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Contents

Federal Register

Vol. 83, No. 108

Tuesday, June 5, 2018

Agriculture Department
See Forest Service

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data, 26089–26090
Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition & Implements of War on the U.S. Munitions Import List, 26090–26091
Report of Firearms Transactions—Demand 2, 26091–26092

Antitrust Division
NOTICES
Changes Under the National Cooperative Research and Production Act:
Cooperative Research Group on HEDGE IV, 26092
Cooperative Research Group on ROS-Industrial Consortium-Americas, 26092–26093
Open Mobile Alliance, 26092

Centers for Disease Control and Prevention
NOTICES
Meetings:
Board of Scientific Counselors, National Center for Injury Prevention and Control; Correction, 26058–26059

Centers for Medicare & Medicaid Services
RULES
Medicare Program:
Update to the Required Prior Authorization List of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Items That Require Prior Authorization as a Condition of Payment, 25947–25949

Civil Rights Commission
NOTICES
Meetings:
Alaska Advisory Committee, 25996
Oregon Advisory Committee, 25995–25996

Coast Guard
RULES
Great Lakes Pilotage Rates—2018 Annual Review and Revisions to Methodology, 26162–26193

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Request for the Appointment of a Technical Advisory Committee, 25996–25997

Community Living Administration
NOTICES
Availability of Program Application Instructions for MIPPA Program Funds, 26059–26060

Consumer Product Safety Commission
NOTICES
Guidance:
Draft Guidelines for Determining Age Appropriateness of Toys; Extension of Comment Period, 26038–26039

Defense Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 26039–26040

Education Department
NOTICES
Applications for New Awards:
Expanding Opportunity Through Quality Charter Schools Program—National Dissemination Grants, 26041–26048
Listening Sessions:
Federal Commission on School Safety, 26040–26041

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
New Hampshire; Nonattainment Plan for the Central New Hampshire Sulfur Dioxide Nonattainment Area, 25922–25936
Texas; Infrastructure and Interstate Transport for the 2012 Fine Particulate Matter Ambient Air Quality Standard, 25920–25922
Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States:
New Mexico, 25936
Pesticide Tolerances:
Alpha-cypermethrin, 25941–25943
Tolerance Exemptions:
Ethoxylated Fatty Acid Methyl Esters, 25936–25941
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Alabama; Plan for Control of Emissions From Commercial and Industrial Solid Waste Incineration Units, 25983–25986
Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard Interstate Transport, 25979–25981
Nebraska Air Quality Implementation Plan; Particulate Emissions; Limitations and Standards, 25975–25977
Nebraska; Revisions to the Nebraska Administrative Code; Rules of Practice and Procedure, 25977–25979
Rhode Island; Control of Volatile Organic Compound Emissions, Control of Nitrogen Oxide Emissions, and Sulfur Content of Fuels, 25981–25983

Proposed Authorizations of State Hazardous Waste Management Program:
North Dakota; Revisions, 25986–25994
NOTICES
Certain New Chemical Substances:
Receipt and Status Information for February 2018, 26052–26057

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Airplanes, 25898–25901
Bombardier, Inc., Airplanes, 25882–25885
The Boeing Company Airplanes, 25885–25898
Class D Airspace; Establishments; Class D Airspace; Revocations; Class E Airspace; Amendments:
Burns Flat, OK; Clinton-Sherman Airport, OK; Burns Flat, Clinton, and Elk City, OK, 25905–25907
Class D and E Airspace; Amendments and Class E Airspace; Establishments:
Norman, OK; Oklahoma City, OK, 25902–25904
Class E Airspace; Amendments:
Duncan, OK, 25901–25902
Class E Airspace; Amendments; Class E Airspace; Establishments:
Flint, MI; Owosso, MI, 25904–25905
Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures:
Miscellaneous Amendments, 25907–25910
PROPOSED RULES
Class D and E Airspace; Amendments, and Class E Airspace; Revocation:
New Smyrna Beach, FL, 25973–25975
Class D and E Airspace; Amendments:
Eau Claire, WI, 25969–25971
Williamsport, PA, 25967–25969
Class D and E Airspace; Amendments; Class E Airspace; Establishments:
Austin, TX; Georgetown and Austin, TX, 25971–25973

