hours, annually. *Attachment A,* which is posted along with the draft forms on the *acl.gov* Web site, explains the estimated response rate and the burden calculation.

The proposed data collection forms and Attachment A may be found on the ACL Web site for review at: *https://www.acl.gov/about-acl/public-input*

SUMMARY OF BURDEN ESTIMATES

Respondent/data collection activity	Number of respondents	Minutes per response	Annual burden hours
Resource Support Requests	80	1 min 54 sec	2.53 hours.
Legal Training, Case Consultation, Technical Assistance Requests.	14,000	1 min 42 sec	397 hours.
Outcome Measurement	3,500	1 min 3 sec	61.25 hours.
Total	17,580	4 min 39 sec	460.78 hours.

Dated: November 24, 2017.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2017–26116 Filed 12–4–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–1159]

Food and Drug Administration Categorization of Investigational Device Exemption Devices To Assist the Centers for Medicare and Medicaid Services With Coverage Decisions; Guidance for Sponsors, Clinical Investigators, Industry, Institutional Review Boards, and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''FDA Categorization of Investigational Device Exemption (IDE) Devices to Assist the Centers for Medicare and Medicaid Services (CMS) with Coverage Decisions; Guidance for Sponsors, Clinical Investigators, Industry, Institutional Review Boards, and Food and Drug Administration Staff.'' This guidance modifies the FDA's current policy on categorization of investigational device exemption (IDE) devices, which assists the CMS in determining whether or not an IDE device should be covered (reimbursed) by CMS. On December 2, 2015, FDA's Center for Devices and Radiological Health (CDRH) and CMS's Coverage and Analysis Group (CAG) executed a Memorandum of Understanding (MOU) to streamline and facilitate the efficient categorization of investigational medical devices in order to support CMS's ability to make Medicare coverage (reimbursement) determinations for those devices. This guidance document further explains the framework that FDA intends to follow for such categorization decisions.

DATES: The announcement of the guidance is published in the **Federal Register** on December 5, 2017.

ADDRESSES: You may submit either electronic or written comments on this guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–1159 for ''FDA Categorization of Investigational Device Exemption (IDE) Devices to Assist the Centers for Medicare and Medicaid Services (CMS) with Coverage Decisions; Guidance for Sponsors, Clinical Investigators, Industry, Institutional Review Boards, and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the

electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''FDA Categorization of Investigational Device Exemption (IDE) Devices to Assist the Centers for Medicare and Medicaid Services (CMS) with Coverage Decisions; Guidance for Sponsors, Clinical Investigators, Industry, Institutional Review Boards, and Food and Drug Administration Staff'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Owen Faris, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1682, Silver Spring, MD 20993–0002, 301–796–6356, or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for sponsors, clinical investigators, industry, institutional review boards, and FDA staff entitled, ''FDA Categorization of Investigational Device Exemption (IDE) Devices to Assist the Centers for Medicare and Medicaid Services (CMS) with Coverage Decisions; Guidance for Sponsors, Clinical Investigators, Industry, Institutional Review Boards, and Food and Drug Administration Staff.'' This guidance modifies the FDA's current policy on categorization of IDE devices. In September 1995, FDA entered into an Interagency Agreement (IA) regarding reimbursement categorization of investigational devices with the Health Care Financing Administration (now known as CMS). FDA would assign a device with an approved IDE based on the level of risk the device presented to patients. The categorization would then be used by CMS as part of its determination of whether or not items and services met the requirements for Medicare coverage under section 1862(a)(1)(A) of the Social Security Act. In following with the IA, FDA categorized devices as either Category A (''Experimental'') or Category B (''Nonexperimental/Investigational''). In the more than 20 years since the IA was signed, FDA has received a number of IDEs which do not easily fit into any of the eight sub-categories identified in the IA. There have also been several developments which prompted FDA and CMS to revise their shared understanding regarding the categorization of IDE devices. These include the publication of the guidance document entitled, ''Investigational Device Exemptions (IDEs) for Early Feasibility Medical Device Clinical Studies, Including Certain First in Human (FIH) Studies; Guidance for Industry and Food and Drug Administration Staff,'' (Ref. 1) and a subsequent increase in submission of early feasibility studies to FDA, as well as modifications to CMS's regulation regarding IDEs (42 CFR 405 Subpart B).

On December 2, 2015, FDA's CDRH and CMS's Coverage and Analysis Group (CAG) executed a Memorandum of Understanding (MOU) to streamline and facilitate the efficient categorization of investigational medical devices. The MOU became effective as of June 2, 2016. This guidance document describes the process and information that will be used to help determine the appropriate category for a device to be studied. Importantly, the categorization paradigm has shifted from a more rigid approach to one which allows more flexibility and could be of great benefit specifically to manufacturers of, and patients receiving, innovative medical devices. The previous categorization paradigm included several specific criteria upon which a categorization would be based. These criteria were tied to information known about other similar, legally marketed products. The policy has been revised in order to allow FDA to consider information known about investigational devices as well, and provide FDA the flexibility to change categorization as more information regarding a device has been obtained. Therefore, while an innovative medical device may not be reimbursable during early-stage clinical trials, information gained during such studies now can be utilized to potentially help support a category change, and thus full reimbursement, for the device during subsequent studies.

FDA considered comments received on the draft guidance that appeared in the June 1, 2016, **Federal Register** notice (81 FR 35032). FDA revised the guidance as appropriate in response to the comments. This document supersedes IDE Guidance Memorandum #95–2 ''Implementation of the FDA/HCFA Interagency Agreement Regarding Reimbursement Categorization of Investigational Devices'' issued on September 15, 1995.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''FDA Categorization of Investigational Device Exemption (IDE) Devices to Assist the Centers for Medicare and Medicaid Services (CMS) with Coverage Decisions.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all CDRH guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* A search capability for all CBER guidance documents is available at: *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* Guidance documents are also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''FDA Categorization of Investigational Device Exemption (IDE) Devices to Assist the Centers for Medicare and Medicaid Services (CMS) with Coverage Decisions; Guidance for Sponsors, Clinical Investigators, Industry, Institutional Review Boards, and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please

use the document number 1500074 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA and CMS regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078. The collections of information in 42 CFR part 405, subpart B have been approved under OMB control number 0938–1250.

V. Reference

The following reference is on display in the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.* FDA has verified the Web site address, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. Investigational Device Exemptions (IDEs) for Early Feasibility Medical Device Clinical Studies, Including Certain First in Human (FIH) Studies; Guidance for Industry and Food and Drug Administration Staff, available at *https://www.fda.gov/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm279103.*

Dated: November 29, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26195 Filed 12–4–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–1210]

Technical Considerations for Additive Manufactured Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Technical Considerations for Additive Manufactured Medical Devices; Guidance for Industry and Food and Drug Administration Staff.'' FDA has developed this leapfrog guidance to provide FDA's initial thoughts on technical considerations specific to devices using additive manufacturing, the broad category of manufacturing encompassing 3-dimensional (3D) printing. This guidance outlines technical considerations associated with additive manufacturing processes as well as testing and characterization for final finished devices fabricated using additive manufacturing.

DATES: The announcement of the guidance is published in the **Federal Register** on December 5, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–1210 for ''Technical Considerations for Additive Manufactured Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download

from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Technical Considerations for Additive Manufactured Devices; Guidance for Industry and Food and Drug Administration Staff'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Matthew Di Prima, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 62, Rm. 2214, Silver Spring, MD 20993–0002, 301–796–2507 or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed this leapfrog guidance to provide FDA's initial thoughts on technical considerations specific to devices using additive manufacturing (AM), the broad category of manufacturing encompassing 3D printing. In medical device applications, AM has the advantage of facilitating the creation of anatomically-matched devices and surgical instrumentation by using a patient's own medical imaging. Another advantage is the ease in fabricating complex geometric structures, allowing the creation of engineered open lattice structures, tortuous internal channels, and internal support structures that would not be easily possible using traditional (non-additive) manufacturing approaches. However, the unique aspects of the AM process, such as the layer-by-layer fabrication process, and the relative lack of experience and clinical history of with respect to devices manufactured using AM techniques, pose challenges in determining optimal characterization and assessment methods for the final finished device, as well as optimal process validation and verification methods for these devices. To discuss these challenges and obtain initial stakeholder input, the FDA held a public workshop entitled ''Additive Manufacturing of Medical Devices: An Interactive Discussion on the Technical Considerations of 3D Printing,'' on October 8–9, 2014 (79 FR 28732).

This guidance is a leapfrog guidance; leapfrog guidances are intended to serve as a mechanism by which the Agency can share initial thoughts regarding the content of premarket submissions for emerging technologies and new clinical applications that are likely to be of public health importance very early in product development. This leapfrog guidance represents the Agency's initial thinking, and our recommendations may change as more information becomes available. The Agency strongly encourages manufacturers to engage with CDRH and/or CBER through the Pre-Submission process to obtain more detailed feedback regarding their AM device or process. For more information on Pre-Submissions, please see ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff'' (*https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM311176.pdf*).

The FDA considered comments received on the draft guidance that appeared in the **Federal Register** of May 10, 2016 (81 FR 28876). FDA has revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Technical Considerations for Additive Manufactured Medical Devices.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Technical Considerations for Additive Manufactured Medical Devices; Guidance for Industry and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400002 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814, subparts A through E have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H have been approved under OMB control number 0910–0332; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073. The collections of information in the guidance document ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff'' have been approved under OMB control number 0910–0756.

Dated: November 30, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26196 Filed 12–4–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: AIDS and AIDS Related Research.

Date: December 12, 2017

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Applications.

Date: December 13, 2017.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–451–2796, *bdey@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 30, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–26189 Filed 12–4–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Collaborative Muscle and Aging Study.

Date: January 17, 2018.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anita H. Undale, Ph.D., M.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 240–747–7825, *anita.undale@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 29, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–26190 Filed 12–4–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of AmSpec LLC (Destrehan, LA) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec LLC (Destrehan, LA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Destrehan, LA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of June 15, 2017.

DATES: AmSpec LLC (Destrehan, LA) was approved and accredited as a commercial gauger and laboratory as of June 15, 2017. The next triennial inspection date will be scheduled for June 2020.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec LLC, 14682 Airline Hwy., Destrehan, LA 70047, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurement.

AmSpec LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–03	D4006	Standard Test Method for Water in Crude Oil by Distillation.

CBPL No.	ASTM	Title
27–04	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–08	D86	Standard Test Method for Distillation of Petroleum Products.
27–09	D4953	Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxgenate Blends (Dry Method).
27–11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27–13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–14	D2622	Standard Test Method for Sulfur in Petroleum Products (X-Ray Spectrographic Methods).
27–33	D5	Standard Test Method for Penetration of Bituminous Materials.
27–46	D5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27–48	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–53	D2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–58	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: November 27, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2017–26144 Filed 12–4–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–MB–2017–N141; FXMB12610700000–178–FF07M01000]

Change in Regional Partners for Upper Copper River Region for the Alaska Migratory Bird Co-Management Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service announces a change in a regional partner, representing the Upper Copper River region, on the Alaska Migratory Bird Co-management Council (Co-management Council). For the Upper Copper River region, the Copper River Native Association has elected to step down, and the Co-management Council is replacing that partner with the Ahtna Intertribal Resource Commission. This action will ensure continuity of the Co-management Council's operations.

DATES: The change in representation on the Co-management Council took effect October 1, 2017.

FOR FURTHER INFORMATION CONTACT: Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; *donna_dewhurst@fws.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (Service) regulates the subsistence take of migratory birds in Alaska through regulations in title 50 of the Code of Federal Regulations in part 92. The Service published a notice of decision in the **Federal Register** on March 28, 2000 (65 FR 16405), that established regional management bodies in Alaska to develop recommendations related to subsistence harvest. The notice of decision also established a single statewide management body consisting of representatives from each of the regions and one representative each from the Service and the Alaska Department of Fish and Game. In a final rule of July 21, 2003 (68 FR 43010), we announced that, of the 12 geographic regions that represent common subsistence resource use patterns in Alaska, 11 regional bodies elected to participate in the statewide management body. Membership on the 11 regional bodies comprises subsistence users from each of the active regions. The Service contracted with 11 partner organizations to organize and support the regional bodies.

Since 2000, the Co-management Council partner organization representing the Upper Copper River region has been the Copper River Native Association (CRNA). However, CRNA notified the Service, by letter dated August 11, 2017, of its request to cease the present regional partnership with the Co-management Council, and recommended that the Ahtna Intertribal Resource Commission could potentially be a good replacement. A phone poll was conducted of the Co-management Council on August 16, 2017, and they unanimously selected the Ahtna Intertribal Resource Commission as their replacement partner.

The new Co-management Council partner organization will ensure continuity of communication with the subsistence users of their regions to establish and maintain local representation on their regional management bodies. Partners are also responsible for coordinating meetings within their regions, soliciting proposals, and keeping the villages informed.

Dated: November 1, 2017.

Gregory E. Siekaniec

Regional Director, Anchorage, Alaska.

[FR Doc. 2017–26169 Filed 12–4–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2017–N144; FXES11140200000–189–FF02ENEH00]

Incidental Take Permit Applications Received To Participate in the American Burying-Beetle Amended Oil and Gas Industry Conservation Plan in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act (ESA), as amended, we, the U.S. Fish and Wildlife Service, invite the public to comment on federally listed American burying-beetle incidental take permit (ITP) applications. The applicants anticipate American burying-beetle take as a result of impacts to habitat the species uses for breeding, feeding, and sheltering in Oklahoma. The take would be incidental to the applicants' activities associated with oil and gas well field and pipeline infrastructure (gathering, transmission, and distribution), including geophysical exploration (seismic), construction, maintenance, operation, repair, decommissioning, and reclamation. If approved, the permits would be issued under the approved *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.*

DATES: To ensure consideration, written comments must be received on or before January 4, 2018.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicants' ITP applications by one of the following methods. Please refer to the proposed permit number when requesting documents or submitting comments.

○ *U.S. Mail:* U.S. Fish and Wildlife Service, Endangered Species—HCP Permits, P.O. Box 1306, Room 6093, Albuquerque, NM 87103.

○ *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at U.S. Fish and Wildlife Service, Environmental Review Division, P.O. Box 1306, Room 6078, Albuquerque, NM 87103; or by telephone at 505–248–6651.

SUPPLEMENTARY INFORMATION:

Introduction

Under the ESA, as amended (16 U.S.C. 1531 *et seq.;* ESA), we, the U.S. Fish and Wildlife Service, invite the public to comment on ITP applications to take the federally-listed American burying-beetle (*Nicrophorus americanus*) during oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

If approved, the permits would be issued to the applicants under the *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.* The original ICP was approved on May 21, 2014, and the ''no significant impact'' finding notice was published in the **Federal Register** on July 25, 2014 (79 FR 43504). The draft amended ICP was made available for comment on March 8, 2016 (81 FR 12113), and approved on April 13, 2016. The ICP and the associated environmental assessment/finding of no significant impact are available on our Web site at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these finalized, approved documents.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications under the ICP, for incidentally taking the federally-listed American burying-beetle. Please refer to the appropriate permit number (*e.g.,* TE–123456) when requesting application documents and when submitting comments. Documents and other information the applicants have submitted are available for review, subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

Permit TE50985C

Applicant: XTO Energy, Inc., Fort Worth, TX.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit TE52852C

Applicant: Tall Oak Woodford, LLC., Edmond, OK.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under the ESA, section 10(c) (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: October 4, 2017.

Joy E. Nicholopoulus,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2017–26187 Filed 12–4–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX17RN00FUJ3; OMB Control Number 1028–0048]

Agency Information Collection Activities; Did You Feel It? Earthquake Questionnaire

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the USGS is proposing to renew an information collection (IC).

DATES: Interested persons are invited to submit comments on or before February 5, 2018.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the U.S. Geological Survey, Information Collections Clearance Officer, 12201 Sunrise Valley Drive MS

159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0048 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: David Wald, USGS, by email at *wald@usgs.gov,* or by telephone at 303–273–8441.

SUPPLEMENTARY INFORMATION: We, the USGS, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The U.S. Geological Survey (USGS) is required to collect, evaluate, publish and distribute information concerning earthquakes. Respondents have an opportunity to voluntarily supply information concerning the effects of shaking from an earthquake—on themselves, buildings, other man-made structures, and ground effects such as faulting or landslides. Respondents' observations are interpreted in terms of numbers that measure the strength of shaking, and the resulting numbers are displayed on maps that are viewable from USGS earthquake Web sites. Observations are submitted via the Felt Report questionnaire accessed from the USGS Did You Feel It? Earthquake Web pages, and may be submitted via computer or mobile phone. Respondents are asked to provide information on the location to which the report pertains. The locations may, at the respondent's option, be given imprecisely (city-name or postal Zip Code) or precisely (street address, geographic coordinates, or current location determined by the user's mobile phone). Low resolution maps of shaking based on both precise and imprecise observations are published for all earthquakes for which observations are submitted. For earthquakes felt by many respondents, the observations that are associated with more precise locations are used in the preparation of higher resolution maps of earthquake shaking.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked. We will release data collected on these forms only in formats that do not include proprietary information volunteered by respondents. This collection is scheduled to expire on May 31, 2018.

Title of Collection: Did You Feel It? Earthquake Questionnaire.

OMB Control Number: 1028–0048.

Form Number: None.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: General Public.

Total Estimated Number of Annual Respondents: 200,000.

Total Estimated Number of Annual Responses: 300,000.

Estimated Completion Time per Response: 3 minutes on average.

Total Estimated Number of Annual Burden Hours: 15,000.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion, after an earthquake.

Total Estimated Annual Non-hour Burden Cost: $0.00.

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 authorities for this action are Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Linda K. Pratt,

Geologic Hazards Science Center, Associate Director.

[FR Doc. 2017–26135 Filed 12–4–17; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24687; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before November 11, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by December 20, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before November 11, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

CALIFORNIA

Los Angeles County

Ellison, The, 15 Paloma Ave., Venice, SG100001905

Riverside County

Community Settlement House, (Latinos in 20th Century California MPS), 4366 Bermuda Ave., Riverside, MP100001906

PENNSYLVANIA

Berks County

Hotel Abraham Lincoln, 100 N. 5th St., Reading, SG100001908

Lycoming County

Lycoming Rubber Company, 1307 Park Ave., Williamsport, SG100001909

Montgomery County

Boyertown Burial Casket Company, 401 W. 4th St., East Greenville, SG100001910

Meyerhoff, Son and Company Building, 300 Cherry St., Pottstown, SG100001911

Philadelphia County

Howell and Brothers Paper Hangings Manufactory, 2101 Washington Ave., Philadelphia, SG100001912

WISCONSIN

Oconto County

Farnsworth Public Library, 715 Main St., Oconto, SG100001913

Additional documentation has been received for the following resource:

OREGON

Marion County

Odd Fellows Rural Cemetery, 2201 Commercial St. SE., Salem, AD13000707

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

ALASKA

Kenai Peninsula Borough

Clam Cove Pictograph Site, Address Restricted, Port Alsworth vicinity, SG100001904

WYOMING

Park County

Pagoda Creek, Address Restricted, Wapiti vicinity, SG100001914

Authority: 60.13 of 36 CFR part 60.

Dated: November 17, 2017.

Christopher Hetzel,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2017–26168 Filed 12–4–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 11–17]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Thursday, December 14, 2017: 10:00 a.m.—Issuance of Proposed Decisions in claims against Iraq.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2017–26259 Filed 12–1–17; 11:15 am]

BILLING CODE 4410–BA–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATES: Weeks of December 4, 11, 18, 25, 2017, January 1, 8, 2018.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of December 4, 2017

There are no meetings scheduled for the week of December 4, 2017.

Week of December 11, 2017—Tentative

Tuesday, December 12, 2017

9:00 a.m. Hearing on Combined Licenses for Turkey Point, Units 6 and 7: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting). (Contact: Manny Comar: 301–415–3863).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of December 18, 2017—Tentative

There are no meetings scheduled for the week of December 18, 2017.

Week of December 25, 2017—Tentative

There are no meetings scheduled for the week of December 25, 2017.

Week of January 1, 2018—Tentative

There are no meetings scheduled for the week of January 1, 2018.

Week of January 8, 2018—Tentative

There are no meetings scheduled for the week of January 8, 2018.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Patricia.Jimenez@nrc.gov* or *Jennifer.BorgesRoman@nrc.gov.*

Dated: December 1, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–26270 Filed 12–1–17; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0225]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from November 7, 2017, to November 17, 2017. The last biweekly notice was published on November 21, 2017.

DATES: Comments must be filed by January 4, 2018. A request for a hearing must be filed by February 5, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0225. 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.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN–2–A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2422, email: *Paula.Blechman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0225, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0225.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0225, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's 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.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC 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.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Progress, LLC, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP), Darlington County, South Carolina

Date of amendment request: September 27, 2017. A publicly-available version is in ADAMS under Accession No. ML17270A041.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to reflect the addition of a second qualified offsite power circuit. In addition, the proposed amendment requests approval to change the Updated Final Safety Analysis Report (UFSAR) to allow for the use of automatic load tap changers (LTCs) on the new (230 kilovolt (kV)) and the replacement (115kV) startup transformers.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises TS 3.8.1 to reflect the addition of a second qualified offsite circuit at HBRSEP. The proposed change modifies the TS 3.8.1 LCO [Limiting Condition for Operation], Conditions, Required Actions and Completion Times to be more consistent with NUREG–1431 [''Standard Technical Specifications—Westinghouse Plants'']. The AC [alternating current] power systems are not an initiator of any accident previously evaluated. As a result, the probability of an accident previously evaluated is not increased. The consequences of an accident with the proposed LCO requiring two qualified offsite circuits between the offsite transmission network and the onsite emergency AC Electrical Power Distribution System to be operable are no different than the consequences of an accident in Modes 1, 2, 3, and 4 with the existing LCO that requires the single qualified offsite circuit to be operable. The additional 230kV startup transformer will improve the reliability and availability of offsite power to the emergency

buses by increasing the amount of available offsite power sources from one to two. The two qualified offsite circuits are designed to mitigate the consequences of previously evaluated accidents. The proposed change to TS 3.8.1 would not change any of the previously evaluated accidents in the UFSAR.