Federal Communications Commission
RULES
Revitalization of the AM Radio Service, 25949–25950

Federal Deposit Insurance Corporation
NOTICES
Terminations of Receiverships, 26057–26058

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 26049–26051
Environmental Impact Statements; Availability, etc.:
Yuba County Water Agency; Yuba River Development Project, 26049–26050
Petitions for Declaratory Orders:
Sunrise Pipeline LLC, 26051
Records Governing Off-the-Record Communications, 26048–26049

Federal Financial Institutions Examination Council
NOTICES
Meetings:
Appraisal Subcommittee, 26058

Federal Motor Carrier Safety Administration
NOTICES
Hours of Service of Drivers; Exemption Applications:
Small Business in Transportation Coalition, 26140–26141

Federal Railroad Administration
NOTICES
Petitions for Waivers of Compliance, 26141–26142

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 26058

Food and Drug Administration
RULES
Medical Devices:
Exemptions From Premarket Notification; Class II Devices, 25910–25915
NOTICES
Guidance:
Formal Meetings Between the Food and Drug Administration and Sponsors or Applicants of Biosimilar User Fee Act Products, 26060–26062

Forest Service
NOTICES
Meetings:
Sabine-Angelina Resource Advisory Committee, 25995

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Community Living Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
RULES
340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation, 25943–25947
NOTICES
Findings of Research Misconduct, 26065–26066
Meetings:
Tick-Borne Disease Working Group, 26065

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Office of the Advancement of Telehealth Outcome Measures, 26063–26064
The Maternal, Infant, and Early Childhood Home Visiting Program Performance Measurement Information System, 26062–26063
The Secretary's Advisory Committee on Heritable Disorders in Newborns and Children's Public Health System Assessment Surveys, 26064–26065

Homeland Security Department
See Coast Guard
See U.S. Citizenship and Immigration Services
See U.S. Customs and Border Protection
See U.S. Immigration and Customs Enforcement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Private Sector Clearance Program Request Form, 26073–26074

Housing and Urban Development Department
NOTICES
Housing Trust Fund; Fiscal Year 2018 Allocation Notice, 26080–26081

Industry and Security Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Licensing Responsibilities and Enforcement, 25997

Interior Department
See Office of Natural Resources Revenue

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 26148–26149

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Citric Acid and Certain Citrate Salts From Thailand, 26004–26006
Stainless Steel Flanges From the People's Republic of China, 26006–26008
Determinations of Sale at Less Than Fair Value:
Citric Acid and Certain Citrate Salts From Belgium, 26001–26002
Citric Acid and Certain Citrate Salts From Colombia, 26002–26004
Citric Acid and Certain Citrate Salts From Thailand, 25998–26000
Meetings:
Trade Finance Advisory Council, 25997–25998

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Blood Cholesterol Testing Strips and Associated Systems Containing the Same, 26087–26088
Certain Blow-Molded Bag-In-Container Devices, Associated Components, and End Products Containing or Using Same, 26088–26089
Cold-Drawn Mechanical Tubing From China, Germany, India, Italy, Korea, and Switzerland, 26088

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
See Antitrust Division
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 26093–26095

Labor Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Youth CareerConnect Evaluation, 26095–26096

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 26096

Maritime Administration
NOTICES
Requests for Administrative Waivers of the Coastwise Trade Laws:
Vessel BLAZE II, 26143–26144
Vessel GRATITUDE, 26142
Vessel INFINITY, 26142–26143
Vessel INTRIGUE, 26143

National Aeronautics and Space Administration
NOTICES
Meetings:
National Space Council Users' Advisory Group, 26096

National Archives and Records Administration
NOTICES
Records Schedules, 26097–26098