The proposed change will also allow operation of the LTCs on the 115kV and 230kV startup transformers in automatic mode. The only accident previously evaluated where the probability of an accident is potentially affected by the proposed change is a loss of offsite power (LOOP). Failure of a LTC while in the automatic mode of operation that results in decreased voltage to the safety related buses could cause a LOOP if voltage decreased below the degraded grid voltage relay (DGVR) setpoint. The three postulated failure scenarios are: (1) Failure of a primary microcontroller that results in rapidly decreasing voltage supplied to the safety related buses; (2) failure of a primary microcontroller to respond to decreasing grid voltage; and (3) the backup microcontroller overrides the primary microcontroller when not required. For the first scenario, a backup microcontroller is provided for each LTC, which makes this failure unlikely. For the second scenario, operators would have ample time to address the condition utilizing identified procedures since grid voltage changes typically occur relatively slowly. In addition, the frequency of occurrence of all of these failure modes is small, based on the operating history of similar equipment at other plants. Furthermore, in all of the above potential failure modes, operators can take manual control of the LTC to mitigate the effects of the failure. Thus, the probability of a LOOP will not be significantly increased by operation of the LTCs in the automatic mode. The proposed change to allow operation of the LTCs in automatic mode has no effect on the consequences of a LOOP, since the emergency diesel generators (EDGs) provide power to safety related equipment following a LOOP. The design and function of the EDGs are not affected by the proposed change. The LTCs are each equipped with a backup microcontroller, which inhibits gross improper action of the LTC in the event of primary microcontroller failure. Additionally, the operator has procedurally identified actions available to prevent a sustained high voltage condition from occurring. Damage due to overvoltage is time-dependent, requiring a sustained high voltage condition. Therefore, damage to safety related equipment is unlikely, and the consequences of previously evaluated accidents are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises TS 3.8.1 to reflect the addition of a second qualified offsite circuit at HBRSEP. The proposed change modifies the TS 3.8.1 LCO, Conditions, Required Actions and Completion Times to be more consistent with NUREG–1431. The proposed change also will allow operation of the LTCs on the 115kV and 230kV startup transformers in automatic mode. All aspects of the proposed change involve electrical transformers that provide offsite power to safety-related equipment for accident mitigation. The proposed change does not alter the design, physical configuration or mode of operation of any other plant structure, system or component. No physical changes are being made to any other portion of the plant, so no new accident causal mechanisms are being introduced. The proposed change also does not result in any new mechanisms that could initiate damage to the reactor or its principal safety barriers (*i.e.,* fuel cladding, reactor coolant system or primary containment).

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises TS 3.8.1 to reflect the addition of a second qualified offsite circuit at HBRSEP. The proposed change modifies the TS 3.8.1 LCO, Conditions, Required Actions and Completion Times to be more consistent with NUREG–1431. The new 230kV startup transformer will improve the reliability and availability of offsite power to the emergency buses by increasing the amount of available offsite power sources from one to two. Another improvement to the HBRSEP electrical system configuration as a result of the proposed change is that each emergency bus will be normally aligned to independent startup sources and will not require a fast bus transfer on a unit trip. This reduces the risk of loss of power to the emergency buses caused by power transfer and/or equipment failures. The margin of safety is increased with the proposed change to revise TS 3.8.1 to reflect the additional qualified offsite circuit.

The proposed change will also allow operation of the LTCs on the 115kV and 230kV startup transformers in automatic mode. The inputs or assumptions of any of the analyses that demonstrate the integrity of the fuel cladding, reactor coolant system or containment during accident conditions are unaffected by this proposed change. The allowable values for the degraded voltage protection function are unchanged and will continue to ensure that the degraded voltage protection function actuates when required, but does not actuate prematurely to unnecessarily transfer safety related loads from offsite power to the EDGs. Automatic operation of the LTCs increases the margin of safety by reducing the potential for transferring loads to the EDGs during an undervoltage or overvoltage event on the offsite power sources.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tyron Street, Mail Code DEC45A, Charlotte, NC 28202.

NRC Branch Chief: Undine Shoop.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant (PNP), Van Buren County, Michigan

Date of amendment request: November 1, 2017. A publicly-available version is in ADAMS under Accession No. ML17306A086.

Description of amendment request: The proposed amendment would revise the PNP renewed facility operating license (RFOL) to change the full compliance implementation date for the fire protection program transition license condition. Specifically, the licensee is requesting additional time for completion of the required modifications necessary to achieve full compliance with 10 CFR 50.48(c), ''National Fire Protection Association Standard NFPA 805.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the PNP RFOL to change the full compliance implementation date for the fire protection program transition license condition to allow additional time for completion of the required modifications necessary to achieve full compliance with 10 CFR 50.48(c) is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents, and have no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of

accident from any accident previously evaluated?

Response: No.

The proposed changes to the PNP RFOL to change the full compliance implementation date for the fire protection program transition license condition to allow additional time for completion of the required modifications necessary to achieve full compliance with 10 CFR 50.48(c) is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to the PNP RFOL to change the full compliance implementation date for the fire protection program transition license condition to allow additional time for completion of the required modifications necessary to achieve full compliance with 10 CFR 50.48(c) is administrative in nature. Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Glew, Associate General Counsel Nuclear, Entergy Services, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: David J. Wrona.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit 1 (ANO–1), Pope County, Arkansas

Date of amendment request: October 2, 2017. A publicly-available version is in ADAMS under Accession No. ML17275A910.

Description of amendment request: The amendment would revise the ANO–1 Technical Specification (TS) 3.7.5, ''Emergency Feedwater (EFW) System,'' Bases to stipulate the conditions in which the TS 3.7.5, Condition A, 7-day Completion Time should apply to the ANO–1 turbine-driven EFW pump steam supply valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The EFW system is not an initiator of any design basis accident or event and, therefore, the proposed change does not increase the probability of any accident previously evaluated. The proposed change to clarify the conditions in which the current 7-day Completion Time for an inoperable steam supply path to turbine-driven EFW pump does not change the response of the plant to any accidents, since single failure criterion is not applicable when complying with associated TS Actions.

The proposed change does not adversely affect accident initiators or precursors, nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed change does not adversely affect the ability of structures, systems, and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. Further, the proposed change does not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not result in a change in the manner in which the EFW system provides plant protection. Absent a single failure (which is not assumed while in compliance with TS Actions), the EFW system will continue to supply water to the Steam Generators (SGs) to remove decay heat and other residual heat by delivering at least the minimum required flow rate to the SGs, as required. There are no design changes associated with the proposed change. The change to the associated TS Bases does not change any existing accident scenarios, nor create any new or different accident scenarios.

The change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the change clarifies the application of the current 7-day Completion Time for an inoperable steam supply path to the turbine-driven EFW pump and does not impose any new or different requirements or eliminate any existing requirements. The change does not alter assumptions made in the safety analysis. The proposed change is consistent with the safety analysis assumptions, which does not assume an EFW system single failure when complying with TS Actions, and current plant operating practice.

Therefore, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by these changes. The proposed change will not result in plant operation in a configuration outside the design basis. The associated TS will continue to limit the time in which one steam supply path to the turbine-driven EFW pump may be inoperable.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW., Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: July 28, 2017. A publicly-available version is in ADAMS under Accession No. ML17209A755.

Description of amendment request: The requested amendment proposes changes to combined license (COL) Appendix A, plant-specific Technical Specifications (TS) to make them consistent with the remainder of the design licensing basis and the TS. Specifically, the requested amendment proposes changes to COL Appendix A, the Technical Specification updates for reactivity controls and other

miscellaneous changes, and Updated Final Safety Analysis Report (UFSAR) information in various locations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with NRC staff edits in square brackets:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The change applies to a Diverse Actuation System (DAS) Manual Controls Mode 6 note for operability of the Automatic Depressurization System (ADS) Stage 4 valves that involves revising the note from reactor internals in place to upper internals in place. In accordance with Limiting Condition for Operation (LCO) 3.4.13 ADS—Shutdown, Reactor Coolant System (RCS) Open Applicability and TS 3.3.9, Engineered Safeguards Actuation System Instrumentation, Function 7, the ADS Stage 4 valves are not required to be operable in MODE 6 with the upper internals removed. However, the reactor internals would still be present. The change involves clarification of the note (with no change in required system or device function), such that the appropriate configuration in Mode 6 would be in place and would not conflict with TS 3.4.13 or TS 3.3.9. The revised note previously evaluated. As a result, the probability of an accident previously evaluated is not affected.

The consequences of an accident as a result of the revised note and associated requirements and actions are no different than the consequences of the same accident during the existing ones. As a result, the consequences are not affected by this change.

The proposed change does not alter or prevent the ability of structures, systems, and components from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves revising the existing LCO 3.1.4 operability to be applicable to Rod Cluster Control Assemblies (RCCAs)with accompanying changes in actions and surveillance requirements (with no change in required system or device function), such that more appropriate, albeit less restrictive, actions would be applied. The proposed change does not involve a physical alteration of the plant as described in the UFSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no set points, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the UFSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. While the LCO 3.1.4 for Rod Group Alignment Limits is made less restrictive by eliminating the worth of the [Gray Rod Cluster Assemblies (GRCAs)] in MODES 1 and 2 with $k_{eff} \geq 1$, no credit is taken in the current design basis for including their trip reactivity worth. As such, there is no significant reduction in a margin of safety. Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: September 12, 2017. A publicly-available version is in ADAMS under Accession No. ML17257A177.

Description of amendment request: The amendments would revise Technical Specification (TS) 5.5.17, ''Containment Leakage Rate Testing Program,'' for the Vogtle Electric Generating Plant, Units 1 and 2, to (1) increase the existing Type A integrated leakage rate test interval from 10 to 15 years, (2) extend the Type C containment isolation valve leaking testing to a 75-month frequency, (3) adopt the use of American National Standards Institute/American Nuclear Society 56.8–2002, ''Containment System Leakage Testing Requirements,'' and (4) adopt a more conservative grace interval of 9 months for Type A, B, and C tests in accordance with Nuclear Energy Institute (NEI) 94–01, Revision 3–A, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed activity involves the revision of Vogtle Electric Generating Plant (VEGP), Units 1 and 2, Technical Specification (TS) Section 5.5.17, ''Primary Containment Leakage Rate Testing Program,'' to allow the extension of the Type A integrated leakage rate test (ILRT) containment test interval to 15 years, and the extension of the Type C local leakage rate test (LLRT) interval to 75 months. The current Type A test interval of 120 months (10 years) would be extended on a permanent basis to no longer than 15 years from the last Type A test. The current Type C test interval of 60 months for selected components would be extended on a performance basis to no longer than 75 months. Extensions of up to nine months (total maximum interval of 84 months for Type C tests) are permissible only for non-routine emergent conditions.

The proposed extensions do not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident.

The change in Type A test frequency to once-per-fifteen years, measured as an increase to the total integrated plant risk for those accident sequences influenced by Type A testing, based on the internal events (IE) probabilistic risk analysis (PRA) is 1.79E–03 person-rem/year for Unit 1 and Unit 2. Electric Power Research Institute (EPRI) Report No. 1009325, Revision 2–A states that a very small population is defined as an increase of ≤1.0 person-rem per year or ≤1% of the total population dose, whichever is less restrictive for the risk impact assessment of the extended ILRT intervals. This is consistent with the Nuclear Regulatory Commission (NRC) Final Safety Evaluation for Nuclear Energy Institute (NEI) 94–01 and EPRI Report No. 1009325. Moreover, the risk

impact when compared to other severe accident risks is negligible. Therefore, this proposed extension does not involve a significant increase in the probability of an accident previously evaluated.

In addition, as documented in NUREG–1493, ''Performance-Based Containment Leak-Test Program,'' dated September 1995, Types B and C tests have identified a very large percentage of containment leakage paths, and the percentage of containment leakage paths that are detected only by Type A testing is very small. The VEGP Type A test history supports this conclusion.

The integrity of the containment is subject to two types of failure mechanisms that can be categorized as: (1) Activity based, and (2) time based. Activity-based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. The LLRT requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the containment combined with the containment inspections performed in accordance with American Society of Mechanical Engineers (ASME) Section XI, and TS requirements serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by a Type A test. Based on the above, the proposed test interval extensions do not significantly increase the consequences of an accident previously evaluated.

The proposed amendment also deletes exceptions previously granted under TS Amendment Nos. 130 (VEGP–1) and 108 (VEGP–2), to allow one-time extensions of the ILRT test frequency for VEGP. These exceptions were for activities that would have already taken place by the time this amendment is approved; therefore, their deletion is solely an administrative action that has no effect on any component and no impact on how the unit is operated.

Therefore, the proposed change does not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment to the TS 5.5.17, Containment Leakage Rate Testing Program, involves the extension of the VEGP Type A containment test interval to 15 years and the extension of the Type C test interval to 75 months. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

The proposed amendment also deletes exceptions previously granted under TS Amendment Nos. 130 (VEGP–1) and 108 (VEGP–2), to allow one-time extensions of the ILRT test frequency for VEGP. These exceptions were for activities that would have already taken place by the time this amendment is approved; therefore, their deletion is solely an administrative action that does not result in any change in how the unit is operated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment to TS 5.5.17 involves the extension of the VEGP Type A containment test interval to 15 years and the extension of the Type C test interval to 75 months for selected components. This amendment does not alter the manner in which safety limits, limiting safety system set points, or limiting conditions for operation are determined. The specific requirements and conditions of the TS Containment Leak Rate Testing Program exist to ensure that the degree of containment structural integrity and leaktightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by TS is maintained.

The proposed change involves only the extension of the interval between Type A containment leak rate tests and Type C tests for VEGP. The proposed surveillance interval extension is bounded by the 15-year ILRT interval and the 75-month Type C test interval currently authorized within NEI 94–01, Revision 3–A. Industry experience supports the conclusions that Types B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Section XI and TS serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by Type A testing. The combination of these factors ensures that the margin of safety in the plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Types A, B, and C containment leakage tests specified in applicable codes and standards would continue to be met, with the acceptance of this proposed change, since these are not affected by changes to the Type A and Type C test intervals.

The proposed amendment also deletes exceptions previously granted under TS Amendment Nos. 130 (VEGP–1) and 108 (VEGP–2), to allow one-time extensions of the ILRT test frequency for VEGP. This exception was for an activity that would have already taken place by the time this amendment is approved; therefore, the deletion is solely an administrative action and does not change how the unit is operated and maintained. Thus, there is no reduction in any margin of safety as a result of this administrative change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer M. Buettner, Associate General Counsel, Southern Nuclear Operating Company, 40 Inverness Center Parkway, Birmingham, AL 35242.

NRC Branch Chief: Michael T. Markley.

STP Nuclear Operating Company (STPNOC), Docket Nos. 50–498 and 50–499, South Texas Project (STP), Units 1 and 2, Matagorda County, Texas

Date of amendment request: September 18, 2017. A publicly-available version is in ADAMS under Accession No. ML17261B272.

Description of amendment request: The amendment would relocate the defined core plane regions where the radial peaking factor limits are not applicable, from Technical Specification (TS) 4.2.2.2.f to the Core Operating Limits Reports (COLR) for STP Units 1 and 2. The amendment would also revise the COLR Administrative Controls TS to add exclusion zones to the list of limits found in the COLRs, and to revise the description of the methodology used to determine the values. In addition, the proposed amendment requests administrative changes to the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The relocation of the F_{xy} exclusion zones to the COLRs has no impact on the accidents analyzed in the STPNOC UFSAR [Updated Final Safety Analysis Report] and is not an accident initiator. Since the change does not impact any conditions that would initiate an accident, the probability or consequences of previously analyzed events is not increased. The proposed amendment does not change the actions to be taken if a core operating limit is exceeded and there are no physical changes associated with this proposed amendment.

For each core reload, each accident analysis addressed in the STP UFSAR will continue to be examined with respect to changes in the cycle-dependent parameters, which are obtained from the use of NRC-approved reload design methodologies, to

ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be conducted per the requirements of 10 CFR 50.59, will ensure that future core reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Therefore, there is no impact to the probability or consequences of an accident previously evaluated due to the proposed change.

[The licensee stated that the administrative changes proposed to the TSs do not impact the operation of the facility in a manner that involves significant hazards considerations.]

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The relocation of the F_{xy} exclusion zone details from the Technical Specifications to the COLRs will not create the possibility of a new or different kind of accident from any accident previously evaluated. No safety-related equipment, safety function, or plant operation will be altered as a result of this proposed change. No new operator actions are created as a result of the proposed change. The cycle-specific variables are determined using the NRC approved methods and the COLRs are submitted to the NRC to allow the staff to continue to trend the values of these limits. The Technical Specifications will continue to require operation within the core operating limits and appropriate actions will be required if these limits are exceeded.

The relocation of the F_{xy} exclusion zones to the COLRs has no impact on the accidents analyzed in the STPNOC Updated Final Safety Analysis Report (UFSAR) and is not an accident initiator. Since this change does not impact any conditions that would initiate an accident, there is no possibility of a new or different kind of accident resulting from this change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

[The licensee stated that the administrative changes proposed to the TSs do not impact the operation of the facility in a manner that involves significant hazards considerations.]

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The relocation of the F_{xy} exclusion zone details from the Technical Specifications to the COLRs will not affect the margin of safety. The margin of safety presently provided by the Technical Specifications remains unchanged. They will be incorporated into the COLR which is submitted to the NRC, therefore appropriate measures exist to control the values of these limits. The development of the limits for future reloads will continue to conform to those methods described in NRC-approved documentation. STPNOC will continue to confirm all safety analysis limits remain bounding on a cycle-specific basis using an NRC-approved methodology. Each core reload will involve a Reload Safety Evaluation to assure that operation of the unit within the cycle specific limits will not involve a significant reduction in the margin of safety.

The proposed amendment does not affect the design of the facility or system operating parameters, does not physically alter safety-related systems and does not affect the method in which safety-related systems perform their functions.

Therefore, the proposed change does not impact margin of safety.

[The licensee stated that the administrative changes proposed to the TSs do not impact the operation of the facility in a manner that involves significant hazards considerations.]

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Kym Harshaw, General Counsel, STP Nuclear Operating Company, P.O. Box 289, Wadsworth, TX, 77483.

NRC Branch Chief: Robert J. Pascarelli.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of amendment request: October 26, 2016, as supplemented by letters dated February 16, July 17, August 8, September 27, October 3, and November 8, 2017.

Brief description of amendments: The amendments revised Technical Specification (TS) 5.5.13, ''Primary Containment Leakage Rate Testing Program,'' to allow for the permanent extension of the Type A Integrated Leak Rate Testing and Type C Leak Rate Testing frequencies, to change the documents used by LSCS to implement the performance-based leakage testing program, and to delete the information regarding the performance of the next LSCS Type A tests to be performed.

Additionally, the amendments deleted Conditions 2.D.(e) and 2.D.(c), respectively, of the LSCS Unit 1 and Unit 2 Renewed Facility Operating Licenses regarding conducting the third Type A test of each 10-year service period when the plant is shut down for the 10-year inservice inspection.

Date of issuance: November 16, 2017.

Effective date: As of the date of its issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 226 (Unit 1) and 212 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17283A085; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the TSs and Renewed Facility Operating Licenses.

Date of initial notice in ***Federal Register:*** February 14, 2017 (82 FR 10597). The supplemental letters dated February 16, July 17, August 8, September 27, October 3, and November 8, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 16, 2017.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: February 17, 2017, as supplemented by letters dated March 20, 2017; July 13, 2017; August 8, 2017; August 30, 2017; and September 15, 2017.

Brief description of amendments: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications to implement a measurement uncertainty recapture power uprate. Specifically, the amendments authorized an increase in the maximum licensed thermal power level from 3,951 megawatts thermal to 4,016 megawatts thermal, which is an increase of approximately 1.66 percent.

Date of issuance: November 15, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendments Nos.: 316 (Unit 2) and 319 (Unit 3). A publicly-available version is in ADAMS under Accession No. ML17286A013; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 2, 2017 (82 FR 20497). The supplemental letters dated March 20, 2017; July 13, 2017; August 8, 2017; August 30, 2017; and September 15, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 15, 2017.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit 1 (FCS), Washington County, Nebraska

Date of amendment request: October 25, 2016, as supplemented by letter dated September 25, 2017.

Brief description of amendment: The amendment revised the FCS Updated Safety Analysis Report to change the structural design methodology for the Auxiliary Building at FCS. Specifically, the amendment made the following changes: (1) Use of the ultimate strength design method from the industry standard American Concrete Institute (ACI) 318–63, ''Publication SP–10, Commentary on Building Code Requirements for Reinforced Concrete,'' for normal operating/service conditions for future designs and evaluations; (2) use higher concrete compressive strength values for Class B concrete, based on original strength test data; (3) use higher reinforcing steel yield strength values, based on original strength test data; and (4) make minor clarifications, including adding a definition of control fluids to the dead load section of the Updated Safety Analysis Report.

Date of issuance: November 17, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 293. A publicly-available version is in ADAMS under Accession No. ML17278A607; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the Emergency Plan and Emergency Action Level Scheme.

Date of initial notice in ***Federal Register:*** January 17, 2017 (82 FR 4930).

The supplemental letter dated September 25, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a safety evaluation dated November 17, 2017.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC and Exelon Generation Company, LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: November 17, 2016, as supplemented by letters dated August 7, 2017, and October 18, 2017.

Brief description of amendments: The amendments revised Technical Specification requirements regarding accident monitoring instrumentation. Specifically, the amendments modified the list of instruments required to be operable based on implementation of Regulatory Guide 1.97, Revision 2, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident.'' In addition, allowed outage times and required actions for inoperable accident monitoring instrumentation channels have been revised to be consistent with NUREG–1431, Revision 4.0, ''Standard Technical Specifications—Westinghouse Plants.''

Date of issuance: November 14, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 320 (Unit 1) and 301(Unit 2). A publicly-available version is in ADAMS under Accession No. ML17227A016; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** January 17, 2017 (82 FR 4931). The supplemental letters dated August 7, 2017, and October 18, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 14, 2017.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: October 7, 2017, as supplemented by letters dated March 27, 2017, and July 13, 2017.

Brief description of amendment: The amendment modified Hope Creek Generating Station Technical Specification 6.8.4.f, ''Primary Containment Leakage Rate Testing Program,'' to extend the Type A reactor containment pressure test interval from one test in 10 years to one test in 15 years, and extend the Type C test interval up to 75 months, with a permissible extension period of 9 months (total of 84 months) for non-routine emergency conditions.

Date of issuance: November 8, 2017.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 207. A publicly-available version is in ADAMS under Accession No. ML17291A209; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–57: Amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** December 20, 2016 (81 FR 92869). The supplemental letters dated March 27, 2017, and July 13, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 8, 2017.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: January 17, 2017, as supplemented by letter dated June 29, 2017.

Brief description of amendments: The amendments change technical specifications (TSs) consistent with Technical Specifications Task Force (TSTF) Standard Technical Specifications Change Traveler TSTF–545, Revision 3, ''TS Inservice Testing Program Removal & Clarify SR [Surveillance Requirement] Usage Rule Application to Section 5.5 Testing,'' and TSTF–299, Revision 0, ''Administrative Controls Program 5.5.2.b Test Interval and Exception.''

Date of issuance: November 8, 2017.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 301 (Unit 1), 325 (Unit 2), and 285 (Unit 3). A publicly-available version is in ADAMS under Accession No. ML17277A207; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–33, DPR–52, and DPR–68: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register:*** April 25, 2017 (82 FR 19106). The supplemental letter dated June 29, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 8, 2017.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–391, Watts Bar Nuclear Plant, Unit 2, Rhea County, Tennessee

Date of amendment request: March 28, 2017.

Brief description of amendment: The amendment revised the completion date for License Condition 2.C.(5) for Watts Bar Nuclear Plant, Unit 2, regarding the completion of action to resolve the issues identified in Bulletin 2012–01, ''Design Vulnerability in Electric Power System'' (ADAMS Accession No. ML12074A115), from December 31, 2017, to December 31, 2018, to align with the remainder of the Tennessee Valley Authority fleet and with the nuclear industry.

Date of issuance: November 6, 2017.

Effective date: As of the date of issuance and shall be implemented within 15 days of issuance.

Amendment No.: 17. A publicly-available version is in ADAMS under Accession No. ML17258A328; documents related to this amendment is listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–96: Amendment revised the Facility Operating License.

Date of initial notice in ***Federal Register:*** July 5, 2017 (82 FR 31103).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 6, 2017.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 27th day of November 2017.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–25901 Filed 12–4–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0219]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of two amendment requests. The amendment requests are for Shearon Harris Nuclear Power Plant, Unit 1; and LaSalle County Station, Units 1 and 2. The NRC proposes to determine that each amendment request involves no significant hazards consideration. Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Comments must be filed by January 4, 2018. A request for a hearing must be filed by February 5, 2018. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by December 15, 2017.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0219. 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.

• *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN–2–A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lynn Ronewicz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1927, email: *Lynn.Ronewicz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0219, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0219.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0219, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's 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.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC 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.

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1 (HNP), Wake and Chatham Counties, North Carolina

Date of amendment request: June 28, 2017, as supplemented by letter dated September 14, 2017. Publicly-available versions are in ADAMS under Accession Nos. ML17193B165 and ML17257A245, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would modify the Technical Specifications (TSs) for fuel storage criticality to account for the use of neutron absorbing spent fuel pool (SFP) rack inserts and soluble boron for the purpose of criticality control in the boiling water reactor (BWR) storage racks that currently credit Boraflex.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. As this amendment request pertains only to the spent fuel pool, only those accidents that are related to movement and storage of fuel assemblies in the SFP could potentially be affected by the proposed change. The proposed change modifies HNP TS 5.6.1.3 to reflect the respective design features of the two BWR rack types utilized in these pools, including adjusted requirements for the Boraflex racks that account for use of neutron absorbing inserts. The change is necessary to ensure that, with continued Boraflex degradation over time, the effective neutron multiplication factor, k_{eff}, is less than or equal to 0.95 if the spent fuel pool is flooded with borated water, and that it is less than 1.0 if flooded with unborated water, as required by 10 CFR 50.68(b)(4).

The installation of DREAM [Device for Reactivity Mitigation] rack inserts and credit for soluble boron does not result in a significant increase in the probability of an accident previously analyzed because there are no changes in the manner in which spent fuel is handled, moved, or stored in the rack cells. The probability that a fuel assembly would be dropped or misloaded is unchanged by the installation of the DREAM rack inserts and use of additional administrative controls on BWR fuel storage in these racks. These events involve failures of administrative controls, human performance, and equipment failures that are unaffected by the presence or absence of Boraflex and the rack inserts. The probability of a SFP dilution event is also unchanged. The soluble boron is already present in SFPs A and B and no changes are proposed regarding the manner in which soluble boron is managed. The current controls in place remain applicable.

The installation of the DREAM rack inserts and crediting of soluble boron does not result in a significant increase in the consequences of an accident previously analyzed because there is no change in the fuel assemblies that provide the source terms used in calculating the radiological consequences of a fuel handling accident. In addition, consistent with the current design, only one fuel assembly will be moved at a time. Thus, the consequences of dropping a fuel assembly onto any other fuel assembly or other structure remain bounded by the previously analyzed fuel handling accident. The proposed change does not affect the effectiveness of the other engineered design features, such as filtration systems, that limit the offsite dose consequences of a fuel handling accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

The proposed change does not create the possibility of a new or different kind of

accident from any accident previously evaluated. The rack inserts are passive devices that, when inside a spent fuel storage rack cell, perform the same function as the previously licensed Boraflex neutron absorber panels in that cell. These devices do not add any limiting structural loads or affect the removal of decay heat from the assemblies. No change in total heat load in the spent fuel pool is being made. The inserts will maintain their design function over the life of the spent fuel pool. The existing fuel handling accident, which assumes the drop of a fuel assembly, bounds the drop of a rack insert and/or rack insert installation tool. This proposed change does not create the possibility of misloading an assembly into a spent fuel storage rack cell.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The proposed change does not involve a significant reduction in a margin of safety. The DREAM rack inserts are being installed to restore the spent fuel pool criticality margin, compensating for the degraded Boraflex neutron absorber. The DREAM rack inserts, once approved for crediting, will replace the existing Boraflex as the credited neutron absorber for controlling spent fuel pool reactivity, even though the Boraflex absorber will remain in place.

The proposed HNP TS 5.6.1.3.a.1 requires that the BWR spent fuel storage racks with Metamic rack inserts maintain the effective neutron multiplication factor, k_{eff}, less than or equal to 0.95 when flooded with water borated to 1000 ppm [parts per million]. This includes an allowance for uncertainties in such that the TS limit for boron concentration in the SFPs, HNP TS 3.7.14, shall be greater than or equal to 2000 ppm at all times for pools that contain nuclear fuel. Therefore, for criticality, the required safety margin is 5% including a conservative margin to account for engineering and manufacturing uncertainties.

The proposed change provides a method to ensure that k_{eff} continues to be less than or equal to 0.95, thus preserving the required safety margin of 5%. The criticality analyses demonstrate that the required margin to 5%, including a conservative margin to account for engineering and manufacturing uncertainties, is maintained. In addition, the radiological consequences of a dropped fuel assembly onto a spent fuel storage rack cell containing a fuel assembly with a rack insert is bounded by the radiological consequences of a dropped fuel assembly without a rack insert. The proposed change also maintains the capacity of the HNP spent fuel pools.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon St., M/C DEC454, Charlotte, NC 28202.

NRC Branch Chief: Undine Shoop.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of amendment request: August 29, 2017. A publicly-available version is in ADAMS under Accession No. ML17241A278.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendments would revise Technical Specification (TS) 2.1.1, ''Reactor Core SLs [Safety Limits].'' Specifically, this change would incorporate revised LSCS, Units 1 and 2, safety limit for minimum critical power ratio (MCPR) for two circulation loop MCPR and single circulation loop MCPR values for Unit 1 and Unit 2, based on the results of the cycle-specific analyses performed by Global Nuclear Fuel for LSCS, Unit 1, Cycle 17, and LSCS, Unit 2, Cycle 17.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Safety Limit Minimum Critical Power Ratio (SLMCPR) is defined as the lowest ratio of that power which results in the onset of transition boiling to the actual bundle power at the same location. The Global Nuclear Fuel (GNF) methodology is applied for each reload to assure that more than 99.9% of the fuel rods in the core are expected to avoid boiling transition for the most severe abnormal operational transient described in LaSalle UFSAR [Updated Final Safety Analysis Report] Chapter 15.0. The new SLMCPRs preserve the existing margin to transition boiling. The SLMCPR satisfies the requirements of General Design Criterion 10 of Appendix A to 10 CFR 50 regarding acceptable fuel design limits.

The MCPR safety limit is re-evaluated for each reload using NRC-approved methodologies. The analyses for LSCS, Unit 1, Cycle 17, have concluded that a two recirculation loop SLMCPR of ≥ 1.11, based on the application of GNF's NRC-approved SLMCPR methodology, will ensure that this acceptance criterion is met. For single recirculation loop operation, a SLMCPR of ≥ 1.13 also ensures that this acceptance criterion is met. The MCPR operating limits are presented and controlled in accordance with the LSCS, Unit 1 Core Operating Limits Report (COLR).

Similarly, the analyses for LSCS, Unit 2, Cycle 17, have concluded that a two recirculation loop SLMCPR of ≥ 1.12, based on the application of GNF's NRC-approved SLMCPR methodology, will ensure that this acceptance criterion is met. For single recirculation loop operation, a SLMCPR of ≥ 1.15 also ensures that this acceptance criterion is met. The MCPR operating limits are presented and controlled in accordance with the LSCS, Unit 2 Core Operating Limits Report (COLR).

The requested TS changes do not involve any plant modifications or operational changes that could affect system reliability or performance or that could affect the probability of operator error. The requested changes do not affect any postulated accident precursors, do not affect any accident mitigating systems, and do not introduce any new accident initiation mechanisms.

Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The SLMCPR is a TS numerical value, calculated to ensure that during normal operating and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs are calculated using NRC-approved methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 22. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. The proposed revised MCPR safety limits have been shown to be acceptable for Unit 1 Cycle 17 and Unit 2 Cycle 17 operation and will be confirmed in the future on a cycle-specific basis. The core operating limits will continue to be developed using NRC-approved methods. The proposed MCPR safety limits or methods for establishing the core operating limits do not result in the creation of any new precursors to an accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

There is no reduction in the margin of safety previously approved by the NRC as a result of the proposed change to the SLMCPRs. The new SLMCPRs are calculated using methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 22. The SLMCPRs ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity. The proposed TS changes do not involve a significant

reduction in the margin of safety previously approved by the NRC.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

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 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

[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.

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 17th day of November, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/Activity
0	Publication of **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 opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2017–25390 Filed 12–4–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; System of Records

AGENCY: U.S. Office of Personnel Management, Merit Systems Accountability and Compliance, Office of the Combined Federal Campaign.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Office of Personnel Management proposes to establish a new OPM system of records titled ''OPM/Central-20 National CFC System of Records.'' This system of records contains information that OPM collects and maintains about individuals who make charitable contributions to eligible non-profit organizations through the Combined Federal Campaign (CFC). This newly established system of records will be included in the Office of Personnel Management's inventory of record systems.

DATES: Please submit comments on or before January 4, 2018. This new system is effective upon publication in today's **Federal Register**, with the exception of the routine uses, which are effective January 9, 2018.

ADDRESSES: You may submit written comments by one of the following methods:

- *Mail:* Keith Willingham, Director, Office of CFC, Office of Personnel Management, 1900 E Street NW., Suite 6484, Washington, DC 20415.
- *Email: cfc@opm.gov.*

FOR FURTHER INFORMATION, CONTACT: For general questions, please contact: Keith Willingham, 202–606–2564, Director, Office of the Combined Federal Campaign, Office of Personnel Management. For privacy questions, please contact: Kellie Cosgrove Riley,

[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.

202–606–2308, Chief Privacy Officer, Office of Personnel Management.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Office of Personnel Management proposes to establish a new system of records titled ''OPM/Central-20 National CFC System.'' This system of records is being established in order to facilitate the Combined Federal Campaign's transition from a largely paper-based, decentralized collection of donations to a centralized, national electronic collection. The system of records contains information that OPM, through its Central Campaign Administrator (CCA) contractor(s), collects, maintains, and uses regarding individuals who make charitable contributions to eligible non-profit organizations through the Combined Federal Campaign (CFC).

The CFC is the largest workplace giving campaign in the world. Since its inception in 1961, Federal employees have pledged more than $8 billion to thousands of qualified local, national, and international charities. Through 2016, the CFC was administered in over 120 local areas across the country and overseas. Charities applied to participate, either as an independent charity or a member of a federation, by submitting an application to either OPM or to one of the local CFC offices. Similarly, Federal, Postal and military personnel donated through the CFC by submitting a completed paper or electronic pledge form to their payroll office and/or the local administrator in their local CFC office. The local administrators, known as Principal Combined Fund Organizations (PCFO), collected and maintained information about the donors, their contribution, and their designated charitable organizations to process and account for donor contributions. The PCFO collected cash, checks, or credit card contributions directly from the donors or from the donors' payroll offices if the donors had chosen to make contributions via payroll deduction. The PCFO then made payments directly to the individual charities or federations chosen by the donors.

Based on recommendations from a Federal Advisory Committee known as the *CFC 50 Commission* established in 2011 to study the CFC and determine how to streamline and improve the program, OPM is now centralizing two core components of the CFC: (a) The applications submitted by charities and federations that want to participate in the CFC; and (b) the contributions from individuals who wish to support those charities. Accordingly, the CFC Online Application System (*cfccharities.opm.gov*) and the CFC Online Donation System (*cfcgiving.opm.gov*) will replace the paper and electronic systems that were operated by the PCFOs. Individuals will submit their donation information either electronically through the CFC Online Donation System or by filling out a paper pledge form, which the CCA will then scan into the electronic system. In addition to centralizing the CFC functions, OPM is also expanding the donor pool by allowing civilian annuitants and military retirees to participate and by permitting Federal employees to pledge volunteer hours in addition to financial gifts.

The records collected from the individual donors and the participating charities will now be maintained in one central location as the OPM/Central-20 National CFC System. This newly established system of records will be included in OPM's inventory of records systems. In accordance with 5 U.S.C. 552a(r), OPM has provided a report of this system of records to the Office of Management and Budget and to Congress.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

SYSTEM NAME AND NUMBER:

National CFC System, OPM/Central-20.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The Office of the Combined Federal Campaign, Office of Personnel Management, 1900 E Street NW., Suite 6484, Washington, DC 20415, is responsible for this system of records. By contract, CFC's Central Campaign Administrator(s) in Madison, Wisconsin, through its subcontractors, maintains records in a government-approved cloud server accessed through secure data centers in the continental United States.

SYSTEM MANAGER(S):

Director, Office of the Combined Federal Campaign, U.S. Office of Personnel Management, 1900 E Street NW., Suite 6484, Washington, DC 20415, Phone 202–606–2564 or *cfc@opm.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order (EO) 12353 (March 23, 1982), EO 12404 (February 10, 1983), and EO 13743 (October 13, 2016); 5 CFR part 950; Public Law 100–202, and Public Law 102–393 (5 U.S.C. 1101 Note).

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to permit OPM and its contractors serving as Central Campaign Administrators (CCA) for the CFC, to accurately receive, process, and account for charitable donations made by Federal employees, retirees, and others; make payments to charitable organizations; and address inquiries from donors and other stakeholders, including Federal agencies, charitable organizations, and Congress, as necessary. In addition, information in this system of records that is obtained from charitable organizations is used to approve or deny an applicant's participation in the CFC and to adjudicate appeals by charities that are denied. This system of records also supports the production of summary, de-identified descriptive statistics and analytical studies pertaining to the CFC program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Federal employees, civilian annuitants, military retirees, and contractors who voluntarily participate in the CFC program via a one-time or recurring gift; and

b. Individuals who serve as points of contact for charitable organizations that participate or apply to participate in the CFC.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. Name;

b. Social Security Number or other employee identification number used by a Federal payroll or retirement system;

c. Work address;

d. Home address;

e. Phone number;

f. Government email address;

g. Secondary email address;

h. Employment information (to include, but not limited to, Federal agency or military branch, department/unit, office, military service, commands, etc.);

i. Charity or charities designated;

j. Amount of donation, in dollars or hours;

k. Credit card information, including credit card number and expiration date;

l. Bank account number and bank routing number;

m. Authorization to release name and other information to charities;

n. Charity and federation application data to meet qualifications of 5 CFR 950;

o. Usernames and passwords for accounts used by donors or applying charities to access the CFC Web sites;

p. Security questions and answers (for resetting passwords); and

q. Help desk ticket information.

RECORD SOURCE CATEGORIES:

Records are obtained from individuals who choose to participate in the CFC; charitable organizations that apply to participate in the CFC; and individuals who contact the CFC help desk.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice, including Offices of the U.S. Attorneys; another federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant or necessary to the litigation or proceeding and one of the following is a party to the litigation or has an interest in such litigation:

(1) OPM, or any component thereof;

(2) Any employee or former employee of OPM in his or her official capacity;

(3) Any employee or former employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the OPM General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates or is relevant to a violation or potential violation of civil or criminal law or regulation.

c. To a member of Congress from the record of an individual in response to an inquiry made at the request of the individual to whom the record pertains.

d. To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

e. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that there has been a breach of the system of records,· (2) OPM has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OPM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OPM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

f. To another Federal agency or Federal entity, when OPM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

g. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for OPM when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to OPM employees.

h. To an individual's payroll office or retirement service to facilitate accurate payroll and annuity deductions requested by the individual.

i. To credit card companies, banks, and other financial institutions in order to process an individual's one-time or recurring donation.

j. To independent public accounting firms to conduct audits of the CFC, but only such information as is necessary and relevant to the specific audit being conducted.

k. To charitable organizations and federations in order to provide them with monetary donations and time pledged and, where individual donors have so authorized, information about the individual donors.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records in this system of records are encrypted and stored electronically in a government-approved cloud server pursuant to a contract between OPM and the CFC's Central Campaign Administrators.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name or other personal identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Pursuant to 5 CFR 950.604, CFC records must be retained for at least three completed campaign periods. OPM is currently developing a records schedule to submit to the National Archives and Records Administration for approval.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. OPM security measures are in compliance with the Federal Information Security Modernization Act (Pub. L. 113–283), associated OMB policies, and applicable standards and guidance from the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals may access their own records by logging into *cfcgiving.opm.gov* with their email address, password, and a multi-factor authentication token (*i.e.,* a one-time password or code sent to the user's email account or phone). Those who need assistance with this may contact the CFC Customer Care Center at 608–237–4898 (local/international) or 800–797–0098 (toll free). Additionally, representatives of CFC-participating organizations and federal employee application reviewers who need assistance accessing their information on *cfccharities.opm.gov* can call 608–237–4935 (local/international) or 888–232–4935 (toll free).

Alternatively, individuals seeking notification of and access to their records in this system of records may submit a request in writing to the Office of Personnel Management, Office of the Combined Federal Campaign, 1900 E Street NW., Washington, DC 20415. Individuals must furnish the following information for their records to be located:

1. Full name.
2. Date of birth.
3. Social Security Number.
4. Signature.
5. Available information regarding the type of information requested.
6. The reason why the individual believes this system contains information about him/her.
7. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

CONTESTING RECORD PROCEDURES:

Individuals may modify or correct their own records by logging into *cfcgiving.opm.gov* with their email address, password, and a multi-factor authentication token (*i.e.,* a one-time password or code sent to the user's email account or phone). Those who need assistance with this may contact the CFC Customer Care Center at 608–237–4898 (local/international) or 800–797–0098 (toll free). Additionally, representatives of CFC-participating organizations and federal employee application reviewers who need to update records on *cfccharities.opm.gov* can call 608–237–4935 (local/international) or 888–232–4935 (toll free).

Alternatively, individuals may request that records about them be amended by writing to the Office of Personnel Management, Office of the Combined Federal Campaign, 1900 E Street NW., Washington, DC 20415 and furnish the following information for their records to be located:

1. Full name.
2. Date of birth.
3. Social Security Number.
4. Local CFC name or city, state and zip code of their duty station
5. Signature.
6. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR 297).

NOTIFICATION PROCEDURES:

See ''Record Access Procedure.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2017–26105 Filed 12–4–17; 8:45 am]

BILLING CODE 6325–58–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Representative Payee Application, RI 20–7 and Information Necessary for a Competency Determination, RI 30–3

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection, Representative Payee Application, RI 20–7 and Information Necessary for a Competency Determination, RI 30–3.

DATES: Comments are encouraged and will be accepted until January 4, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0140) was previously published in the **Federal Register** on April 13, 2017, at 82 FR 17891, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 20–7 is used by the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) to collect information from persons applying to be fiduciaries for annuitants or survivor annuitants who appear to be incapable of handling their own funds or for minor children. RI 30–3 collects medical information regarding the annuitant's competency for OPM's use in evaluating the annuitant's condition.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Representative Payee Application and Information Necessary for a Competency Determination.

OMB Number: 3206–0140.

Frequency: Annually.

Affected Public: Individual or Households.

Number of Respondents: 12,480 (RI 20–7); 250 (RI 30–3).

Estimated Time per Respondent: 30 minutes (RI 20–7); 60 minutes (RI 30–3).

Total Burden Hours: 6,490.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–26110 Filed 12–4–17; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Request to Disability Annuitant for Information on Physical Condition and Employment, RI 30–1

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection, Request to Disability Annuitant for Information on Physical Condition and Employment, RI 30–1.

DATES: Comments are encouraged and will be accepted until January 4, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to

the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0143) was previously published in the **Federal Register** on May 5, 2017, at 82 FR 21275, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 30–1 is used by persons who are not yet age 60 and who are receiving a disability annuity and are subject to inquiry regarding their medical condition as OPM deems reasonably necessary. RI 30–1 collects information as to whether the disabling condition has changed.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Request to Disability Annuitant for Information on Physical Condition and Employment.

OMB Number: 3206–0143.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: 8,000.

Estimated Time per Respondent: 60 minutes.

Total Burden Hours: 8,000.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–26111 Filed 12–4–17; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Initial Certification of Full-Time School Attendance, RI 25–41

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection, Initial Certification of Full-Time School Attendance, RI 25–41.

DATES: Comments are encouraged and will be accepted until January 4, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0099) was previously published in the **Federal Register** on May 5, 2017, at 82 FR 21274, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 25–41, Initial Certification of Full-Time School Attendance is used to determine whether a child is unmarried and a full-time student in a recognized school. OPM must determine this in order to pay survivor annuity benefits to children who are age 18 or older under title 5, U.S. C. Sections 8341(A)(4) and Chapter 84, Section 8441 (4)(C).

Analysis

Agency: Retirement Services, Office of Personnel Management.

Title: Initial Certification of Full-Time School Attendance.

OMB Number: 3206–0099.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: 1,200.

Estimated Time per Respondent: 90 minutes.

Total Burden Hours: 1800.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–26108 Filed 12–4–17; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; System of Records

AGENCY: U.S. Office of Personnel Management, Survey Analysis, Office of Strategy and Innovation.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Office of Personnel Management (OPM) proposes to establish a new OPM system of records titled ''OPM/Central-21 Federal Employee Viewpoint Survey System of Records.'' This system of records contains information that OPM collects, maintains, and uses in order to develop and administer the Federal Employee Viewpoint Survey (FEVS) and to evaluate and distribute the results of that survey. This system of records will be included in the Office of Personnel Management's inventory of record systems.

DATES: Please submit comments on or before January 4, 2018. This new system is effective upon publication in today's **Federal Register**, with the exception of the routine uses, which are effective January 9, 2018.