National Credit Union Administration
RULES
Commercial Lending, 25881–25882

National Institute of Standards and Technology
NOTICES
Meetings:
Information Security and Privacy Advisory Board, 26008

National Institutes of Health
NOTICES
Government-Owned Inventions; Availability for Licensing, 26070–26071
Meetings:
Center for Scientific Review, 26066–26069, 26071
National Cancer Institute, 26069–26070
National Heart, Lung, and Blood Institute, 26068–26069
National Institute of General Medical Sciences, 26071–26072
National Institute of Mental Health, 26072
National Institute of Neurological Disorders and Stroke, 26070

National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 26011–26012
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certification Requirements for Distributors of NOAA Electronic Navigational Charts/NOAA Hydrographic Products, 26008–26009
Environmental Impact Statements; Availability, etc.:
Washington Department of Fish and Wildlife and Puget Sound Tribes, 26009
Meetings:
Definition of Fish Aggregating Devices, 26011
Northeast Regional Stock Assessment Workshop and Stock Assessment Review Committee, 26012–26013
Pacific Island Fisheries; Western Pacific Stock Assessment Review, 26010–26011
Permit Applications:
Marine Mammals; File No. 21719, 26009–26010
Takes of Marine Mammals Incidental to Specified Activities:
Demolition and Reuse of the Original East Span of the San Francisco Oakland Bay Bridge, 26013–26036

National Telecommunications and Information Administration

NOTICES
International Internet Policy Priorities, 26036–26038

Nuclear Regulatory Commission
NOTICES
Facility Operating and Combined Licenses:
Applications and Amendments Involving No Significant Hazards Considerations; Biweekly Notice, 26098–26109
Applications and Amendments Involving Proposed No Significant Hazards Considerations, etc., 26112–26119
Guidance:
Effect of LWR Water Environments on the Fatigue Life of Reactor Materials, 26111–26112
Guidelines for Evaluating the Effects of Light-Water Reactor Water Environments in Fatigue Analyses of Metal Components, 26110–26111
Meetings:
Advisory Committee on Reactor Safeguards; Subcommittee on APR1400, 26109
Advisory Committee on Reactor Safeguards; Subcommittee on NuScale, 26109–26110
Advisory Committee on Reactor Safeguards; Subcommittee on Planning and Procedures, 26112

Office of Natural Resources Revenue
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Delegated and Cooperative Activities With States and Indian Tribes, 26081–26087

Pension Benefit Guaranty Corporation
NOTICES
Pendency for Request for Approval of Special Withdrawal Liability Rules:
Alaska Electrical Pension Plan of the Alaska Electrical Pension Fund, 26119–26121

Pipeline and Hazardous Materials Safety Administration
NOTICES
Hazardous Materials:
Updated Rail Tank Car Thermal Protection Systems List, 26144–26148

Presidential Documents
PROCLAMATIONS
Special Observances:
African-American Music Appreciation Month (Proc 9763), 26201–26202
National Caribbean-American Heritage Month (Proc. 9760), 25879–25880
National Homeownership Month (Proc. 9761), 26195–26198
National Ocean Month (Proc. 9762), 26199–26200
Trade:
Aluminum; Adjusting Imports Into the U.S. (Proc. 9758), 25849–25855
Steel; Adjusting Imports Into the U.S. (Proc. 9759), 25857–25877

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 26131
Self-Regulatory Organizations; Proposed Rule Changes:
Miami International Securities Exchange LLC, 26123–26125
Nasdaq BX, Inc., 26129–26131
Nasdaq PHLX LLC, 26128–26129
New York Stock Exchange LLC, 26125–26128
NYSE American LLC, 26121–26123, 26131–26134
NYSE Arca, Inc., 26134–26136
NYSE National, Inc., 26136–26138

Small Business Administration
NOTICES
Disaster Declarations:
Kentucky, 26138–26139
Ohio, 26139
Exemptions:
Medley SBIC, LP, 26139
Surrender of License:
Kinderhook Captial SBIC Fund I, LP, 26139

Surface Transportation Board
NOTICES
Abandonment Exemptions; Discontinuance of Service Exemptions:
BNSF Railway Co., Des Moines, Polk County, IA; Norfolk Southern Railway Co., Des Moines, Polk County, IA, 26139–26140

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See Maritime Administration
See Pipeline and Hazardous Materials Safety Administration

Treasury Department
See Internal Revenue Service

U.S. Citizenship and Immigration Services
NOTICES
Termination of the Designation of Honduras for Temporary Protected Status, 26074–26080

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Ship's Store Declaration, 26072–26073

U.S. Immigration and Customs Enforcement
PROPOSED RULES
Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches, 25951–25967

Veterans Affairs Department
RULES
Case Management Services Grant Program, 25915–25920
NOTICES
Funding Availability:
Grants for Transportation of Veterans in Highly Rural Areas, 26149–26159

Separate Parts In This Issue

Part II
Homeland Security Department, Coast Guard, 26162–26193

Part III
Presidential Documents, 26195–26202

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

9704 (Amended by Proc. 9758) 25849
9705 (Amended by Proc. 9759) 25857
9710 (Amended by Proc. 9758) 25849
9711 (Amended by Proc. 9759) 25857
9739 (Amended by Proc. 9758) 25849
9740 (Amended by Proc. 9759) 25857
9758.....25849
9759.....25857
9760.....25879
9761.....26197
9762.....26199
9763.....26201

8 CFR

Proposed Rules:

103.....25951

12 CFR

702.....25881
723.....25881

14 CFR

39 (5 documents) 25882, 25885, 25891, 25894, 25898
71 (4 documents) 25901, 25902, 25904, 25905
97 (2 documents) 25907, 25909

Proposed Rules:

71 (4 documents) 25967, 25969, 25971, 25973

21 CFR

862.....25910
866.....25910
876.....25910
880.....25910
884.....25910

38 CFR

17.....25915

40 CFR

52 (2 documents) 25920, 25922
60.....25936
61.....25936
63.....25936
180 (2 documents) 25936, 25941

Proposed Rules:

52 (4 documents) 25975, 25977, 25979, 25981
62.....25983
271.....25986
272.....25986

42 CFR

10.....25943
414.....25947

46 CFR

401.....26162
404.....26162

47 CFR

73.....25949

Federal Register
Vol. 83, No. 108
Tuesday, June 5, 2018

Presidential Documents

Title 3—

The President

Proclamation 9758 of May 31, 2018

Adjusting Imports of Aluminum Into the United States

By the President of the United States of America

A Proclamation

1. On January 19, 2018, the Secretary of Commerce (Secretary) transmitted to me a report on his investigation into the effect of imports of aluminum articles on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862).

2. In Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States), I concurred in the Secretary's finding that aluminum articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States, and decided to adjust the imports of aluminum articles, as defined in clause 1 of Proclamation 9704, as amended (aluminum articles), by imposing a 10 percent ad valorem tariff on such articles imported from most countries, beginning March 23, 2018. I further stated that any country with which we have a security relationship is welcome to discuss with the United States alternative ways to address the threatened impairment of the national security caused by imports from that country, and noted that, should the United States and any such country arrive at a satisfactory alternative means to address the threat to the national security such that I determine that imports from that country no longer threaten to impair the national security, I may remove or modify the restriction on aluminum articles imports from that country and, if necessary, adjust the tariff as it applies to other countries, as the national security interests of the United States require.

3. In Proclamation 9710 of March 22, 2018 (Adjusting Imports of Aluminum Into the United States), I noted the continuing discussions with the Argentine Republic (Argentina), the Commonwealth of Australia (Australia), the Federative Republic of Brazil (Brazil), Canada, Mexico, the Republic of Korea (South Korea), and the European Union (EU) on behalf of its member countries, on satisfactory alternative means to address the threatened impairment to the national security posed by imports of aluminum articles from those countries. Recognizing that each of these countries and the EU has an important security relationship with the United States, I determined that the necessary and appropriate means to address the threat to national security posed by imports of aluminum articles from these countries was to continue the ongoing discussions and to exempt aluminum articles imports from these countries from the tariff proclaimed in Proclamation 9704, as amended, until May 1, 2018.