ADDRESSES: You may submit written comments by one of the following methods:

- *Mail:* Dr. Kimberly J. Wells, Survey Analysis, Office of Strategy and Innovation, Office of Personnel Management, 1900 E Street NW., 4332–S, Washington, DC 20415.
- *Email: EVS@opm.gov.*

FOR FURTHER INFORMATION, CONTACT: For general questions, please contact: Dr. Kimberly J. Wells, Survey Analysis, Office of Strategy and Innovation, Office of Personnel Management at *EVS@opm.gov.* For privacy questions, please contact: Kellie Cosgrove Riley, 202–606–2308, Chief Privacy Officer, Office of Personnel Management.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Office of Personnel Management proposes to establish a new system of records titled ''OPM/Central-21 Federal Employee Viewpoint Survey System.'' This system of records is being established in order to develop and administer the Federal Employee Viewpoint Survey (FEVS) and to evaluate and distribute the results of that survey. This system of records contains information that OPM collects, maintains, and uses regarding individuals who are potential or actual survey respondents.

The Federal Human Capital Survey (FHCS) was first administered in 2002 under OPM general authorities to conduct studies and research in personnel management, with subsequent biennial administrations in 2004, 2006, and 2008. Starting in 2010, the FHCS was rebranded as the ''Federal Employee Viewpoint Survey'' and conducted annually. These surveys have roots in the long history of OPM-administered Governmentwide surveys going back to the 1979 Federal Employee Attitudes Survey first administered the same year OPM was instituted under the Civil Service Reform Act of 1978.

A 2003 law enacted by Congress (National Defense Authorization Act for FY 2004) required each agency to conduct an annual survey of their employees and make results available to the public. As required by the law, OPM issued regulations (5 CFR part 250) in 2006 and revised in 2016 containing survey items covering topic areas prescribed by the law and other general requirements. Both the FEVS and the 2008 FHCS (the survey administered after the regulations went into effect) included the required survey items as part of their overall scope and served as a conduit through which participating executive branch agencies have fulfilled their annual employee survey obligation.

The FEVS is a tool that measures Federal employees' perceptions of whether, and to what extent, conditions that characterize successful organizations are present in their agencies. The FEVS provides general indicators of how well the Federal government is running its human resources management systems, and gives senior managers critical information needed to make their agency work better. It is administered to evaluate elements of strategic human capital management, to assess the general climate of the Federal workforce and to appraise various programs and human capital topics as necessary. The FEVS covers multiple human capital topic areas, including, but not limited to, those specified in 5 CFR 250.302. Survey questions ask participants to share their attitudes, behaviors, and thoughts on these topic areas. In addition, more agency-specific evaluation questions may be added from time to time. Demographic questions are also included to evaluate differences among subgroups in the way responses were distributed.

In order to administer the FEVS, information about Federal employees is collected from OPM's Enterprise Human Resource Integration (EHRI) system, consistent with the OPM/Govt 1 General Personnel Records system of records. The data from EHRI is used to (1) identify current Federal employees, (2) determine survey eligibility, (3) collect contact information where necessary and available, (4) perform statistical weighting procedures using select demographic information, and (5) support research and reporting functions.

In addition to the EHRI data, additional organizational and employee data are collected from participating agencies. Organizational data includes the hierarchical structure of the agency and the titles associated with all work groups, branches, and divisions of that hierarchy. Employee data can include names, other personal identifiers such as Social Security number and date of birth, email addresses, and work unit identifiers. The combination of organizational data and personnel work unit identifier allows for accurate sampling and reporting of summarized survey results for work units that meet the requirement of meeting or exceeding the minimum number of respondents necessary to adequately protect respondent confidentiality.

Eligible employees selected to participate in the FEVS are sent an email invitation that includes a unique link to the survey. Follow-up emails are sent weekly until the employee either completes the survey or informs OPM that he or she wishes to opt-out. The survey is web-based, designed and operated within OPM using commercial software running on OPM servers. All surveys and survey items are voluntary. That is, employees may choose to respond to all, some, or none of the items. Surveys with at least 25% of the non-demographic items answered are considered complete and will be used. After the survey administration, data cleaning and statistical weighting procedures are executed by OPM and a contractor. Once final data are available, reports of summary survey results are generated and distributed to agencies via an OPM contractor who creates the reports and maintains the distribution platform. At the end of the FEVS cycle, selected summary results and a technical report may be published, and a public release data file released.

The records concerning the potential and actual survey respondents will be maintained in the OPM/Central-21 Federal Employee Viewpoint Survey System. This system of records will be included in OPM's inventory of records systems. In accordance with 5 U.S.C. 552a(r), OPM has provided a report of this system of records to the Office of

Management and Budget and to Congress.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

SYSTEM NAME AND NUMBER:

Federal Employee Viewpoint Survey System, OPM/Central-21.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained by the Office of Strategy and Innovation, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, as well as by an OPM contractor in Rockville, Maryland.

SYSTEM MANAGER(S):

Manager, Survey Analysis, Office of Strategy and Innovation, U.S. Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415, *EVS@opm.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1103, 4702, and 7101 note (referencing Pub. L. 108–136 section 1128); 5 CFR 5.2(b) and 9.2; 5 CFR part 250; Executive Order 13197.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to permit OPM to administer, collect, maintain, and evaluate the results of, the Federal Employee Viewpoint Survey, a comprehensive set of questions posed to selected Federal employees throughout executive branch agencies; to measure Federal employees' perceptions of whether, and to what extent, conditions that characterize successful organizations are present in their agencies; to obtain general indicators of how well the Federal Government is running its human resources management systems; to assess the general climate of the Federal workforce; to appraise programs and human capital topics as necessary; to provide senior managers with critical information needed to make their agency work better; to provide the results of the survey to individual agencies, Congress, other oversight entities, and the public, as appropriate; to determine individuals' eligibility for the survey; and to conduct statistical weighting procedures. In addition, information in this system of records is used to produce a de-identified, publicly available data file that contains survey responses, select demographics, and limited agency organizational information; as well as to produce reports of summarized survey results for participating agencies, their subcomponents, and others.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Federal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. Full name;
b. Email address;
c. Social Security number, or other unique employee identification number;
d. Agency;
e. Agency subcomponent;
f. Organizational/Work component names and codes (up to nine levels of work unit information may be obtained);
g. Appointment authority;
h. Type of appointment;
i. Work schedule;
j. Tenure;
k. Service computation date;
l. Duty location and core based statistical area;
m. Occupational classification or series;
n. Personnel Office identifier;
o. Pay status;
p. Grade level;
q. Pay plan;
r. Base and adjusted salary;
s. Retirement plan;
t. Supervisory status;
u. Ethnicity and Race/National Origin indicator;
v. Sex;
w. Date of birth;
x. Responses to the FEVS survey questions, including demographic information.

RECORD SOURCE CATEGORIES:

Records are obtained from the Office of Personnel Management's Enterprise Human Resource Integration system, which contains general personnel records from the OPM/Govt 1 General Personnel Records system of records, from the individual Federal agencies that participate in the FEVS, and from the individuals who voluntarily complete the FEVS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant or necessary to the litigation or proceeding and one of the following is a party to the litigation or has an interest in such litigation:

(1) OPM, or any component thereof;

(2) Any employee or former employee of OPM in his or her official capacity;

(3) Any employee or former employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the OPM General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates or is relevant to a violation or potential violation of civil or criminal law or regulation.

c. To a member of Congress from the record of an individual in response to an inquiry made at the request of the individual to whom the record pertains.

d. To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

e. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that there has been a breach of the system of records,· (2) OPM has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OPM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OPM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

f. To another Federal agency or Federal entity, when OPM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national

security, resulting from a suspected or confirmed breach.

g. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for OPM when OPM determines that it is necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to OPM employees.

h. To Federal agencies whose employees participate in the FEVS, and their subcomponents, where OPM determines that assistance may be required in any aspect of administering and reporting on the FEVS.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records in this system of records are stored electronically on OPM's local area network with access limited to a small number of personnel in the Office of Strategy and Innovation. In addition, records are stored by OPM's contractor at its location with access restricted to authorized users.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name, email address, or other personal identifier but are generally only retrieved in this manner leading up to and during the administration of the FEVS. After the FEVS is administered, personal identifiers are rarely used, to retrieve records or otherwise. Instead, records post-administration of the FEVS are generally retrieved by agency work unit and/or demographics in a manner that is not intended to identify individual survey respondents.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

OPM is currently working to develop a records schedule to submit to the National Archives and Records Administration for approval. Until a records schedule is in place, the records will be retained as permanent records.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. OPM security measures are in compliance with the Federal Information Security Modernization Act (Pub. L. 113–283), associated OMB policies, and applicable standards and guidance from the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the Office of Personnel Management, Office of Strategy and Innovation, 1900 E Street NW., Washington, DC 20415. Individuals must furnish the following information for their records to be located:

1. Full name.
2. Date of birth.
3. Social Security Number.
4. Signature.
5. Available information regarding the type of information requested.
6. The reason why the individual believes this system contains information about him/her.
7. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

CONTESTING RECORD PROCEDURES:

Individuals may request that records about them be amended by writing to the Office of Personnel Management, Office of Strategy and Innovation, 1900 E Street NW., Washington, DC 20415 and furnish the following information for their records to be located:

1. Full name.
2. Date of birth.
3. Social Security Number.
4. Signature.
5. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR 297).

NOTIFICATION PROCEDURES:

See ''Record Access Procedure.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2017–26107 Filed 12–4–17; 8:45 am]

BILLING CODE 6325–45–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018–36 and CP2018–66; MC2018–37 and CP2018–67]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 7, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states

concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2018–36 and CP2018–66; *Filing Title:* USPS Request to Add Priority Mail Contract 379 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 29, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 7, 2017.

2. *Docket No(s).:* MC2018–37 and CP2018–67; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 63 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 29, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 7, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–26198 Filed 12–4–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail 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: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 5, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 29, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 379 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–36, CP2018–66.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26118 Filed 12–4–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service 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: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 5, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 29, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 63 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–37, CP2018–67.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26119 Filed 12–4–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82174; File No. SR–BX–2017–054]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Shell Structure for the BX Rulebook

November 29, 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 November 17, 2017, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt a shell structure for the BX rulebook (''Rulebook'') as part of its initiative to structure its Rulebook.

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

On March 9, 2016, Nasdaq, Inc. acquired the capital stock of U.S. Exchange Holdings, thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC (now Nasdaq ISE, LLC), ISE Gemini, LLC (now Nasdaq GEMX, LLC) (''GEMX'') and ISE Mercury, LLC (now Nasdaq MRX, LLC) (''MRX'').[3] The acquisition resulted in a total of six self-regulatory organization licenses for Nasdaq, Inc. which, in addition to the three aforementioned exchanges, also

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11; SR–ISE Gemini–2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

include The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''Phlx'') and BX (collectively, ''Nasdaq Entities'').

The Exchange is planning to conform the chapters of the various Nasdaq Entity rulebooks for efficiency, and conformity of certain Nasdaq Entity processes. The Exchange believes that aligning the rules of the Nasdaq Entities will assist market participants in navigating the various rulebooks. Specifically, the Exchange proposes to add a shell structure which would reside alongside the current rulebook. The proposed shell would outline the various chapters of the future rulebook and contains new chapter numbering. A similar shell would be filed to add the same structure to each of the other Nasdaq Entities. The proposed chapters would be similar for each shell filed for each of the Nasdaq Entities. In subsequent rule changes, each of the Nasdaq Entities would file rule changes to move their current rules into the various chapters of the proposed shells for all six markets and delete the migrated rule from the current location in the Rulebook.[4] The proposed shell would contain a general rule section and product specific sections, in this case equities and options, which would encompass all the rules of the Exchange.

The Exchange believes this new structure would align the Nasdaq Entities' rulebooks for ease of use by Members, who are members of more than one Nasdaq Entity. This proposal would not amend the current Rulebook and is therefore not a substantive change. A Member would continue to be able to view the current Rulebook alongside the proposed reorganized Rulebook. Subsequent rule changes will be filed to move the rule text into the shell Rulebook.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by starting the process of organizing its rules in a manner which is clear and consistent across the Nasdaq Entities. The Exchange believes that coordinating the chapters of the rulebooks among the Nasdaq Entities will provide Members, who are members of more than one Nasdaq Entity, with consistency and ease of reference in locating rules.

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 changes do not impose a burden on competition because the proposed amendments are non-substantive, are intended to start the process to organize the rules of the Exchange in a manner that will be more user-friendly to Nasdaq Entity members.

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[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) 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 requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange states that such waiver will enable the Exchange to start the process to reorganize the rulebooks of the Nasdaq Entities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and waiver will allow the Exchange to begin the reorganization of its Rulebook without delay. 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: (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–BX–2017–054 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2017–054. 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

[4] When relocating the current rule text into the new shell, the Exchange shall not amend the rule text but simply move existing rule text.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[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)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2017–054, and should be submitted on or before December 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26128 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82175; File No. SR–NASDAQ–2017–125]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Shell Structure for the Nasdaq Rulebook

November 29, 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 November 17, 2017, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt a shell structure for the Nasdaq rulebook (''Rulebook'') as part of its initiative to structure its Rulebook.

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

On March 9, 2016, Nasdaq, Inc. acquired the capital stock of U.S. Exchange Holdings, thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC (now Nasdaq ISE, LLC), ISE Gemini, LLC (now Nasdaq GEMX, LLC) (''GEMX'') and ISE Mercury, LLC (now Nasdaq MRX, LLC) (''MRX'').[3] The acquisition resulted in a total of six self-regulatory organization licenses for Nasdaq, Inc. which, in addition to the three aforementioned exchanges, also include Nasdaq, Nasdaq PHLX LLC (''Phlx'') and Nasdaq BX, Inc. (''BX'') (collectively, ''Nasdaq Entities'').

The Exchange is planning to conform the chapters of the various Nasdaq Entity rulebooks for efficiency, and conformity of certain Nasdaq Entity processes. The Exchange believes that aligning the rules of the Nasdaq Entities will assist market participants in navigating the various rulebooks. Specifically, the Exchange proposes to add a shell structure which would reside alongside the current rulebook. The proposed shell would outline the various chapters of the future rulebook and contains new chapter numbering. A similar shell would be filed to add the same structure to each of the other Nasdaq Entities. The proposed chapters would be similar for each shell filed for each of the Nasdaq Entities. In subsequent rule changes, each of the Nasdaq Entities would file rule changes to move their current rules into the various chapters of the proposed shells for all six markets and delete the migrated rule from the current location in the Rulebook.[4] The proposed shell would contain a general rule section and product specific sections, in this case equities and options, which would encompass all the rules of the Exchange.

The Exchange believes this new structure would align the Nasdaq Entities' rulebooks for ease of use by Members, who are members of more than one Nasdaq Entity. This proposal would not amend the current Rulebook and is therefore not a substantive change. A Member would continue to be able to view the current Rulebook alongside the proposed reorganized Rulebook. Subsequent rule changes will be filed to move the rule text into the shell Rulebook.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by starting the process of organizing its rules in a manner which is clear and consistent across the Nasdaq Entities. The Exchange believes that coordinating the chapters of the rulebooks among the Nasdaq Entities will provide Members, who are members of more than one Nasdaq Entity, with consistency and ease of reference in locating rules.

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

[11] 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. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11; SR–ISE Gemini–2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

[4] When relocating the current rule text into the new shell, the Exchange shall not amend the rule text but simply move existing rule text.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

of the purposes of the Act. The proposed changes do not impose a burden on competition because the proposed amendments are non-substantive, are intended to start the process to organize the rules of the Exchange in a manner that will be more user-friendly to Nasdaq Entity members.

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 [7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) 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 requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange states that such waiver will enable the Exchange to start the process to reorganize the rulebooks of the Nasdaq Entities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and waiver will allow the Exchange to begin the reorganization of its Rulebook without delay. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[10]

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[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)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NASDAQ–2017–125 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–NASDAQ–2017–125. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–125, and should be submitted on or before December 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26129 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82172; File No. SR–MRX–2017–26]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Shell Structure for the MRX Rulebook

November 29, 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 November 17, 2017, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt a shell structure for the MRX rulebook (''Rulebook'') as part of its initiative to structure its Rulebook.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

On March 9, 2016, Nasdaq, Inc. acquired the capital stock of U.S. Exchange Holdings, thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC (now Nasdaq ISE, LLC), ISE Gemini, LLC (now Nasdaq GEMX, LLC) and ISE Mercury, LLC (now MRX).[3] The acquisition resulted in a total of six self-regulatory organization licenses for Nasdaq, Inc. which, in addition to the three aforementioned exchanges, also include The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''Phlx'') and Nasdaq BX, Inc. (''BX'') (collectively, ''Nasdaq Entities'').

The Exchange is planning to conform the chapters of the various Nasdaq Entity rulebooks for efficiency, and conformity of certain Nasdaq Entity processes. The Exchange believes that aligning the rules of the Nasdaq Entities will assist market participants in navigating the various rulebooks. Specifically, the Exchange proposes to add a shell structure which would reside alongside the current rulebook. The proposed shell would outline the various chapters of the future rulebook and contains new chapter numbering. A similar shell would be filed to add the same structure to each of the other Nasdaq Entities. The proposed chapters would be similar for each shell filed for each of the Nasdaq Entities. In subsequent rule changes, each of the Nasdaq Entities would file rule changes to move their current rules into the various chapters of the proposed shells for all six markets and delete the migrated rule from the current location in the Rulebook.[4] The proposed shell would contain a general rule section and product specific section, in this case options, which would encompass all the rules of the Exchange.

The Exchange believes this new structure would align the Nasdaq Entities' rulebooks for ease of use by Members, who are members of more than one Nasdaq Entity. This proposal would not amend the current Rulebook and is therefore not a substantive change. A Member would continue to be able to view the current Rulebook alongside the proposed reorganized Rulebook. Subsequent rule changes will be filed to move the rule text into the shell Rulebook.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by starting the process of organizing its rules in a manner which is clear and consistent across the Nasdaq Entities. The Exchange believes that coordinating the chapters of the rulebooks among the Nasdaq Entities will provide Members, who are members of more than one Nasdaq Entity, with consistency and ease of reference in locating rules.

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 changes do not impose a burden on competition because the proposed amendments are non-substantive, are intended to start the process to organize the rules of the Exchange in a manner that will be more user-friendly to Nasdaq Entity members.

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[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) 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 requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange states that such waiver will enable the Exchange to start the process to reorganize the rulebooks of the Nasdaq Entities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and waiver will allow the Exchange to begin the reorganization of its Rulebook without delay. 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: (i) Necessary or appropriate in

[3] *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11; SR–ISE Gemini–2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

[4] When relocating the current rule text into the new shell, the Exchange shall not amend the rule text but simply move existing rule text.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[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)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–MRX–2017–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2017–26. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2017–26, and should be submitted on or before December 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26126 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82176; File No. SR–NYSEArca–2017–87]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the JPMorgan Long/Short ETF Under NYSE Arca Rule 8.600–E

November 29, 2017.

On September 26, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the JPMorgan Long/Short ETF (''Fund'') under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on October 16, 2017.[3] On November 17, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and superseded the proposed rule change as originally filed. On November 27, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and superseded the proposed rule change as modified by Amendment No. 1.[4] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 30, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 2. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates January 14, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File Number SR–NYSEArca-2017–87), as modified by Amendment No. 2.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26130 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82166; File No. SR–NYSEArca–2017–90]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the Hartford Municipal Opportunities ETF Under NYSE Arca Rule 8.600–E

November 29, 2017.

I. Introduction

On August 17, 2017, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act

[11] 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. 81842 (October 10, 2017), 82 FR 48127.

[4] In Amendment No. 2, the Exchange: (1) Changed the name of the Fund; (2) moved cash and cash equivalents from the ''other investments'' category to the ''principal investments'' category; (3) specified that no more than 10% of the equity weight of the Fund's portfolio will be invested in non-exchange-traded American Depositary Receipts; (4) provided additional information regarding the Fund's holding of over-the-counter contingent value rights; (5) provided additional information regarding the availability of information for the Shares; and (6) made other clarifications, corrections, and technical changes. Amendment No. 2 is available at *https://www.sec.gov/comments/sr-nysearca-2017-87/nysearca201787-2724825-161541.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Hartford Municipal Opportunities ETF (''Fund'') under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on September 6, 2017.[3] On October 17, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. On October 23, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendment No. 1.[4] The Commission has not received any comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 2.

II. The Exchange's Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Funds under NYSE Arca Equities Rule 8.600–E, which governs the listing and trading of Managed Fund Shares on the Exchange.[5] The Shares will be offered by Hartford Funds Exchange-Traded Trust (''Trust''), which is registered with the Commission as an open-end management investment company.[6] The Fund is a series of the Trust. Hartford Funds Management Company, LLC (''Manager'') will be the investment manager to the Fund. Wellington Management Company LLP (''Sub-Adviser'') will be the sub-adviser to the Fund and will perform the daily investment of the assets for the Fund.[7] ALPS Distributors, Inc. (''Distributor'') will be the principal underwriter to the Fund. State Street Bank and Trust Company will serve as transfer agent for the Fund.

The Exchange has made the following representations and statements in describing the Fund and its investment strategies, including the Fund's portfolio holdings and investment restrictions.[8]

A. The Application of Generic Listing Requirements to the Funds

The Exchange states that it is submitting this proposed rule change because the portfolio of the Fund will not meet all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Equities Rule 8.600–E that apply to the listing of Managed Fund Shares. The Exchange states that the Fund's portfolio will meet all the requirements set forth in Commentary .01 to NYSE Arca Equities Rule 8.600–E except for those set forth in Commentary .01(b)(1), which requires that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each have a minimum original principal amount outstanding of $100 million or more.

B. The Fund's Principal Investments

According to the Exchange, the Fund's investment objective is to provide current income that is generally exempt from federal income taxes and to provide long-term total return. Under normal market conditions,[9] the Fund will invest at least 80% of its net assets in municipal securities.[10] The Fund may invest in one or more of the following municipal securities (collectively, ''Municipal Securities''):

- General obligation bonds;
- Revenue (or limited obligation) bonds;
- Private activity (or industrial development) bonds;
- Municipal notes;
- Municipal lease obligations; and
- Zero-coupon Municipal Securities.

C. The Fund's Other Investments

According to the Exchange, while the Fund, under normal market conditions, will invest at least 80% of its net assets in Municipal Securities, the Fund may, under normal market conditions, invest up to 20% of its net assets in the aggregate in the following securities and financial instruments described below:

- Exchange-traded funds (''ETFs'')[11] and exchange-traded notes (''ETNs'');[12]
- securities issued or guaranteed as to principal or interest by the U.S. Government or by its agencies or instrumentalities;

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81505 (August 30, 2017), 82 FR 42147 (''Notice'').