4. In Proclamation 9739 of April 30, 2018 (Adjusting Imports of Aluminum Into the United States), I noted that the United States had agreed in principle with Argentina, Australia, and Brazil on satisfactory alternative means to address the threatened impairment to our national security posed by aluminum articles imports from these countries and extended the temporary exemption of these countries from the tariff proclaimed in Proclamation 9704, as amended, in order to finalize the details.

5. The United States has agreed on a range of measures with Argentina and Australia, including measures to reduce excess aluminum production and excess aluminum capacity, measures that will contribute to increased

capacity utilization in the United States, and measures to prevent the transshipment of aluminum articles and avoid import surges. In my judgment, these measures will provide effective, long-term alternative means to address these countries' contribution to the threatened impairment to our national security by restraining aluminum articles exports to the United States from each of them, limiting transshipment and surges, and discouraging excess aluminum capacity and excess aluminum production. In light of these agreements, I have determined that aluminum articles imports from these countries will no longer threaten to impair the national security and thus have decided to exclude these countries from the tariff proclaimed in Proclamation 9704, as amended. The United States will monitor the implementation and effectiveness of the measures agreed upon with these countries to address our national security needs, and I may revisit this determination, as appropriate.

6. In light of my determination to exclude, on a long-term basis, these countries from the tariff proclaimed in Proclamation 9704, as amended, I have considered whether it is necessary and appropriate in light of our national security interests to make any corresponding adjustments to such tariff as it applies to other countries. I have determined that, in light of the agreed-upon measures with these countries, and the fact that the tariff will now apply to imports of aluminum articles from additional countries, it is necessary and appropriate, at this time, to maintain the current tariff level as it applies to other countries.

7. Section 232 of the Trade Expansion Act of 1962, as amended, authorizes the President to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

8. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTSUS) the substance of statutes affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including section 232 of the Trade Expansion Act of 1962, as amended, section 301 of title 3, United States Code, and section 604 of the Trade Act of 1974, as amended, do hereby proclaim as follows:

(1) Clause 2 of Proclamation 9704, as amended, is further amended by striking the last two sentences and inserting in lieu thereof the following two sentences: ''Except as otherwise provided in this proclamation, or in notices published pursuant to clause 3 of this proclamation, all aluminum articles imports specified in the Annex shall be subject to an additional 10 percent ad valorem rate of duty with respect to goods entered for consumption, or withdrawn from warehouse for consumption, as follows: (a) on or after 12:01 a.m. eastern daylight time on March 23, 2018, from all countries except Argentina, Australia, Brazil, Canada, Mexico, South Korea, and the member countries of the European Union, (b) on or after 12:01 a.m. eastern daylight time on May 1, 2018, from all countries except Argentina, Australia, Brazil, Canada, Mexico, and the member countries of the European Union, and (c) on or after 12:01 a.m. eastern daylight time on June 1, 2018, from all countries except Argentina and Australia. This rate of duty, which is in addition to any other duties, fees, exactions, and charges applicable to such imported aluminum articles, shall apply to imports of aluminum articles from each country as specified in the preceding sentence.''.

(2) In order to implement a quota treatment on aluminum articles imports from Argentina, U.S. note 19 to subchapter III of chapter 99 of the HTSUS is amended as provided for in Part A of the Annex to this proclamation. U.S. Customs and Border Protection (CBP) of the Department of Homeland Security shall implement this quota as soon as practicable, taking into account all aluminum articles imports from this country since January 1, 2018.