[4] In Amendment No. 2, the Exchange: (1) Clarified that the list of municipal securities included in the section of the Notice entitled Hartford Municipal Opportunities ETF are the Municipal Securities in which the Fund is permitted to invest at least 80% of its net assets; (2) specified that redemption orders would not be subject to acceptance by the distributor of the Fund; (3) identified the Fund's transfer agent; (4) explained that the Fund's sponsor believes that the 1:00 p.m., E.T. cut-off time for creation and redemption orders would not have a material impact on an authorized participant's arbitrage opportunities with respect to the Shares because it will not affect the primary arbitrage mechanism applicable to the Fund, which is the ability to trade the futures contracts and other derivative instruments that are used for hedging purposes throughout the U.S. trading day; and (5) made non-substantive, technical amendments. Because Amendment No. 2 makes only clarifying and technical changes, and does not present unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nysearca-2017-90/nysearca201790-2651202-161338.pdf.*

[5] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Trust is registered under the 1940 Act. On June 26, 2017, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–215165 and 811–23222) (''Registration Statement''). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 32454 (Jan. 27, 2017) (File No. 812–13828–01).

[7] The Exchange represents that neither the Manager nor Sub-Adviser is a registered broker-dealer but that each is affiliated with a broker-dealer. The Exchange represents that the Manager and Sub-Adviser have each implemented a ''fire wall'' with respect to this broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In addition, the Exchange represents that Commentary .06 to Rule 8.600–E requires that personnel who make decisions on the Fund's portfolio composition be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio. In the event that (a) the Manager or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, the applicable adviser or sub-adviser will implement and maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

[8] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, creation and redemption procedures, calculation of net asset value (''NAV''), fees, distributions, and taxes, among other things, is included in the proposed rule change, as modified by Amendment No. 2, and the Registration Statement, as applicable. *See* Amendment No. 2 and Registration Statement, *supra* notes 4 and 6, respectively.

[9] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[10] According to the Exchange, municipal securities primarily include debt obligations that are issued by or on behalf of the District of Columbia, states, territories, commonwealths, and possessions of the United States and their political subdivisions (*e.g.,* cities, towns, counties, school districts, authorities, and commissions) and agencies, authorities, and instrumentalities.

[11] The term ''ETFs'' includes Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). The Exchange states that all ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X or −3X) ETFs.

[12] ETNs are securities such as those listed on the Exchange under NYSE Arca Rule 5.2–E(j)(6).

• non-agency asset-backed securities;
• registered money market funds that invest in money market instruments, as permitted by regulations adopted under the 1940 Act;
• registered money market funds that invest in money market instruments and other investment company securities as permitted under the 1940 Act;
• repurchase and reverse repurchase agreements;
• securities that are not registered under the 1933 Act (''restricted securities'');
• zero-coupon securities (in addition to zero-coupon Municipal Securities);
• variable rate bonds known as ''inverse floaters,'' which pay interest at rates that bear an inverse relationship to changes in short-term market interest rates;
• municipal inverse floaters, which are a type of inverse floater in which a municipal bond is deposited with a special purpose vehicle (SPV), which issues, in return, the municipal inverse floater (which comprises a residual interest in the cash flows and assets of the SPV) plus proceeds from the issuance by the SPV of floating rate certificates to third parties; and
• derivative instruments, including interest-rate futures contracts and interest-rate swaps, caps, floors, and collars. The Fund may use derivative instruments to manage portfolio risk, to replicate securities the Fund could buy that are not currently available in the market, or for other investment purposes.

Additionally, the fund may, when its sub-adviser, subject to the overall supervision of the Manager, deems it appropriate, invest some or all of its assets in cash, high-quality money-market instruments,[13] U.S. Government securities, and shares of money-market investment companies for temporary defensive purposes in response to adverse market, economic, or political conditions.

D. The Fund's Investment Restrictions

According to the Exchange, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and the Fund will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets may include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund's investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

Under normal market conditions, except for periods of high cash inflows or outflows,[14] the Fund will satisfy the following criteria: (i) The Fund will have a minimum of 20 non-affiliated issuers; (ii) no single municipal securities issuer will account for more than 10% of the weight of the Fund's portfolio; (iii) no individual bond will account for more than 5% of the weight of the Fund's portfolio; (iv) the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among issuers in at least 10 states; and (v) the Fund will be diversified among a minimum of five different sectors of the municipal bond market.[15] The Exchange states that pre-refunded bonds will be excluded from the above limits because they have a high level of credit quality and liquidity.[16]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, 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 Commission also finds that the proposal to list and trade Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[19] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last sale information for the Shares, and for any ETFs and ETNs held in the Fund's portfolio, will be available via the Consolidated Tape Association (''CTA'') high-speed line and from the national securities exchange on which they are listed.

The iNAV(which is the Portfolio Indicative Value, as defined in NYSE Arca Rule 8.600–E(c)(3)), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors or other information providers.[20] On each day the NYSE Arca is open (a ''Business Day''), before commencement of trading in Shares on the Exchange in the Exchange's Core Trading Session, the Manager will disclose the Fund's iNAV Basket.[21] Additionally, the Fund will disclose on its Web site the identities and quantities of the Fund's portfolio holdings that will form the basis for the Fund's calculation of NAV at the end of the Business Day. The NAV per Share will be determined for the Fund's Shares as of the close of regular trading on the New York Stock Exchange

[13] Money market instruments include the following: (1) Banker's acceptances; (2) short-term corporate obligations, including commercial paper, notes, and bonds; (3) other short-term debt obligations; and (4) obligations of U.S. banks.

[14] ''Periods of high cash inflows or outflows'' as used herein, mean rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods.

[15] The Fund's investments in Municipal Securities will include investments in state and local (*e.g.,* county, city, town) Municipal Securities relating to such sectors as the following: Airports; bridges and highways; hospitals; housing; jails; mass transportation; nursing homes; parks; public buildings; recreational facilities; school facilities; streets; and water and sewer works.

[16] The Manager represents that pre-refunded bonds (also known as refunded or escrow-secured bonds) have a high level of credit quality and liquidity because the issuer ''prerefunds'' the bond by setting aside in advance all or a portion of the amount to be paid to the bondholders when the bond is called. Generally, an issuer uses the proceeds from a new bond issue to buy high grade, interest bearing debt securities, including direct obligations of the U.S. government, which are then deposited in an irrevocable escrow account held by a trustee bank to secure all future payments of principal and interest on the pre-refunded bonds.

[17] 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).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[20] The Exchange represents that several major market data vendors display or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[21] The iNAV will be based on the current market value of the portfolio holdings that constitute the iNAV Basket.

(normally 4:00 p.m. Eastern Time) on each day that the Exchange is open.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation information from brokers and dealers or pricing services will be available for Municipal Bonds. Price information for money market funds will be available from the applicable investment company's Web site and from market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[22] Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees. In addition, Commentary .06 to NYSE Arca Equities Rule 8.600–E further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Exchange represents that neither the Manager nor Sub-Adviser is a registered broker-dealer but that each is affiliated with a broker-dealer and that the Manager and Sub-Adviser have each implemented a ''fire wall'' with respect to this broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio.

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances as well as cross-market surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[23]

The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

In support of this proposal, the Exchange has made the following additional representations:

(1) The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing trading surveillances as well as cross-market surveillances, administered by FINRA on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. These surveillances generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

(4) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, and any ETFs or ETNs held in the Fund's portfolio, with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, and any ETFs or ETNs held in the Fund's portfolio, from these markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, and any ETFs or ETNs held in the Fund's portfolio, from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

(5) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated iNAV will not be calculated or publicly disseminated; (d) how information regarding the iNAV and the Disclosed Portfolio is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the

[22] The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.

[23] 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.

Shares will be calculated after 4:00 p.m., Eastern Time each trading day.

(6) The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A–3 [24] under the Act, as provided by NYSE Arca Rule 5.3–E.

(7) Under normal market conditions, at least 80% of the Fund's net assets must be invested in Municipal Securities.

(8) The Fund's investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

(9) All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, –2X, 3X or –3X) ETFs.

(10) The Fund's portfolio will meet all the requirements set forth in Commentary .01 to NYSE Arca Equities Rule 8.600–E except for those set forth in Commentary .01(b)(1).

(11) Under normal market conditions, except for periods of high cash inflows or outflows, the Fund will satisfy the following criteria in lieu of the criteria in Commentary .01(b)(1): (a) The Fund will have a minimum of 20 non-affiliated issuers; (b) no single municipal securities issuer will account for more than 10% of the weight of the Fund's portfolio; (c) no individual bond will account for more than 5% of the weight of the Fund's portfolio; (d) the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among issuers in at least 10 states; and (e) the Fund will be diversified among a minimum of five different sectors of the municipal bond market.

(12) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and the Fund will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets may include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

(13) Each Fund's investments will be consistent with its investment objective and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

The Exchange also represents that all statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.[25] If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

The Commission believes that the Exchange's initial and continued listing requirements, combined with the Fund's investment criteria that would apply to Municipal Securities in the portfolio, are designed to mitigate the potential for price manipulation of the Shares. This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600–E to be listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [26] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NYSEArca–2017–90), as modified by Amendment No. 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26120 Filed 12–4–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82168; File No. SR–CBOE–2017–057]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Amended, To Amend Interpretation and Policy .07 of Exchange Rule 4.11, Position Limits, To Increase the Position Limits for Options on Certain Exchange Traded Products

November 29, 2017.

I. Introduction

On August 15, 2017, Cboe Exchange, Inc. (''Exchange'' or ''Cboe'') 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 amend Interpretation and Policy .07 of Exchange Rule 4.11, Position Limits, to increase the position limits for options on the following exchange traded funds (''ETFs'') and exchange traded note (''ETN''): iShares China Large-Cap ETF (''FXI''), iShares MSCI EAFE ETF (''EFA''), iShares MSCI Emerging Markets ETF (''EEM''), iShares Russell 2000 ETF (''IWM''), iShares MSCI Brazil Capped ETF (''EWZ''), iShares 20+ Year Treasury Bond Fund ETF (''TLT''), iPath S&P 500 VIX Short-Term Futures ETN (''VXX''), PowerShares QQQ Trust (''QQQQ''), and iShares MSCI Japan ETF (''EWJ''). The proposed rule change was published for comment in the **Federal Register** on August 31, 2017.[3] On

[24] 17 CFR 240.10A–3.

[25] The Commission notes that certain other proposals for the listing and trading of Managed Fund Shares include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 78005 (Jun. 7, 2016), 81 FR 38247 (Jun. 13, 2016) (SR–BATS–2015–100). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of a fund's compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78s(b)(2)

[28] 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. 81483 (August 25, 2017), 82 FR 41457 (''Notice'').

October 11, 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 received no comments regarding the proposal. On November 22, 2017, the Exchange submitted Amendment No. 1 to the proposed rule change.[6] The Commission is publishing this notice and order to solicit comments on the proposed rule change, as amended, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change, as amended.

II. Description of the Proposal, as Amended

Currently, position limits for options on ETFs and ETNs, such as those subject to this proposal, are determined pursuant to Exchange Rule 4.11, and, with certain exceptions, vary according to the number of outstanding shares and past six-month trading volume of the underlying stocks, ETFs, or ETNs. Options on the securities with the largest numbers of outstanding shares and trading volume have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and stocks, ETFs, and ETNs with fewer outstanding shares and lower trading volume have position limits of 200,000, 75,000, 50,000, or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. Options on FXI, EFA, EWZ, TLT, VXX, and EWJ are currently subject to the standard position limit of 250,000 contracts as set forth in Exchange Rule 4.11.[8] Interpretation and Policy .07 of Exchange Rule 4.11 currently sets forth separate position limits for options on certain ETFs, including 500,000 contracts for options on EEM and IWM, and 900,000 contracts for options on QQQQ.[9]

The purpose of the proposed rule change, as amended, is to amend Interpretation and Policy .07 to Exchange Rule 4.11 to increase the position and exercise limits for options on FXI, EFA, EWZ, TLT, VXX, and EWJ to from 250,000 contracts to 500,000 contracts.[10] The Exchange further proposes to amend Interpretation and Policy .07 to Exchange Rule 4.11 to increase the position limits for options on EEM and IWM from 500,000 contracts to 1,000,000 contracts, and to increase the position limits for options on QQQQ from 900,000 contracts to 1,800,000 contracts.[11] The Exchange states its belief that increasing position limits for the options subject to this proposal will lead to a more liquid and competitive market environment for these options that will benefit customers interested in this product.[12]

In support of its proposal to increase the position limits for QQQQ to 1,800,000 contracts, the Exchange compared the trading characteristics of QQQQ to that of the SPDR S&P 500 ETF (''SPY''), which currently has no position limits.[13] The Exchange states that the average daily trading volume through August 14, 2017 for QQQQ was 26.25 million shares compared to 64.63 million shares for SPY.[14] The total shares outstanding for QQQQ were 351.6 million compared to 976.23 million for SPY.[15] The fund market cap for QQQQ was $50,359.7 million compared to $240,540 million for SPY.[16]

In support of its proposal to increase the position limits for EEM and IWM from 500,000 contracts to 1,000,000 contracts, the Exchange compared the trading characteristics of EEM and IWM to that of QQQQ, which currently has a position limit of 900,000 contracts.[17] The Exchange states that the average daily trading volume through July 31, 2017 for EEM was 52.12 million shares and IWM was 27.46 million shares compared to 26.25 million shares for QQQQ.[18] The total shares outstanding for EEM were 797.4 million and for IWM were 253.1 million compared to 351.6 million for QQQQ.[19] The fund market cap for EEM was $34,926.1 million and IWM was $35,809.1 million compared to $50,359.7 million for QQQQ.[20]

In support of its proposal to increase the position limits for FXI, EFA, EWZ, TLT, VXX, and EWJ from 250,000 contracts to 500,000 contracts, the Exchange compared the trading characteristics of FXI, EFA, EWZ, TLT, VXX, and EWJ to that of EEM and IWM, both of which currently have a position limit of 500,000 contracts.[21] The Exchange states that the average daily

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 81853, 82 FR 48300 (October 17, 2017). The Commission designated November 29, 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] In Amendment No. 1, the Exchange provided additional justification and analysis in support of the proposal, which is summarized below. The full text of Amendment No. 1 has been placed in the public comment file for SR–CBOE–2017–57 and is available at: *https://www.sec.gov/comments/sr-cboe-2017-057/cboe2017057-2715774-161526.pdf.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Notice, *supra* note 3, at 41457. The Exchange states that FXI tracks the performance of the FTSE China 50 Index, which is composed of the 50 largest Chinese stocks and EFA tracks the performance of MSCI EAFE Index, which has over 900 component securities. *Id.* at 41458. The Exchange also states that the MSCI EAFE Index ''is designed to represent the performance of large and mid-cap securities across 21 developed markets, including countries in Europe, Australasia and the Far East, excluding the U.S. and Canada.'' *Id.* According to the Exchange, EWZ tracks the performance of the MSCI Brazil 25/50 Index, which is composed of shares of large and mid-size companies in Brazil and TLT tracks the performance of ICE U.S. Treasury 20+ Year Bond Index, which is composed of long-term U.S. Treasury bonds. *Id.* The Exchange also states that VXX tracks the performance of S&P 500 VIX Short-Term Futures Index Total Return. *Id.* According to the Exchange, ''the Index is designed to provide access to equity market volatility through CBOE Volatility Index futures. The Index offers exposure to a daily rolling long position in the first and second month VIX futures contracts and reflects market participants' views of the future direction of the VIX index at the time of expiration of the VIX futures contracts comprising the Index.'' *Id.* The Exchange also states that EWJ tracks the MSCI Japan Index, which tracks the performance of large and mid-sized companies in Japan. *Id.*

[9] The Exchange states that EEM tracks the performance of the MSCI Emerging Markets Index, which is composed of approximately 800 component securities. According to the Exchange, the MSCI Emerging Markets Index ''consists of the following 21 emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey.'' *Id.* The Exchange also states that IWM tracks the performance of the Russell 2000 Index, which is composed of 2,000 small-cap domestic stocks, and QQQQ tracks the performance of the Nasdaq-100 Index, which is composed of 100 of the largest domestic and international nonfinancial companies listed on the Nasdaq Stock Market LLC. *Id.*

[10] Pursuant to Exchange Rule 4.12, Interpretation and Policy .02, which is not being amended by the proposed rule change, the exercise limits for FXI, EFA, EWZ, TLT, VXX, and EWJ options would be similarly increased.

[11] Pursuant to Exchange Rule 4.12, Interpretation and Policy .02, which is not being amended by the proposed rule change, the exercise limits for EEM, IWM, and QQQQ options would be similarly increased. The Exchange also proposes to make non-substantive corrections to the names of IWM and EEM in Rule 4.11, Interpretation and Policy .07.

[12] *See* Notice, *supra* note 3, at 41459.

[13] *See id.* at 41458. *See also* Exchange Rule 4.11, Interpretation and Policy .07. The Commission notes that the lack of position limits for SPY is currently subject to a pilot program. *See* Securities Exchange Act Release Nos. 67937 (September 27, 2012), 77 FR 60489 (October 3, 2012) (SR–CBOE–2012–091) (eliminating position and exercise limits for SPY options on a pilot basis); and 81017 (June 26, 2017), 82 FR 29960 (June 30, 2017) (SR–CBOE–2017–050) (extending the SPY pilot program to July 12, 2018).

[14] *See* Notice, *supra* note 3, at 41458.

[15] *See id.*

[16] *See id.*

[17] *See id. See also* Exchange Rule 4.11, Interpretation and Policy .07.

[18] *See* Notice, *supra* note 3, at 41458–59.

[19] *See id.* at 41459.

[20] *See id.*

[21] *See id. See also* Exchange Rule 4.11, Interpretation and Policy .07.

trading volume through July 31, 2017 for FXI was 15.08 million shares, EFA was 19.42 million shares, EWZ was 17.08 million shares, TLT was 8.53 million shares, VXX was 55.04 million shares, and EWJ was 6.06 million shares compared to 52.12 million shares for EEM and 27.46 million shares for IWM.[22] The total shares outstanding for FXI was 78.6 million, EFA was 1178.4 million, EWZ was 159.4 million, TLT was 60 million, VXX was 96.7 million, and EWJ was 303.6 million compared to 797.4 million for EEM and 253.1 million for IWM.[23] The fund market cap for FXI was $3,343.6 million, EFA was $78,870.3 million, EWZ was $6,023.4 million, TLT was $7,442.4 million, VXX was $1,085.6 million, and EWJ was $16,625.1 million compared to $34,926.1 million for EEM and $35,809.1 million for IWM.[24]

The Exchange notes that the options reporting requirements of Exchange Rule 4.13 would continue to be applicable to the options subject to this proposal.[25] As set forth in Exchange Rule 4.13(a), each Trading Permit Holder (''TPH'') must report to the Exchange certain information in relation to any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts in any single class of option contracts dealt in on the Exchange.[26] Further, Exchange Rule 4.13(b) requires each TPH (other than an Exchange market-maker or Designated Primary Market-Maker) [27] that maintains a position in excess of 10,000 non-FLEX equity option contracts on the same side of the market, on behalf of its own account or for the account of a customer, to report to the Exchange information as to whether such positions are hedged, and provide documentation as to how such contracts are hedged.[28]

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity.[29] According to the Exchange, its surveillance procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both options and underlying stocks.[30] In addition, the Exchange states that its surveillance procedures have been effective for the surveillance of trading in the options subject to this proposal, and will continue to be employed.[31]

The Exchange further states its belief that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a TPH or its customer may try to maintain an inordinately large unhedged position in the options subject to this proposal.[32] Current margin and risk-based haircut methodologies, the Exchange states, serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.[33] In addition, the Exchange notes that the Commission's net capital rule, Rule 15c3–1 under the Act,[34] imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.[35]

Amendment No.1

As noted above, on November 22, 2017, the Exchange filed Amendment No. 1 to the proposed rule change to provide additional justification and support for the proposal. In Amendment No. 1, the Exchange states that it submitted the proposal at the request of market participants whose on-exchange activity has been ''hindered by existing position limits, causing them to be unable to provide additional liquidity not just on the Exchange, but also on other options exchanges on which they participate.'' [36] In further support of its proposed increases in position limits, in Amendment No. 1, the Exchange describes at length: (i) The creation and redemption process for ETFs (and a similar process for the ETN to which the proposal relates [37]); (ii) the arbitrage activity that ensues when such instruments are overpriced or are trading at a discount to the securities on which they are based and helps to keep the instrument's price in line with the value of its underlying portfolio; and (iii) how these processes serve to mitigate the potential price impact of the ETF or ETN shares that might otherwise result from increased position limits.[38]

In addition, in Amendment No. 1, the Exchange notes that some of the ETFs and the ETN to which the proposal relates are based on broad-based indices that underlie cash-settled options that are economically equivalent to the relevant ETF or similar to the relevant ETN, but where the option on the index is either subject to no position limit or is subject to a position limit reflecting a notional value that is larger than the position limit for the option on the ETF absent the proposed increase.[39] For the other ETFs in the proposal where this does not apply, the Exchange argues that, based on the liquidity, breadth, and depth of the underlying market, the index referenced by the ETF would be considered a broad-based index under the Exchange's rules.[40] According to the Exchange, if certain position limits are appropriate for the options overlying the

[22] *See* Notice, *supra* note 3, at 41459.

[23] *See id.*

[24] *See id.*

[25] *See id.*

[26] The report must include, for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered. *See* Exchange Rule 4.13(a).

[27] According to the Exchange, market-makers (including Designated Primary Market-Makers) are exempt from the referenced reporting requirement because market-maker information can be accessed through the Exchange's market surveillance systems. *See* Notice, *supra* note 3, at 41459.

[28] According to the Exchange, this information would include, but would not be limited to, the option position, whether such position is hedged and, if so, a description of the hedge, and the collateral used to carry the position, if applicable. *See id.*

[29] *See id.*

[30] *See id.*

[31] *See id.* at 41459 n.23. The Exchange represents that more than 50% of the weight of the securities held by the options subject to this proposal are also subject to a comprehensive surveillance agreement (''CSA''). *See id.* at 41458. Additionally, the Exchange states that the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any one country that is not subject to a CSA do not represent 20% or more of the weight of the MSCI Emerging Markets Index. *See id.* Further, the Exchange states that the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any two countries that are not subject to CSAs do not represent 33% or more of the weight of the MSCI Emerging Markets Index. *See id.*

[32] *See id.* at 41459.

[33] *See id.* at 41459–60.

[34] 17 CFR 240.15c3–1.

[35] *See* Notice, *supra* note 3, at 41460.

[36] *See* Amendment No. 1 at 4–5. The Exchange reiterates its understanding that certain market participants are opting to execute trades involving large numbers of options contracts in the symbols subject to the proposal in the over-the-counter market, and argues that these large trades do not contribute to the price discovery process performed on a lit market. *See id.* at 5.

[37] With regard to the ETN option included in the proposal—VXX—the Exchange acknowledged that there is no direct analogue to ETF ''creation,'' but observed that the ETN issuer may sell additional VXX shares from its inventory. Regardless of whether VXX shares are redeemed or new VXX shares are issued, the Exchange stated, an issuer may transact in VIX futures in order to hedge its exposure, resulting in an arbitrage process similar to the one described for ETFs described above, thereby helping to keep an ETN's price in line with the value of its underlying index. *See* Amendment No. 1 at 7–8.

[38] *See id.* at 6–7.

[39] *See id.* at 8, and the Exchange's discussion of QQQQ, IWM, VXX, and EEM, and EFA, *id.* at 8–11.

[40] *See id.* at 8, and the Exchange's discussion of FXI, EWZ, TLT, and EWJ, *id.* at 12–14.

same index or is an analogue to the basket of securities that the ETF tracks, then those same economically equivalent position limits should be appropriate for the option overlying the ETF.[41] The Exchange believes that the new position limits it is proposing meet this criterion.[42] The Exchange also cites data in support of its argument that the market capitalization of the underlying index or reference asset of each of the ETFs and the ETN is large enough to absorb any price movements that may be caused by an oversized trade.[43]

III. Proceedings To Determine Whether To Approve or Disapprove SR–CBOE–2017–057, as Amended, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [44] to determine whether the proposed rule change, as amended, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comment on the proposed rule change, as amended.

Pursuant to Section 19(b)(2)(B) of the Act,[45] the Commission is providing notice of the grounds for disapproval under consideration. The Commission notes that position and exercise limits serve as a regulatory tool designed to address manipulative schemes and adverse market impact surrounding the use of options.[46] As discussed above, the Exchange has proposed to increase the position and exercise limits for options on FXI, EFA, EWZ, TLT, VXX, and EWJ from 250,000 contracts to 500,000 contracts, for options on EEM and IWM from 500,000 contracts to 1,000,000 contracts, and for options on QQQQ from 900,000 contracts to 1,800,000 contracts. The proposed increase in position and exercise limits for each marks a substantial increase from current levels, for which the Exchange recently has provided additional justification and analysis.[47]

The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the consistency of the proposed rule change, as amended, with Section 6(b)(5) of the Act,[48] which requires 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as amended, is consistent with Section 6(b)(5), or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[49] any request for an opportunity to make an oral presentation.[50]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, as amended, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the position and exercise limit for each option as proposed could impact markets adversely.

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as amended, should be approved or disapproved by December 26, 2017. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 9, 2018. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CBOE–2017–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CBOE–2017–057. The file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File No. SR–CBOE–2017–057 and should be submitted by December 26, 2017.

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[41] *See id.* at 8.

[42] *See id.* at 8–14. For each of the ETFs and the ETN subject to the proposal, the Exchange cites specific data to illustrate its argument.

[43] *See id.* at 8–14.

[44] 15 U.S.C. 78s(b)(2)(B).

[45] *Id.*

[46] *See, e.g.,* Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR–CBOE–2012–066).

[47] The Commission notes that the Exchange filed Amendment No. 1 to provide additional justification and analysis in support of the proposed position and exercise limits on November 22, 2017. *See supra note* 6.

[48] 15 U.S.C. 78f(b)(5).

[49] 17 CFR 240.19b–4.

[50] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

Rebuttal comments should be submitted by January 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26122 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82173; File No. SR–ISE–2017–102]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Shell Structure for the ISE Rulebook

November 29, 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 November 17, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt a shell structure for the ISE rulebook (''Rulebook'') as part of its initiative to structure its Rulebook.

The text of the proposed rule change is available on the Exchange's Web site at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 9, 2016, Nasdaq, Inc. acquired the capital stock of U.S. Exchange Holdings, thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC (now ISE), ISE Gemini, LLC (now Nasdaq GEMX, LLC) (''GEMX'') and ISE Mercury, LLC (now Nasdaq MRX, LLC) (''MRX'').[3] The acquisition resulted in a total of six self-regulatory organization licenses for Nasdaq, Inc. which, in addition to the three aforementioned exchanges, also include The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''Phlx'') and Nasdaq BX, Inc. (''BX'') (collectively, ''Nasdaq Entities'').

The Exchange is planning to conform the chapters of the various Nasdaq Entity rulebooks for efficiency, and conformity of certain Nasdaq Entity processes. The Exchange believes that aligning the rules of the Nasdaq Entities will assist market participants in navigating the various rulebooks. Specifically, the Exchange proposes to add a shell structure which would reside alongside the current rulebook. The proposed shell would outline the various chapters of the future rulebook and contains new chapter numbering. A similar shell would be filed to add the same structure to each of the other Nasdaq Entities. The proposed chapters would be similar for each shell filed for each of the Nasdaq Entities. In subsequent rule changes, each of the Nasdaq Entities would file rule changes to move their current rules into the various chapters of the proposed shells for all six markets and delete the migrated rule from the current location in the Rulebook.[4] The proposed shell would contain a general rule section and product specific section, in this case options, which would encompass all the rules of the Exchange.

The Exchange believes this new structure would align the Nasdaq Entities' rulebooks for ease of use by Members, who are members of more than one Nasdaq Entity. This proposal would not amend the current Rulebook and is therefore not a substantive change. A Member would continue to be able to view the current Rulebook alongside the proposed reorganized Rulebook. Subsequent rule changes will be filed to move the rule text into the shell Rulebook.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by starting the process of organizing its rules in a manner which is clear and consistent across the Nasdaq Entities. The Exchange believes that coordinating the chapters of the rulebooks among the Nasdaq Entities will provide Members, who are members of more than one Nasdaq Entity, with consistency and ease of reference in locating rules.

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 changes do not impose a burden on competition because the proposed amendments are non-substantive, are intended to start the process to organize the rules of the Exchange in a manner that will be more user-friendly to Nasdaq Entity members.

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

[51] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11; SR–ISE Gemini–2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

[4] When relocating the current rule text into the new shell, the Exchange shall not amend the rule text but simply move existing rule text.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) 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 requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange states that such waiver will enable the Exchange to start the process to reorganize the rulebooks of the Nasdaq Entities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and waiver will allow the Exchange to begin the reorganization of its Rulebook without delay. 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: (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–2017–102 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–2017–102. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–102, and should be submitted on or before December 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

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[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[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)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32928; 812–14794]

American Century ETF Trust and American Century Investment Management, Inc.

November 29, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds; and (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure.

Applicants: American Century ETF Trust (''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and American Century Investment Management, Inc. (''Initial Adviser''), Delaware corporation registered as an investment adviser under the Investment Advisers Act of 1940.

Filing Dates: The application was filed on June 30, 2017, and amended on October 31, 2017.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the

Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 26, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 4500 Main Street, Kansas City, MO 64111.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or Andrea Ottomanelli Magovern, Acting Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application (''Application'').

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the Application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the Application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The Application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a

[1] Applicants request that the order apply to the initial series of the Trust identified and described in an appendix to the Application and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Each Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each of the foregoing and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the Application. For purposes of the requested Order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26114 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82169; File No. SR–Phlx–2017–97]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Shell Structure for the Phlx Rulebook

November 29, 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 November 17, 2017, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt a shell structure for the Phlx rulebook (''Rulebook'') as part of its initiative to structure its Rulebook.

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

On March 9, 2016, Nasdaq, Inc. acquired the capital stock of U.S. Exchange Holdings, thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC (now Nasdaq ISE, LLC), ISE Gemini, LLC (now Nasdaq GEMX, LLC) (''GEMX'') and ISE Mercury, LLC (now Nasdaq MRX, LLC) (''MRX'').[3] The acquisition resulted in a total of six self-regulatory organization licenses for Nasdaq, Inc. which, in addition to the three aforementioned exchanges, also include The Nasdaq Stock Market LLC (''Nasdaq''), Phlx and Nasdaq BX, Inc. (''BX'') (collectively, ''Nasdaq Entities'').

The Exchange is planning to conform the chapters of the various Nasdaq Entity rulebooks for efficiency, and conformity of certain Nasdaq Entity processes. The Exchange believes that aligning the rules of the Nasdaq Entities will assist market participants in navigating the various rulebooks. Specifically, the Exchange proposes to add a shell structure which would reside alongside the current rulebook. The proposed shell would outline the various chapters of the future rulebook and contains new chapter numbering. A similar shell would be filed to add the same structure to each of the other Nasdaq Entities. The proposed chapters would be similar for each shell filed for each of the Nasdaq Entities. In subsequent rule changes, each of the Nasdaq Entities would file rule changes to move their current rules into the various chapters of the proposed shells for all six markets and delete the migrated rule from the current location in the Rulebook.[4] The proposed shell would contain a general rule section and product specific sections, in this case equities and options, which would encompass all the rules of the Exchange.

The Exchange believes this new structure would align the Nasdaq Entities' rulebooks for ease of use by Members, who are members of more than one Nasdaq Entity. This proposal would not amend the current Rulebook and is therefore not a substantive change. A Member would continue to be able to view the current Rulebook alongside the proposed reorganized Rulebook. Subsequent rule changes will be filed to move the rule text into the shell Rulebook.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11; SR–ISE Gemini–2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

[4] When relocating the current rule text into the new shell, the Exchange shall not amend the rule text but simply move existing rule text.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by starting the process of organizing its rules in a manner which is clear and consistent across the Nasdaq Entities. The Exchange believes that coordinating the chapters of the rulebooks among the Nasdaq Entities will provide Members, who are members of more than one Nasdaq Entity, with consistency and ease of reference in locating rules.

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 changes do not impose a burden on competition because the proposed amendments are non-substantive, are intended to start the process to organize the rules of the Exchange in a manner that will be more user-friendly to Nasdaq Entity members.

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[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) 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 requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange states that such waiver will enable the Exchange to start the process to reorganize the rulebooks of the Nasdaq Entities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and waiver will allow the Exchange to begin the reorganization of its Rulebook without delay. 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: (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–Phlx–2017–97 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–97. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2017–97, and should be submitted on or before December 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26123 Filed 12–4–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 3:00 p.m. on Thursday, December 7, 2017.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[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)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Chairman Clayton, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Regulatory matters regarding a financial institution; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: November 30, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–26219 Filed 12–1–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82167; File No. SR–NASDAQ–2017–124]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To List and Trade the Shares of the Brandes Value NextShares Fund

November 29, 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 November 14, 2017, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade under Nasdaq Rule 5745 (Exchange-Traded Managed Fund Shares (''NextShares'')) the common shares (''Shares'') of the exchange-traded managed fund described herein (the ''Fund'').[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5745, which governs the listing and trading of exchange-traded managed fund shares, as defined in Nasdaq Rule 5745(c)(1), on the Exchange.[4] Brandes Investment Trust, which is discussed below, is registered with the Commission as an open-end investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission. The Fund is a series of Brandes Investment Trust and will be advised by an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), as described below. The Fund will be actively managed and will pursue the principal investment strategy, as noted below.[5]

I. Brandes Investment Trust

Brandes Investment Trust is registered with the Commission as an open-end investment company and has filed a Registration Statement with the Commission.[6] The Fund is a series of Brandes Investment Trust.[7]

Brandes Investment Partners, L.P. (the ''Adviser'') will be the adviser to the Fund. The Adviser is not a registered broker-dealer, and is not affiliated with a broker-dealer. Nevertheless, the Adviser will implement and will maintain a fire wall with respect to any future affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio.[8] In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.

In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Except for the specific Fund information set forth below, this rule filing conforms to the rule filing, as modified by amendments 1 and 2 thereto, relating to the listing and trading on Nasdaq of the shares of 18 series of the Eaton Vance ETMF Trust and the Eaton Vance ETMF Trust II, as approved by the Commission in Securities Exchange Act Release No. 75499 (July 21, 2015) (SR–NASDAQ–2015–036).

[4] The Commission approved Nasdaq Rule 5745 in Securities Exchange Act Release No. 34–73562 (Nov. 7, 2014), 79 FR 68309 (Nov. 14, 2014) (SR–NASDAQ–2014–020).

[5] Additional information regarding the Fund will be available on the free public Web site for the Fund at *www.brandesfunds.com* and in the Registration Statement for the Fund.

[6] *See* Post-Effective Amendment number 60 to Registration Statement on Form N–1A for Brandes Investment Trust dated October 13, 2017 (File Nos. 033–81396 and 811–08614). The descriptions of the Fund and the Shares contained herein conform to the initial Registration Statement.

[7] The Commission has issued an order granting Brandes Investment Trust and certain affiliates exemptive relief under the Investment Company Act. *See* Investment Company Act Release No. 32893 (November 2, 2017) (File No. 812–14809).

[8] An investment adviser to an open-end fund is required to be registered under the Advisers Act. As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

affiliated with a broker-dealer, such new adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

ALPS Distributors, Inc. (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. U.S. Bancorp Fund Services, LLC will act as the administrator and accounting agent to the Fund; U.S. Bancorp Fund Services, LLC will act as transfer agent and custodian to the Fund.

The Fund will be actively managed and will pursue the principal investment strategies described below.[9]

Brandes Value NextShares (the''Fund'')

The Fund seeks long-term capital appreciation by investing primarily in equity securities of U.S. companies. Equity securities include common and preferred stocks, warrants, and rights. While the Fund may purchase equity securities issued by companies of any size, it typically focuses its investments on large-capitalization equity securities.

Creations and Redemptions of Shares

Shares will be issued and redeemed on a daily basis at the Fund's next-determined net asset value (''NAV'')[10] in specified blocks of Shares called ''Creation Units.'' A Creation Unit will consist of at least 25,000 Shares. Creation Units may be purchased and redeemed by or through ''Authorized Participants.''[11] Purchases and sales of Shares in amounts less than a Creation Unit may be effected only in the secondary market, as described below, and not directly with the Fund.

The creation and redemption process for the Fund may be effected ''in kind,'' in cash, or in a combination of securities and cash. Creation ''in kind'' means that an Authorized Participant—usually a brokerage house or large institutional investor—purchases the Creation Unit with a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit. When an Authorized Participant redeems a Creation Unit in kind, it receives a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit.[12]

Composition File

As defined in Nasdaq Rule 5745(c)(3), the Composition File is the specified portfolio of securities and/or cash that the Fund will accept as a deposit in issuing a Creation Unit of Shares, and the specified portfolio of securities and/or cash that the Fund will deliver in a redemption of a Creation Unit of Shares. The Composition File will be disseminated through the NSCC once each business day before the open of trading in Shares on such day and also will be made available to the public each day on a free Web site.[13] Because the Fund seeks to preserve the confidentiality of its current portfolio trading program, the Fund's Composition File generally will not be a pro rata reflection of the Fund's investment positions. Each security included in the Composition File will be a current holding of the Fund, but the Composition File generally will not include all of the securities in the Fund's portfolio or match the weightings of the included securities in the portfolio. Securities that the Adviser is in the process of acquiring for the Fund generally will not be represented in the Fund's Composition File until their purchase has been completed. Similarly, securities that are held in the Fund's portfolio but in the process of being sold may not be removed from its Composition File until the sale program is substantially completed. To the extent that the Fund creates or redeems Shares in kind, it will use cash amounts to supplement the in-kind transactions to the extent necessary to ensure that Creation Units are purchased and redeemed at NAV. The Composition File also may consist entirely of cash, in which case it will not include any of the securities in the Fund's portfolio.[14]

Transaction Fees

All persons purchasing or redeeming Creation Units are expected to incur a transaction fee to cover the estimated cost to the Fund of processing the transaction, including the costs of clearance and settlement charged to it by NSCC or DTC, and the estimated trading costs (*i.e.,* brokerage commissions, bid-ask spread and market impact) to be incurred in converting the Composition File to or from the desired portfolio holdings. The transaction fee is determined daily and will be limited to amounts that have been authorized by the board of trustees of the Fund and determined by the Adviser to be appropriate to defray the expenses that the Fund incurs in connection with the purchase or redemption of Creation Units.

The purpose of transaction fees is to protect the Fund's existing shareholders from the dilutive costs associated with the purchase and redemption of Creation Units. Transaction fees may vary over time for the Fund depending on the estimated trading costs for its portfolio positions and Composition File, processing costs and other considerations. To the extent that the Fund specifies greater amounts of cash in its Composition File, it may impose higher transaction fees. In addition, to the extent that the Fund includes in its Composition File instruments that clear through DTC, the Fund may impose higher transaction fees than when the Composition File consists solely of instruments that clear through NSCC, because DTC may charge more than NSCC in connection with Creation Unit transactions.[15] The transaction fees

[9] Additional information regarding the Fund will be available on a free public Web site for the Fund (*www.brandesfunds.com,* which may contain links for certain information to *www.nextshares.com*) and in the Registration Statement for the Fund.

[10] As with other registered open-end investment companies, NAV generally will be calculated daily Monday through Friday as of 4:00 p.m. Eastern Time. NAV will be calculated by dividing the Fund's net asset value by the number of Shares outstanding. Information regarding the valuation of investments in calculating the Fund's NAV will be contained in the Registration Statement for its Shares.

[11] ''Authorized Participants'' will be either: (1) ''participating parties,'' *i.e.,* brokers or other participants in the Continuous Net Settlement System (''CNS System'') of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (2) DTC participants, which in either case have executed participant agreements with the Fund's distributor and transfer agent regarding the creation and redemption of Creation Units. Investors will not have to be Authorized Participants in order to transact in Creation Units, but must place an order through and make appropriate arrangements with an Authorized Participant for such transactions.

[12] In compliance with Nasdaq Rule 5745(b)(5), which applies to Shares based on an international or global portfolio, Brandes Investment Trust's application for exemptive relief under the Investment Company Act states that the Trust will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933, as amended (15 U.S.C. 77a) (''Securities Act'').

[13] The free Web site containing the Composition File will be *www.nextshares.com.*

[14] In determining whether the Fund will issue or redeem Creation Units entirely on a cash basis, the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution for the Fund than Authorized Participants because of the Adviser's size, experience and potentially stronger relationships in the fixed-income markets.

[15] Authorized Participants that participate in the CNS System of the NSCC are expected to be able to use the enhanced NSCC/CNS process for effecting in-kind purchases and redemptions of ETFs (the ''NSCC Process'') to purchase and redeem Creation Units of the Fund that limit the

Continued

applicable to the Fund's purchases and redemptions on a given business day will be disseminated through the NSCC prior to the open of market trading on that day and also will be made available to the public each day on a free Web site.[16] In all cases, the transaction fees will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

NAV-Based Trading

Because Shares will be listed and traded on the Exchange, Shares will be available for purchase and sale on an intraday basis. Shares will be purchased and sold in the secondary market at prices directly linked to the Fund's next-determined NAV using a new trading protocol called ''NAV-Based Trading.''[17] All bids, offers and execution prices of Shares will be expressed as a premium/discount (which may be zero) to the Fund's next-determined NAV (*e.g.,* NAV − $0.01, NAV+$0.01). The Fund's NAV will be determined each business day, as of 4:00 p.m. Eastern Time. Trade executions will be binding at the time orders are matched on Nasdaq's facilities, with the transaction prices contingent upon the determination of NAV.

Trading Premiums and Discounts

Bid and offer prices for Shares will be quoted throughout the day relative to NAV. The premium or discount to NAV at which Share prices are quoted and transactions are executed will vary depending on market factors, including the balance of supply and demand for Shares among investors, transaction fees and other costs in connection with creating and redeeming Creation Units of Shares, the cost and availability of borrowing Shares, competition among market makers, the Share inventory positions and inventory strategies of market makers, the profitability requirements and business objectives of market makers, and the volume of Share trading. Reflecting such market factors, prices for Shares in the secondary market may be above, at or below NAV.

Because making markets in Shares will be simple to manage and low risk, competition among market makers seeking to earn reliable, low-risk profits should enable the Shares to routinely trade at tight bid-ask spreads and narrow premiums/discounts to NAV. As noted below, the Fund will make available on a public Web site that will be updated on a daily basis current and historical trading spreads and premiums/discounts of Shares trading in the secondary market.[18]

Transmitting and Processing Orders. Member firms will utilize certain existing order types and interfaces to transmit Share bids and offers to Nasdaq, which will process Share trades like trades in shares of other listed securities.[19] In the systems used to transmit and process transactions in Shares, the Fund's next-determined NAV will be represented by a proxy price (*e.g.,* 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (*e.g.,* NAV − $0.01 would be represented as 99.99; NAV+$0.01 as 100.01).

To avoid potential investor confusion, Nasdaq will work with member firms and providers of market data services to seek to ensure that representations of intraday bids, offers and execution prices of Shares that are made available to the investing public follow the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. All Shares listed on the Exchange will have a unique identifier associated with their ticker symbols, which would indicate that the Shares are traded using NAV-Based Trading. Nasdaq makes available to member firms and market data services certain proprietary data feeds that are designed to supplement the market information disseminated through the consolidated tape (''Consolidated Tape''). Specifically, the Exchange will use the Nasdaq Basic and Nasdaq Last Sale data feeds to disseminate intraday price and quote data for Shares in real time in the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. Member firms could use the Nasdaq Basic and Nasdaq Last Sale data feeds to source intraday Share prices for presentation to the investing public in the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. Alternatively, member firms could source intraday Share prices in proxy price format from the Consolidated Tape and other Nasdaq data feeds (*e.g.,* Nasdaq TotalView and Nasdaq Level 2) and use a simple algorithm to convert prices into the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. As noted below, prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the identities of the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

Intraday Reporting of Quotes and Trades. All bids and offers for Shares and all Share trade executions will be reported intraday in real time by the Exchange to the Consolidated Tape[20] and separately disseminated to member firms and market data services through the Exchange data feeds listed above. The Exchange will also provide the member firms participating in each Share trade with a contemporaneous notice of trade execution, indicating the number of Shares bought or sold and the executed premium/discount to NAV.[21]

Final Trade Pricing, Reporting and Settlement. All executed Share trades will be recorded and stored intraday by Nasdaq to await the calculation of the Fund's end-of- day NAV and the determination of final trade pricing. After the Fund's NAV is calculated and provided to the Exchange, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided

composition of its baskets to include only NSCC Process-eligible instruments (generally domestic equity securities and cash). Because the NSCC Process is generally more efficient than the DTC clearing process, NSCC is likely to charge the Fund less than DTC to settle purchases and redemptions of Creation Units.

[16] The free Web site will be *www.nextshares.com.*

[17] Aspects of NAV-Based Trading are protected intellectual property subject to issued and pending U.S. patents held by NextShares Solutions LLC (''NextShares Solutions''), a wholly owned subsidiary of Eaton Vance Corp. Nasdaq has entered into a license agreement with NextShares Solutions to allow for NAV- Based Trading on the Exchange of exchange-traded managed funds that have themselves entered into license agreements with NextShares Solutions.