(3) The ''Article description'' for heading 9903.85.01 of the HTSUS is amended by deleting ''of Brazil, of Canada, of Mexico, or of the member countries of the European Union''.

(4) For the purposes of administering the quantitative limitations applicable to subheadings 9903.85.05 through 9903.85.06 for Argentina, the annual aggregate limits set out in Part B of the Annex to this proclamation shall apply for the period starting with calendar year 2018 and for subsequent years, unless modified or terminated. The quantitative limitations applicable to subheadings 9903.85.05 through 9903.85.06 for Argentina, which for calendar year 2018 shall take into account all aluminum articles imports from Argentina since January 1, 2018, shall be effective for aluminum articles entered for consumption, or withdrawn from warehouse for consumption, on or after June 1, 2018, and shall be implemented by CBP as soon as practicable, consistent with the superior text to subheadings 9903.85.05 through 9903.85.06. The Secretary of Commerce shall monitor the implementation of the quantitative limitations applicable to subheadings 9903.85.05 through 9903.85.06 and shall, in consultation with the Secretary of Defense, the United States Trade Representative, and such other senior Executive Branch officials as the Secretary deems appropriate, inform the President of any circumstance that in the Secretary's opinion might indicate that an adjustment of the quantitative limitations is necessary.

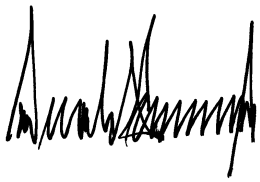
(5) The Secretary of Commerce, in consultation with CBP and with other relevant executive departments and agencies, shall revise the HTSUS so that it conforms to the amendments and effective dates directed in this proclamation. The Secretary shall publish any such modification to the HTSUS in the *Federal Register*.

(6) Clause 5 of Proclamation 9710, as amended, is amended by striking the phrase ''as amended by Proclamation 9710,'' in the first and second sentences and inserting in lieu thereof the following phrase: ''as amended, or to the quantitative limitations established by proclamation,''. Clause 5 of Proclamation 9710, as amended, is further amended by inserting the phrase ''or quantitative limitations'' after the words ''ad valorem rates of duty'' in the first and second sentences.

(7) Clause 4 of Proclamation 9739 is amended by striking the phrase ''as amended by clause 1 of this proclamation,'' and inserting in lieu thereof the following phrase: ''as amended, or to the quantitative limitations established by proclamation,'' in the first sentence. Clause 4 of Proclamation 9739 is further amended by striking the words ''by clause 3 of this proclamation'' from the second sentence.

(8) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



Billing code 3295–F8–P

ANNEX

TO MODIFY CERTAIN PROVISIONS OF CHAPTER 99 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

A. Subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is modified below, with the material in the new tariff provisions inserted in the columns labeled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special," and "Rates of Duty 2", respectively. Except as provided in the superior text to subheadings 9903.85.05 and 9903.85.06, the modifications shall be effective for goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 1, 2018. Quota amounts are calculated beginning on January 1 of each calendar year, including for calendar year 2018.

1. The following new subdivision (a)(ii) is inserted in numerical sequence in U.S. note 19 to subchapter III:

> "(ii) Subheadings 9903.85.05 and 9903.85.06, inclusive, provide the ordinary customs duty and quota treatment of such goods enumerated in subdivision (b) of this note when they are the product of any country enumerated in the superior text thereto and expressly exempt from the scope of heading 9903.85.01, subject to the limitations in subdivision (e) of this note."

2. The text of subdivisions (b) and (d) of such U.S. note 19 are each modified by deleting "heading 9903.85.01" and by inserting in lieu thereof "heading 9903.85.01 and subheadings 9903.85.05 and 9903.85.06, inclusive,".