[18] The Web site containing this information will be *www.nextshares.com,* which will be available directly and through a link from *www.brandesfunds.com.*

[19] As noted below, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the effect of this characteristic on existing order types.

[20] Due to systems limitations, the Consolidated Tape will report intraday execution prices and quotes for Shares using a proxy price format. As noted, Nasdaq will separately report real-time execution prices and quotes to member firms and providers of market data services in the ''NAV − $0.01/NAV+$0.01'' (or similar) display format, and otherwise seek to ensure that representations of intraday bids, offers and execution prices for Shares that are made available to the investing public follow the same display format.

[21] All orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day.

information to include final pricing.[22] After the pricing is finalized, Nasdaq will deliver the Share trading data to NSCC for clearance and settlement, following the same processes used for the clearance and settlement of trades in other exchange-traded securities.

Availability of Information

Prior to the commencement of market trading in Shares, the Fund will be required to establish and maintain a public Web site through which its current prospectus may be downloaded.[23] The Web site will include directly or through a link additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of Shares in Exchange trading; (b) the midpoint of the highest bid and lowest offer prices as of the close of Exchange trading, expressed as a premium/discount to NAV (the ''Closing Bid/Ask Midpoint''); and (c) the spread between highest bid and lowest offer prices as of the close of Exchange trading (the ''Closing Bid/Ask Spread.'').[24] The Web site will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time.

The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free Web site as noted above.[25] Consistent with the disclosure requirements that apply to traditional open-end investment companies, a complete list of current Fund portfolio positions will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at its discretion.

Reports of Share transactions will be disseminated to the market and delivered to the member firms participating in the trade contemporaneous with execution. Once the Fund's daily NAV has been calculated and disseminated, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing.

Information regarding NAV-based trading prices, best bids and offers for Shares, and volume of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services.

Initial and Continued Listing

Shares will conform to the initial and continued listing criteria as set forth under Nasdaq Rule 5745. A minimum of 50,000 Shares and no less than two Creation Units of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily (on each day the New York Stock Exchange is open for trading) and provided to Nasdaq via the Mutual Fund Quotation Service (''MFQS'') by the fund accounting agent. As soon as the NAV is entered into MFQS, Nasdaq will disseminate the value to market participants and market data vendors via the Mutual Fund Dissemination Service (''MFDS'') so all firms will receive the NAV per Share at the same time. The Reporting Authority [26] also will ensure that the Composition File will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio positions and changes in the positions.

An estimated value of an individual Share, defined in Nasdaq Rule 5745(c)(2) as the ''Intraday Indicative Value,'' will be calculated and disseminated at intervals of not more than 15 minutes throughout the Regular Market Session [27] when Shares trade on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the IIV will be calculated on an intraday basis and provided to Nasdaq for dissemination via the Nasdaq Global Index Service (''GIDS'').

The IIV will be based on current information regarding the value of the securities and other assets held by the Fund.[28] The purpose of the IIVs is to enable investors to estimate the next-determined NAV so they can determine the number of Shares to buy or sell if they want to transact in an approximate dollar amount (*e.g.,* if an investor wants to acquire approximately $5,000 of the Fund, how many Shares should the investor buy?).[29]

The Adviser is not a registered broker-dealer, or affiliated with a broker-dealer. In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.

In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, such new adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Trading Halts

The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in Shares. Nasdaq will halt trading in Shares under the conditions specified in Nasdaq Rules 4120 and in Nasdaq Rule 5745(d)(2)(C). Additionally, Nasdaq may cease trading Shares if other unusual conditions or circumstances exist

[22] File Transfer Protocol (''FTP'') is a standard network protocol used to transfer computer files on the Internet. Nasdaq will arrange for the daily dissemination of an FTP file with executed Share trades to member firms and market data services.

[23] The Web site containing this information will be *www.brandesfunds.com.*

[24] The Web site containing the Fund's NAV will be *www.brandesfunds.com.* All other information listed will be made available on *www.nextshares.com,* which can be accessed directly and via a link on *www.brandesfunds.com.*

[25] *Id.*

[26] *See* Nasdaq Rule 5745(c)(4).

[27] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. ET; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. ET; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. ET).

[28] IIVs disseminated throughout each trading day would be based on the same portfolio as used to calculate that day's NAV. The Fund will reflect purchases and sales of portfolio positions in its NAV the next business day after trades are executed.

[29] Because, in NAV-Based Trading, prices of executed trades are not determined until the reference NAV is calculated, buyers and sellers of Shares during the trading day will not know the final value of their purchases and sales until the end of the trading day. The Fund's Registration Statement, Web site and any advertising or marketing materials will include prominent disclosure of this fact. Although IIVs may provide useful estimates of the value of intraday trades, they cannot be used to calculate with precision the dollar value of the Shares to be bought or sold.

which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. To manage the risk of a non-regulatory Share trading halt, Nasdaq has in place back-up processes and procedures to ensure orderly trading.

Because, in NAV-Based Trading, all trade execution prices are linked to end-of-day NAV, buyers and sellers of Shares should be less exposed to risk of loss due to intraday trading halts than buyers and sellers of conventional exchange-traded funds (''ETFs'') and other exchange-traded securities.

Every order to trade Shares of the Fund is subject to the proxy price protection threshold of plus/minus $1.00, which determines the lower and upper threshold for the life of the order and whereby the order will be cancelled at any point if it exceeds $101.00 or falls below $99.00, the established thresholds.[30] With certain exceptions, each order also must contain the applicable order attributes, including routing instructions and time-in-force information, as described in Nasdaq Rule 4703.[31]

Trading Rules

Nasdaq deems Shares to be equity securities, thus rendering trading in Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in Shares from 9:30 a.m. until 4:00 p.m. Eastern Time.

Surveillance

The Exchange represents that trading in Shares will be subject to the existing trading surveillances, administered by both Nasdaq and the Financial Industry Regulatory Authority, Inc. (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[32] The Exchange represents that these procedures are adequate to properly monitor trading of Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'')[33] regarding trading in Shares, and in exchange-traded securities and instruments held by the Fund (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), and FINRA may obtain trading information regarding such trading from other markets and other entities. In addition, the Exchange may obtain information regarding trading in Shares, and in exchange-traded securities and instruments held by the Fund (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and noting that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in Shares to customers; (3) how information regarding the IIV and Composition File is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing Shares prior to or concurrently with the confirmation of a transaction; and (5) information regarding NAV-Based Trading protocols.

As noted above, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. The Information Circular will discuss the effect of this characteristic on existing order types. The Information Circular also will identify the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a summary prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular also will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Fund's Web site.[34]

Information regarding Fund trading protocols will be disseminated to Nasdaq members in accordance with current processes for newly listed products. Nasdaq intends to provide its members with a detailed explanation of NAV-Based Trading through a Trading Alert issued prior to the commencement of trading in Shares on the Exchange.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing

[30] *See* Nasdaq Rule 5745(h).

[31] *See* Nasdaq Rule 5745(b)(6)

[32] FINRA provides surveillance of trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[33] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Fund's portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[34] *See supra* footnote 24.

requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[35] in general, and furthers the objectives of Section 6(b)(5) of the Act,[36] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5745. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Shares on Nasdaq and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Adviser is not a registered broker-dealer, and is not affiliated with a broker-dealer. In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.

In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, such new adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement, to the extent necessary.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange will obtain a representation from the issuer of Shares that the NAV per Share will be calculated on each business day that the New York Stock Exchange is open for trading and that the NAV will be made available to all market participants at the same time. In addition, a large amount of information would be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Prior to the commencement of market trading in Shares, the Fund will be required to establish and maintain a public Web site through which its current prospectus may be downloaded.[37] The Web site will display additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of Shares in Exchange trading; (b) the Closing Bid/Ask Midpoint; and (c) the Closing Bid/Ask Spread.[38] The Web site will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time.

The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free Web site.[39] The Exchange will obtain a representation from the issuer of the Shares that the IIV will be calculated and disseminated on an intraday basis at intervals of not more than 15 minutes during trading on the Exchange and provided to Nasdaq for dissemination via GIDS. A complete list of current portfolio positions for the Fund will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at its discretion.

Transactions in Shares will be reported to the Consolidated Tape at the time of execution in proxy price format and will be disseminated to member firms and market data services through Nasdaq's trading service and market data interfaces, as defined above. Once the Fund's daily NAV has been calculated and the final price of its intraday Share trades has been determined, Nasdaq will deliver a confirmation with final pricing to the transacting parties. At the end of the day, Nasdaq will also post a newly created FTP file with the final transaction data for the trading and market data services. The Exchange expects that information regarding NAV-based trading prices and volumes of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services. Because Shares will trade at prices based on the next-determined NAV, investors will be able to buy and sell individual Shares at a known premium or discount to NAV that they can limit by transacting using limit orders at the time of order entry. Trading in Shares will be subject to Nasdaq Rules 5745(d)(2)(B) and (C), which provide for the suspension of trading or trading halts under certain circumstances, including if, in the view of the Exchange, trading in Shares becomes inadvisable.

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 the Fund, which seeks to provide investors with access to an actively managed investment strategy in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the introduction of the Fund would promote competition by making available to investors an actively managed investment strategy in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV. Moreover, the Exchange believes that the proposed method of Share trading would provide investors with transparency of trading costs, and the ability to control trading costs using

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *See supra* footnote 23.

[38] *See supra* footnote 24

[39] *See supra* footnote 13.

limit orders, that is not available for conventionally traded ETFs.

These developments could significantly enhance competition to the benefit of the markets and investors.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2017–124 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–NASDAQ–2017–124. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–124 and should be submitted on or before December 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26121 Filed 12–4–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82171; File No. SR–GEMX–2017–54]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Shell Structure for the GEMX Rulebook

November 29, 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 November 17, 2017, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt a shell structure for the GEMX rulebook (''Rulebook'') as part of its initiative to structure its Rulebook.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 9, 2016, Nasdaq, Inc. acquired the capital stock of U.S. Exchange Holdings, thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC (now Nasdaq ISE, LLC), ISE Gemini, LLC (now GEMX) and ISE Mercury, LLC (now Nasdaq MRX, LLC)(''MRX'').[3] The acquisition resulted in a total of six self-regulatory organization licenses for Nasdaq, Inc. which, in addition to the three aforementioned exchanges, also include The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''Phlx'') and Nasdaq BX, Inc. (''BX'') (collectively, ''Nasdaq Entities'').

The Exchange is planning to conform the chapters of the various Nasdaq Entity rulebooks for efficiency, and conformity of certain Nasdaq Entity processes. The Exchange believes that aligning the rules of the Nasdaq Entities will assist market participants in navigating the various rulebooks. Specifically, the Exchange proposes to add a shell structure which would reside alongside the current rulebook. The proposed shell would outline the various chapters of the future rulebook

[40] 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. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11; SR–ISE Gemini–2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

and contains new chapter numbering. A similar shell would be filed to add the same structure to each of the other Nasdaq Entities. The proposed chapters would be similar for each shell filed for each of the Nasdaq Entities. In subsequent rule changes, each of the Nasdaq Entities would file rule changes to move their current rules into the various chapters of the proposed shells for all six markets and delete the migrated rule from the current location in the Rulebook.[4] The proposed shell would contain a general rule section and product specific section, in this case options, which would encompass all the rules of the Exchange.

The Exchange believes this new structure would align the Nasdaq Entities' rulebooks for ease of use by Members, who are members of more than one Nasdaq Entity. This proposal would not amend the current Rulebook and is therefore not a substantive change. A Member would continue to be able to view the current Rulebook alongside the proposed reorganized Rulebook. Subsequent rule changes will be filed to move the rule text into the shell Rulebook.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by starting the process of organizing its rules in a manner which is clear and consistent across the Nasdaq Entities. The Exchange believes that coordinating the chapters of the rulebooks among the Nasdaq Entities will provide Members, who are members of more than one Nasdaq Entity, with consistency and ease of reference in locating rules.

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 changes do not impose a burden on competition because the proposed amendments are non-substantive, are intended to start the process to organize the rules of the Exchange in a manner that will be more user-friendly to Nasdaq Entity members.

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[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) 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 requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange states that such waiver will enable the Exchange to start the process to reorganize the rulebooks of the Nasdaq Entities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and waiver will allow the Exchange to begin the reorganization of its Rulebook without delay. 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: (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–GEMX–2017–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2017–54. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should

[4] When relocating the current rule text into the new shell, the Exchange shall not amend the rule text but simply move existing rule text.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[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)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2017–54, and should be submitted on or before December 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26125 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82170; File No. SR–PHLX–2017–96]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section (a)(i)(D) of Rule 1012, Series of Options Open for Trading

November 29, 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 November 17, 2017, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The 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 Section (a)(i)(D) of Rule 1012, Series of Options Open for Trading, to delete two sentences regarding opening for trading of long term option series, which sentences have effectively been superseded by another rule.

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

Section (a)(i)(D) of Rule 1012 currently provides that the Exchange may list, with respect to any class of stock or Exchange-Traded Fund Share options series, options having from twelve up to thirty-nine months from the time they are listed until expiration. There may be up to six expiration months. Strike price interval, bid/ask differential and continuity rules shall not apply to such options series until the time to expiration is less than nine months.

Section (a)(i)(D) also provides in its last two sentences that such option series will open for trading either when there is buying or selling interest, or 40 minutes prior to the close, whichever occurs first, and that no quotations need to be posted for such option series until they are opened for trading. The Exchange proposes to delete the outdated provision of Section (a)(i)(D) regarding the time of opening as inconsistent with, and unnecessary in view of, Rule 1017, Openings in Options, which governs in detail all openings on the Exchange, including openings in long term option series.[3] The Exchange proposes to delete the Section (a)(i)(D) provision that no quotations need to be posted for such option series until they are opened for trading as superfluous, given that no quotations need to be posted for any series of options traded on the Exchange until they are opened for trading.[4]

Rule 1017 does provide in great detail for a fully automated opening of trading when there is buying or selling interest in all options series, including long term option series. Generally speaking, the fully automated opening process begins when either (1) a ''valid width'' specialist quote is submitted, (2) valid width quotes are received from at least two Exchange market makers within two minutes of the opening trade or quote in the underlying security or (3) after two minutes of the opening trade or quote in the underlying, valid width quotes are received from one Exchange market maker. If an opening imbalance exists outside of an acceptable range, the system will initiate an imbalance process. During this process the Exchange will consider interest on the Exchange as well as interest on away exchanges. If there is not an opening imbalance outside of an acceptable range on the Exchange, the system will verify that a ''quality opening market'' exists in order to validate the opening price prior to executing interest on the opening. A quality opening market is a bid/ask spread with an acceptable differential as defined by the Exchange. The bid/ask spread is made up of the best available bid, on the Exchange as well as away markets, and the best available offer, on the Exchange as well as away market. The acceptable bid/ask spread differentials can be found on the Exchange's Web site.

Rule 1017 does not provide for the opening of long term option series 40 minutes prior to the close. The Exchange proposes to remove this inconsistent anachronism, still found in Rule 1012(A)(i)(D), as the Exchange no longer believes that long term options warrant special opening treatment but should open like other options under Rule 1017, pursuant to a fully automated process in which options open once certain precise conditions have been met. Although removing the provision that long term option series must open forty minutes prior to the close of trading even if there is no buying or selling interest, the Exchange believes it will be rare for a long term option series not to have buying or selling interest in any event, due to Exchange members' quoting obligations.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange recently amended Rule 1017, Openings in Options, which clarified the manner in which the opening process occurs on Phlx. *See* Securities Exchange Act Release No. 80820 (May 31, 2017), 82 FR 26171 (June 6, 2017) (SR–Phlx–2017–40).

[4] The Exchange interprets ''posted'' in Section (a)(i)(D) as meaning published on the Options Price Reporting Authority (''OPRA''). Rule 1017(d)(iii) provides that ''[t]he Specialist assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index.'' The quote resulting from the Specialist's obligation under Rule 1017(d)(iii) is considered in the opening process of Rule 1017, and the Exchange publishes a quote in the option series once the option has been opened pursuant to that rule.

A number of exchanges' long term options series rules contain the same provisions contained in the last two sentences of Rule 1012(A)(i)(D). These provisions appear to have been put in place due to the fact that long-term series are usually very inactively traded.[5] Although long term options series continue to be inactively traded, the Exchange no longer believes it is necessary to accommodate long term options openings in this manner, and prefers to have the procedures specified in Rule 1017 apply uniformly across options classes for the sake of efficient operation of the Exchange and the minimization of investor confusion. The Exchange believes it is counterintuitive to impose such requirements with respect to long-term series when the requirements do not apply for other series that may be opened pursuant to Rule 1017. Further, the Exchange has no systemic means to force an option to open forty minutes prior to the close.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by eliminating an outdated provision regarding opening of long term option series, thereby eliminating an internal inconsistency in the Exchange's rulebook. The language the Exchange is proposing to remove is inconsistent with Rule 1017. Permitting opening of long term options series in the same manner as all other options, under the fully automated process set forth in Rule 1017 will result in operational efficiencies for the Exchange and will minimize potential investor confusion regarding the Exchange's opening procedures.

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 opening process for long term option series will continue to operate in the same manner as today, pursuant to Rule 1017. The proposal does not change the intense competition that exists among the options markets for options business including on the opening. Nor does the Exchange believe that the proposal will impose any burden on intra-market competition; the opening process involves many types of participants and interest. The proposal merely removes an outdated rule provision that is inconsistent with Rule 1017.

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[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[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 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–PHLX–2017–96 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2017–96. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PHLX–2017–96, and should be submitted on or before December 26, 2017.

[5] *See, e.g.,* Securities Exchange Act Release No. 30010 (November 27, 1991), 56 FR 63747 (December 5, 1991) (SR–NYSE–91–33) (Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to the Listing of Long-Term Equity Options), in which the Commission found that the New York Stock Exchange's proposal to open the long-term series for trading either when there is buying or selling interest or 40 minutes prior to the close (whichever occurs first) was consistent with the approach taken by the other options exchanges and was consistent with the Act because long-term series are usually very inactively traded. *See also* Chicago Board Options Exchange Rule 5.8(b) and NYSE Arca Rule 6.3(e)(i), which contain the same provisions the Exchange proposes to delete.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 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.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26124 Filed 12–4–17; 8:45 am]

BILLING CODE 8011–01–P

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

AGENCY: Selective Service System.

ACTION: Notice.

The following form has been submitted to the Office of Management and Budget (OMB) for extension of clearance with change in compliance with the Paperwork Reduction Act:

SSS Form 1

Title: The Selective Service System Registration Form.

Purpose: Is used to register men and establish a data base for use in identifying manpower to the military services during a national emergency.

Respondents: All 18-year-old males who are United States citizens and those male immigrants residing in the United States at the time of their 18th birthday are required to register with the Selective Service System.

Frequency: Registration with the Selective Service System is a one-time occurrence.

Burden: A burden of two minutes or less on the individual respondent.

Change: Collecting email addresses from respondents.

Copies of the above identified form can be obtained upon written request to the Selective Service System, Operations Directorate, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Written comments and recommendations for the proposed extension of clearance with change of the form should be sent within 60 days of the publication of this notice to the Selective Service System, Operations Directorate, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: November 27, 2017.

Donald M. Benton,

Director.

[FR Doc. 2017–26096 Filed 12–4–17; 8:45 am]

BILLING CODE 8015–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2017–0065]

Agency Information Collection Activities: 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 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–2017–0065].

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 January 4, 2018. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Letter to Employer Requesting Information About Wages Earned By Beneficiary—20 CFR 404.1520, 20 CFR 404.1571–404.1576, 20 CFR 404.1584–404.1593, and 20 CFR 416.971–416.976—0960–0034. Social Security disability recipients receive payments based on their inability to engage in substantial gainful activity (SGA) because of a physical or mental condition. If the recipients work, SSA must evaluate and determine if they continue to meet the disability requirements of the law. Therefore, we use Form SSA–L725 to request monthly earnings information from the recipient's employer. We then use the earnings data to determine whether the recipient is engaging in SGA, since work after a recipient becomes entitled to benefits can cause a cessation of disability. The respondents are businesses that employ Social Security disability recipients.

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–L725	150,000	1	40	100,000

2. Supplemental Security Income (SSI) Claim Information Notice—20 CFR, Subpart B, 416.210—0960–0324. Section 1611(e)(2) of the Social Security Act requires individuals to file for and obtain all payments (annuities, pensions, disability benefits, veteran's compensation, etc.) for which they are eligible before qualifying for SSI payments. Individuals do not qualify for SSI if they do not first apply for all other benefits. SSA uses the information on Form SSA–L8050–U3 to verify and establish a claimant's or recipient's eligibility under the SSI program. Respondents are SSI applicants or recipients who may be eligible for other

[10] 17 CFR 200.30–3(a)(12).

payments from public or private programs.

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–L8050–U3	17,044	1	10	2,841

3. Certification of Low Birth Weight for SSI Eligibility of Funds You Provided to Another and Statement of Funds You Received—20 CFR 416.931, 416.926a(m), and 416.924—0960–0720. Hospitals and claimants use Form SSA–3380 to provide medical information to local field offices (FO) and the Disability Determination Services (DDS) on behalf of infants with low birth weight. FOs use the form as a protective filing statement and the medical information to make presumptive disability findings, which allow expedited payment to eligible claimants. DDSs use the medical information to determine disability and continuing disability. The respondents are hospitals and claimants who have information identifying low birth weight babies and their medical conditions.

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–3380	28,125	1	15	7,031

Dated: November 30, 2017.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2017–26167 Filed 12–4–17; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2017–0191]

Request for Comments on the Renewal of a Previously Approved Information Collection: Request for Waiver of Service Obligation, Request for Deferment of Services Obligation, Application for Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on September 11, 2017 (**Federal Register** 42717, Vol. 82, No. 174).

DATES: Comments must be submitted on or before January 4, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Danielle Bennett (202) 366–5296, Office of Maritime Labor and Training, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Request for Waiver of Service Obligation, Request for Deferment of Services Obligation, Application for Review.

OMB Control Number: 2133–0510.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: This information collection is essential for determining if a student or graduate of the United States Merchant Marine Academy (USMMA) or subsidized student or graduate of a State maritime academy has a waivable situation preventing them from fulfilling the requirements of a service obligation contract signed at the time of their enrollment in a Federal maritime training program. It also permits the Maritime Administration (MARAD) to determine if a graduate, who wishes to defer the service obligation to attend graduate school, is eligible to receive a deferment. Their service obligation is required by law.

Respondents: U.S. Merchant Marine Academy students and graduates and subsidized students and graduates.

Affected Public: U.S. Merchant Marine Academy students and graduates and subsidized students and graduates.

Estimated Number of Respondents: 11.

Estimated Number of Responses: 11.

Estimated Hours per Response: 30 minutes.

Annual Estimated Total Annual Burden Hours: 5.30.

Frequency of Response: Annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93. * * *

By Order of the Maritime Administrator.

Dated: November 30, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–26171 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2017–0193]

Request for Comments on the Renewal of a Previously Approved Information Collection: Title XI Obligation Guarantees

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The information to be collected will be used to evaluate an applicant's project and capabilities, make the required determinations, and administer any agreements executed upon approval of loan guarantees. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on September 1, 2017 (**Federal Register** 41675, Vol. 82, No. 169).

DATES: Comments must be submitted on or before January 4, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Brian Rogers, 202–366–8159, Office of Marine Financing, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Title XI Obligation Guarantees—46 CFR part 298.

OMB Control Number: 2133–0018.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: In accordance with 46 U.S.C. Chapter 537, the Maritime Administration (MARAD) is authorized to execute a full faith and credit guarantee by the United States of debt obligations issued to finance or refinance the construction or reconstruction of vessels. In addition, the program allows for financing shipyard modernization and improvement projects.

Respondents: Individuals/businesses interested in obtaining loan guarantees for construction or reconstruction of vessels as well as businesses interested in shipyard modernization and improvements.

Affected Public: Individuals/businesses interested in obtaining loan guarantees for construction or reconstruction of vessels as well as businesses interested in shipyard modernization and improvements.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 10.

Estimated Hours per Response: 150.

Annual Estimated Total Annual Burden Hours: 1500.

Frequency of Response: Annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93. * * *

By Order of the Maritime Administrator.

Dated: November 30, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–26172 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2017–0190]

Request for Comments on the Renewal of a Previously Approved Information Collection: Application for Waiver of the Coastwise Trade Laws for Small Passenger Vessels

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used to process applications for waivers of the coastwise trade laws, and to determine the effect such waivers would have on United States vessel builders and United States-built vessel operators before granting or denying the waiver request. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before February 5, 2018.

ADDRESSES: You may submit comments [identified by Docket No. DOT–MARAD–20XX–0190 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, 202–366–0760, Office of Cargo and Commercial Sealift, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Email: *Michael.Hokana@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Waiver of the Coastwise Trade Laws for Small Passenger.

OMB Control Number: 2133–0529.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: Owners of small, foreign-built passenger vessels desiring a waiver of U.S. build requirement to operate commercially in the carriage of twelve passengers or less in domestic trade will be required to file a written application to the Maritime Administration (MARAD). The agency will review the application, post it for 30-days in the **Federal Register** to seek public comment, and then make a determination based on the record as to whether to grant the requested waiver or not.

Respondents: Small passenger vessel owners who desire to operate in the coastwise trade.

Affected Public: Business or other for Profit.

Estimated Number of Respondents: 138.

Estimated Number of Responses: 138.

Estimated Hours per Response: 1 hour.

Annual Estimated Total Annual Burden Hours: 138.

Frequency of Response: Annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93. * * *

By Order of the Maritime Administrator.

Dated: November 30, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–26173 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD 2017–0192]

Request for Comments on the Renewal of a Previously Approved Information Collection: Procedures for Determining Vessel Services Categories for Purposes of the Cargo Preference Act

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used by the Maritime Administration to create a list of Vessel Self-Designations and determine whether the Agency agrees or disagrees with a vessel owner's designation of a vessel. It will use data submitted with re-designation requests to determine whether or not a vessel should be re-designated into a different service category. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before February 5, 2018.

ADDRESSES: You may submit comments [identified by Docket No. DOT–MARAD–2017–0192] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Jan Downing, 202–366–0783, Office of Cargo and Commercial Sealift, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W23–308, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Procedures for Determining Vessel Services Categories for Purposes of the Cargo Preference Act.

OMB Control Number: 2133–0540.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The purpose is to provide information to be used in the designation of service categories of individual vessels for purposes of compliance with the Cargo Preference Act under a Memorandum of Understanding entered into by the U.S. Department of Agriculture, U.S. Agency for International Development, and the Maritime Administration. MARAD will use the data submitted by vessel operators to create a list of Vessel Self-Designations and determine whether MARAD agrees or disagrees with a vessel owner's designation of a vessel.

Respondents: Owners or operators of U.S.-registered vessels and foreign-registered vessels.

Affected Public: Owners or operators of U.S.-registered vessels and foreign-registered vessels.

Estimated Number of Respondents: 200.

Estimated Number of Responses: 200.

Estimated Hours per Response: 0.25.

Annual Estimated Total Annual Burden Hours: 50.

Frequency of Response: Annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93. * * *

By Order of the Maritime Administrator.

Dated: November 30, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–26170 Filed 12–4–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. IRS is soliciting comments concerning Payout Requirements for Type III Supporting Organizations that are not Functionally Integrated.

DATES: Written comments should be received on or before February 5, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment. Requests for additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 317–5745, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

Title: Payout Requirements for Type III Supporting Organizations that are not Functionally Integrated

OMB Number: 1545–2157.

Form Number: TD 9605 (REG–155929–06).

Abstract: This document contains both final regulations and temporary

regulations regarding the requirements to qualify as a Type III supporting organization that is operated in connection with one or more supported organizations. The regulations reflect changes to the law made by the Pension Protection Act of 2006. The regulations will affect Type III supporting organizations and their supported organizations.

Current Actions: This information collection is being updated with TD 9605. The paperwork burden previously approved by OMB is also being updated.

Type of Review: Review of a currently approved collection.

Affected Public: Not-for-profit institutions, State, Local or Tribal Governments.

Estimated Number of Respondents: 11,994.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 23,988.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments. We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Approved: November 29, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26115 Filed 12–4–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request for the IRS Taxpayer Burden Surveys

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the 2016, 2017 and 2018 IRS Taxpayer Burden Surveys.

DATES: Written comments should be received on or before February 5, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or at *Elaine.H.Christophe@irs.gov.*

FOR FURTHER INFORMATION CONTACT: Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment. Requests for additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 317–5745, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: IRS Taxpayer Burden Surveys.

OMB Number: 1545–2212.

Form Number: CS–11–276.

Abstract: Each year, individual taxpayers in the United States submit more than 140 million tax returns to the Internal Revenue Service (IRS). The IRS uses the information in these returns, recorded on roughly one hundred distinct forms and supporting schedules, to administer a tax system whose rules span thousands of pages. Managing such a complex and broad-based tax system is costly but represents only a fraction of the total burden of the tax system. Equally, if not more burdensome, is the time and out-of-pocket expenses that taxpayers spend in order to comply with tax laws and regulations.

The IRS has conducted prior surveys of individual taxpayers in 1984 (OMB 1545–0802), 1999 (OMB 1545–1688), 2000 (W&I taxpayers OMB 1545–1688, Self-employed taxpayers OMB 1545–1740), 2007 (OMB 1545–1349), 2010 through 2015 (this OMB Control Number). CY2010 and CY2014 Taxpayer Compliance Burden Surveys were conducted under this OMB Control Number.

The IRS has conducted Business Taxpayer Burden Survey for TY2009 (OMB 1545–1432) and TY2012 (this OMB Control Number). The IRS also conducted the TY2010 Tax Exempt Organization Burden Survey, and the CY2014 Business Compliance Burden Survey under this OMB Control Number.

The purpose of the taxpayer burden surveys is to gather data that will be used to update and expand the IRS Taxpayer Burden Model, a robust predictive model based on an improved burden estimation methodology. Information gathered by the surveys is not available in the administrative tax return data, so survey data are a critical input to the model.

The critical items on the surveys concern respondents' time and cost burden estimates for complying with tax filing requirement (or resolving a post-filing issue in the case of the Individual and Business Taxpayer Compliance Surveys). Additional items on the survey will serve as contextualizing variables for interpretation of the burden items. These items include information regarding tax preparation methods and activities, tax-related recordkeeping, gathering materials, learning about tax law, using IRS and/or non-IRS taxpayer services, and tax form completion.

Changes in tax regulations, tax administration, tax preparation methods, and taxpayer behavior continue to alter the amount and distribution of taxpayer burden. Data from updated surveys will better reflect the current tax rules and regulations, the increased usage of tax preparation software, increased efficiency of such software, changes in tax preparation regulations, the increased use of electronic filing, the behavioral response of taxpayers to the tax system, the changing use of services, both IRS and external, and related information collection needs.

Current Actions: New surveys are being added to this collection. Surveys Covered Under This Clearance Request.

Individual Taxpayers

2016 Individual Taxpayer Burden Survey
2017 Individual Taxpayer Burden Survey
2018 Taxpayer Compliance Burden Survey
2018 Individual Taxpayer Burden Survey

Entity Taxpayers

2016 Business Taxpayer Burden Survey
2017 Tax-Exempt Organization Burden Survey
2018 Business Compliance Burden Survey

Other

2017 Trust and Estate Burden Survey
2017 Employment Tax Burden Survey
2017 Information Return Burden Survey

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, Businesses, Tax-Exempt Organizations, Trusts and Estates.

Each survey respondent will receive a letter inviting them to complete the survey which they may spend about one minute reading. Each potential respondent will participate only once. The potential response rate, which varies depending on the type of survey, is indicated in the burden estimate charts below.

Estimated time to complete the surveys is based on results from prior cognitive interviews. We estimate that it will take approximately the same time to complete the mail, Web and phone versions of the questionnaire. The content included in each instrument will be the same.

Prior to conducting a survey with a new taxpayer group, focus groups will be conducted with internal and external stakeholders during the survey instrument development phase to ensure that the instrument survey items cover the main burden drivers for that group.

The total annual burden estimates for the covered surveys is as follows:

TY 2016 Surveys 14,083.33 hours
TY 2017 Surveys 29,497.53 hours
TY 2018 Surveys 17,550.00 hours

The estimated burden for each survey is itemized below:

Activity	Number of respondents	Frequency of response	Average time (minutes)	Annual hour burden
TY2016 Individual Taxpayer Burden Survey				
Reading prenote & reminder postcards	20,000	1	1	333.33
Survey Completion	20,000	1	15	5,000
Total				5,333.33
TY2016 Business Taxpayer Burden Survey				
Reading prenote & reminder postcards	25,000	1	1	416.67
Survey Completion	25,000	1	20	8,333.33
Total				8,750
TY2017 Individual Taxpayer Burden Survey				
Reading prenote & reminder postcards	25,000	1	1	416.67
Survey Completion	25,000	1	15	6,250
Total				6,666.67
TY2017 Tax-Exempt Organization Burden Survey				
.				
Reading prenote & reminder postcards	25,000	1	1	416.67
Survey Completion	25,000	1	15	6,250
Total				6,666.67
TY2017 Information Return Burden Survey				
Reading prenote & reminder postcards	20,000	1	1	333.33
Survey Completion	20,000	1	15	5,000
Total				5,333.33
TY2017 Trust and Estate Income Tax Burden Survey				
Answering screener questions *	60	1	1	1
Participating in the focus group *	36	1	90	54
Cognitive Testing *	36	1	60	36
Reading invitation letter & reminder postcards	20,000	1	1	333.33
Survey Completion	20,000	1	15	5,000
Total				5,424.33
TY2017 Employment Tax Burden Survey				
Reading prenote & reminder postcards	20,000	1	1	333.33

Activity	Number of respondents	Frequency of response	Average time (minutes)	Annual hour burden
Survey Completion	20,000	1	15	5,000
Total				5,333.33
TY2018 Taxpayer Compliance Burden Survey Pre-Work (Conducted in 2017) **				
Answering screener questions	64	1	3	3.2
Participating in the focus group	32	1	90	48
Answering screener questions	40	1	3	2
Participating in the focus group	20	1	60	20
Total				73.20
CY2018 Business Compliance Burden Survey				
Reading prenote & reminder postcards	25,000	1	1	416.67
Survey Completion	25,000	1	20	8,333.33
Total				8,750
TY2018 Individual Taxpayer Burden Survey				
Reading prenote & reminder postcards	20,000	1	1	333.33
Survey Completion	20,000	1	15	5,000
Total				5,333.33
CY2018 Taxpayer Compliance Burden Survey				
Reading prenote & reminder postcards	13,000	1	1	216.67
Survey Completion	13,000	1	15	3,250
Total				3,466.67

The annual burden cost to respondents is estimated to total $336,038 (14,083.33 hours × $23.86) for 2016, $70,811 (29,497.53 hours × $23.86) for 2017, and $418,743,968 (17,5500 hours × $23.86) for 2018. This estimate is derived using $23.86, the May 2016 average wage rate from the Bureau of Labor and Statistics Occupational Employment Statistics Survey.

* The TY2017 Trust and Estate Income Tax Burden Survey will be the first attempt to collect information from this taxpayer segment. To better inform the survey efforts and to ensure adequate feedback from relevant survey strata during the cognitive testing phase, we are requesting burden hours to conduct focus groups to inform survey instrument design and additional respondents for testing the draft survey instrument.

** This work will be conducted as part of the CY2018 Taxpayer Compliance Burden Survey data collection, but it will occur in 2017.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Approved: November 28, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26117 Filed 12–4–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. IRS is soliciting comments concerning Automatic Contribution Arrangements.

DATES: Written comments should be received on or before February 5, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue

Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or recordkeeping requirement number, and OMB number (if any) in your comment. Requests for additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 317–5745, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is seeking comments concerning the following forms, and reporting and recordkeeping requirements:

Title: Automatic Contribution Arrangements.

OMB Number: 1545–2135.

Regulation Project Number: TD 9447.

Abstract: This regulation provides guidance on how a qualified cash or deferred arrangement can become a qualified automatic contribution arrangement and avoid the ADP test of section 401(k)(3)(A)(ii). The regulation also provides guidance on how an automatic contribution arrangement can permit an employee to make withdrawals from an eligible automatic contribution arrangement that he did not wish to have the employer make.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30,000.

Estimated Time per Respondent: 60 minutes.

Estimated Total Annual Burden Hours: 30,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Approved: November 28, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26179 Filed 12–4–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8302

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8302, Electronic Deposit of Tax Refund of $1 Million or More.

DATES: Written comments should be received on or before February 5, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at (202) 317–6038, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Electronic Deposit of Tax Refund of $1 Million or More.

OMB Number: 1545–1763.

Form Number: 8302.

Abstract: This form is used to request an electronic deposit of a tax refund of $1 million or more directly into an account at any U.S. bank or other financial institution that accepts electronic deposits.

Current Actions: There are no changes being made to Form 8302 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 584.

Estimated Time per Respondent: 2.96 hours.

Estimated Total Annual Burden Hours: 1729.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 28, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26174 Filed 12–4–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning collection requirements related to disclosure of relative values of optional forms of benefit.

DATES: Written comments should be received on or before February 5, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Sara Covington, (202) 317 6038, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disclosure of Relative Values of Optional Forms of Benefit.

OMB Number: 1545–0928.

Regulation Project Number: T.D. 9099.

Abstract: This document contains final regulations that consolidate the content requirements applicable to explanations of qualified joint and survivor annuities and qualified preretirement survivor annuities payable under certain retirement plans, and specify requirements for disclosing the relative value of optional forms of benefit that are payable from certain retirement plans in lieu of a qualified joint and survivor annuity. These regulations affect plan sponsors and administrators, and participants in and beneficiaries of, certain retirement plans.

Current Actions: There are no changes to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Responses: 3,000,000.

Estimated Time per Response: .13 hours.

Estimated Total Annual Burden: 385,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 28, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26178 Filed 12–4–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to certain asset transfers to a tax exempt entity.

DATES: Written comments should be received on or before February 5, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Sara Covington, (202) 317 6038, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Certain Asset Transfers to a Tax-Exempt Entity.

OMB Number: 1545–1633.

Regulation Project Number: T.D. 8802.

Abstract: The written representation requested from a tax-exempt entity in regulations section 1.337(d)–4(b)(1)(A) concerns its plans to use assets received from a taxable corporation in a taxable unrelated trade or business. The taxable corporation is not taxable on gain if the assets are used in a taxable unrelated trade or business.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, business or other for-profit organizations.

Estimated Number of Respondents: 25.

Estimated Time per Respondent: 5 hrs.

Estimated Total Annual Burden Hours: 125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material

in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 28, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26175 Filed 12–4–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720X

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 720X, Amended Quarterly Federal Excise Tax Return.

DATES: Written comments should be received on or before February 5, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, (202) 317–6038, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Amended Quarterly Federal Excise Tax Return.

OMB Number: 1545–1759.

Form Number: 720X.

Abstract: Form 720X is used to make adjustments to liability reported on forms 720 you have filed for previous quarters. It can be filed by itself or it can be attached to any subsequent Form 720. Code section 6416(d) allows taxpayers to take a credit on a subsequent return rather than filing a refund claim. The creation of Form 720X is to provide a uniform standard for trust fund accounting.

Current Actions: There are no changes being made to Form 720X at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 22,000.

Estimated Time per Response: 6 hrs, 56 minutes.

Estimated Total Annual Burden Hours: 152,460.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 28, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26177 Filed 12–4–17; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 82 Tuesday,

No. 232 December 5, 2017

Part II

The President

Proclamation 9679—National Impaired Driving Prevention Month, 2017
Proclamation 9680—World AIDS Day, 2017

Federal Register
Vol. 82, No. 232
Tuesday, December 5, 2017

Presidential Documents

Title 3—

The President

Proclamation 9679 of November 30, 2017

National Impaired Driving Prevention Month, 2017

By the President of the United States of America

A Proclamation

On average, every 50 minutes, a person in the United States dies in a vehicle crash involving alcohol. We have seen too many lives cut short by impaired driving, and too many drivers continue to put themselves and others at risk every day. During National Impaired Driving Prevention Month, we reemphasize that impaired driving is never acceptable. We recognize that we can eliminate impaired driving through our choices, and we pledge to make the right choice by driving sober.

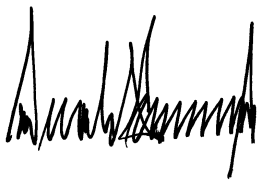
Forty years ago, alcohol was a factor in almost two-thirds of all traffic fatalities. Through the tireless efforts of States, communities, and advocacy organizations, we have made tremendous progress in reducing impaired driving and protecting the American people. Unfortunately, for the second consecutive year, we have seen an increase in the number of alcohol-impaired traffic fatalities on America's roadways. In 2016, more than 10,000 people died in alcohol-impaired crashes, accounting for 28 percent of all traffic fatalities. We must reverse this trend.

Drinking and driving affects all Americans. In 2012, 4.2 million adults reported having driven at least once within a 30-day span while impaired by alcohol. Driving while impaired, even after one drink, can dramatically change the lives of drivers, passengers, innocent bystanders, and their loved ones. My Administration is committed to raising awareness about the dangers of impaired driving and to eliminating it from our communities. Additionally, by reducing hundreds of harmful regulations, we are supporting our innovative American companies as they create new technology that can help us address impaired driving, from ride-hailing services to advanced vehicle technology. My Administration is also providing vital resources to law enforcement to support their efforts to keep our surroundings safe.

Ultimately, the responsibility for preventing impaired driving lies with each of us. We care for our loved ones when we keep them safe and prevent them taking the wheel after drinking alcohol. By taking action to educate our fellow Americans, through coordinated efforts with family, friends, neighbors, schools, churches, and community organizations, we can reduce deaths and accidents arising from impaired driving.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 2017 as National Impaired Driving Prevention Month. I urge all Americans to make responsible decisions and take appropriate measures to prevent impaired driving.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–26355
Filed 12–4–17; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9680 of November 30, 2017

World AIDS Day, 2017

By the President of the United States of America

A Proclamation

The first documented cases of the human immunodeficiency virus infection (HIV) and acquired immune deficiency syndrome (AIDS) 36 years ago became the leading edge of an epidemic that swept across the United States and around the globe, devastating millions of individuals, families, and communities. As a Nation, we felt fear and uncertainty as we struggled to understand this new disease. In the decades since—through public and private American leadership, innovation, investment, and compassion—we have ushered in a new, hopeful era of prevention and treatment. Today, on World AIDS Day, we honor those who have lost their lives to AIDS, we celebrate the remarkable progress we have made in combatting this disease, and we reaffirm our ongoing commitment to end AIDS as a public health threat.

Since the beginning of the HIV/AIDS epidemic, more than 76 million people around the world have become infected with HIV and 35 million have died from AIDS. As of 2014, 1.1 million people in the United States are living with HIV. On this day, we pray for all those living with HIV, and those who have lost loved ones to AIDS.

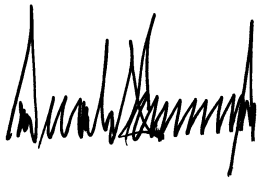
As we remember those who have died and those who are suffering, we commend the immense effort people have made to control and end the HIV/AIDS epidemic. In the United States, sustained public and private investments in HIV prevention and treatment have yielded major successes. The number of annual HIV infections fell 18 percent between 2008 and 2014, saving an estimated $14.9 billion in lifetime medical costs. We have also experienced successes around the globe. Through the President's Emergency Plan for AIDS Relief (PEPFAR) and its data-driven investments in partnership with more than 50 countries, we are supporting more than 13.3 million people with lifesaving antiretroviral treatment. We remain deeply committed to supporting adolescent girls and young women through this program, who are up to 14 times more likely to contract HIV than young men in some sub-Saharan African countries. Our efforts also include the DREAMS (Determined, Resilient, Empowered, AIDS-free, Mentored, and Safe) public-private partnership, which has resulted in a 25–40 percent decline in new HIV infections among young women in districts in 10 highly affected African countries during the last 2 years.

While we have made considerable progress in recent decades, tens of thousands of Americans are infected with HIV every year. My Administration will continue to invest in testing initiatives to help people who are unaware they are living with HIV learn their status. Internationally, we will rapidly implement the recent *PEPFAR Strategy for Accelerating HIV/AIDS Epidemic Control* (2017–2020), which uses data to guide investments and efforts in more than 50 countries to reach epidemic control.

Due to America's leadership and private sector philanthropy and innovation, we have saved and improved millions of lives and shifted the HIV/AIDS epidemic from crisis toward control. We are proud to continue our work with many partners, including governments, private-sector companies, philanthropic organizations, multilateral institutions, civil society and faith-based organizations, people living with HIV, and many others.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 2017, as World AIDS Day. I urge the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and the American people to join me in appropriate activities to remember those who have lost their lives to AIDS and to provide support and compassion to those living with HIV.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–26358
Filed 12–4–17; 11:15 am]
Billing code 3295–F8–P

Reader Aids

Federal Register

Vol. 82, No. 232

Tuesday, December 5, 2017

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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