3. The following new subdivision (e) is hereby inserted at the end of such U.S. note 19:

> "(e) Subheadings 9903.85.05 and 9903.85.06, inclusive, set forth the ordinary customs duty treatment for the aluminum products (as enumerated in subdivision (b) of this note) of any country enumerated in the superior text to such subheadings, subject to the annual aggregate quantitative limitations proclaimed for these subheadings and as set forth on the Internet site of CBP at the following link: https://www.cbp.gov/trade/quota. Beginning on July 1, 2018, imports from any such country in an aggregate quantity under any such subheading during any of the periods January through March, April through June, July through September, or October through December in any year that is in excess of 500,000 kg and in excess of 30 percent of the total aggregate quantity provided for a calendar year for such country, as set forth on the Internet site of CBP, shall not be allowed."

4. The following new subheadings and superior text thereto are inserted in numerical sequence in subchapter III:

Heading/ Subheading	Article description	Rates of Duty		
		1		2
		General	Special	
	Aluminum products of Argentina enumerated in U.S. note 19(b) to this subchapter, if entered in aggregate quantities prescribed in subdivision (e) of such note for any calendar year starting on January 1, 2018 and for any portion thereof as prescribed in such subdivision (e):			
9903.85.05	Unwrought aluminum, provided for in heading 7601...	The duty provid-ed in the applic-able subhe-ading	The duty provided in the applicable subheading (AU, BH, CA, CL, CO, E, IL, JO, KR, MA, MX, OM, P, PA, PE, SG)	
9903.85.06	Wrought aluminum, provided for in headings 7604, 7605, 7606, 7607, 7606, 7607, 7608, 7609 and castings and forgings of aluminum provided for in subheading 7616.99.51.....	The duty provid-ed in the applic-able subhe-ading	The duty provided in the applicable subheading (AU, BH, CA, CL, CO, E, IL, JO, KR, MA, MX, OM, P, PA, PE, SG)	

B. For the purposes of administering the quantitative limitations applicable to subheadings 9903.85.05 and 9903.85.06 (as created in part A of this annex), the following annual aggregate limits shall apply for the period starting with calendar year 2018 and for subsequent years, unless modified or terminated:

ARGENTINA

Heading/ Subheading	Article description	Quantitative Limitation
	Aluminum products of Argentina enumerated in U.S. note 19(b) to this subchapter, if entered in aggregate quantities prescribed in subdivision (e) of such note for any calendar year starting on January 1, 2018 and for any portion thereof as prescribed in such subdivision (e):	
9903.85.05	Unwrought aluminum, provided for in heading 7601.....	169,658,877 kg
9903.85.06	Wrought aluminum, provided for in headings 7604, 7605, 7606, 7607, 7606, 7607, 7608, 7609 and castings and forgings of aluminum provided for in subheading 7616.99.51.....	11,279,691 kg

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Filed 6–4–18; 8:45 a.m.]

Billing code 7020–02–C

Presidential Documents

Proclamation 9759 of May 31, 2018

Adjusting Imports of Steel Into the United States

By the President of the United States of America

A Proclamation

1. On January 11, 2018, the Secretary of Commerce (Secretary) transmitted to me a report on his investigation into the effect of imports of steel mill articles on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862).

2. In Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States), I concurred in the Secretary's finding that steel mill articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States, and decided to adjust the imports of steel mill articles, as defined in clause 1 of Proclamation 9705, as amended (steel articles), by imposing a 25 percent ad valorem tariff on such articles imported from most countries, beginning March 23, 2018. I further stated that any country with which we have a security relationship is welcome to discuss with the United States alternative ways to address the threatened impairment of the national security caused by imports from that country, and noted that, should the United States and any such country arrive at a satisfactory alternative means to address the threat to the national security such that I determine that imports from that country no longer threaten to impair the national security, I may remove or modify the restriction on steel articles imports from that country and, if necessary, adjust the tariff as it applies to other countries, as the national security interests of the United States require.

3. In Proclamation 9711 of March 22, 2018 (Adjusting Imports of Steel Into the United States), I noted the continuing discussions with the Argentine Republic (Argentina), the Commonwealth of Australia (Australia), the Federative Republic of Brazil (Brazil), Canada, Mexico, the Republic of Korea (South Korea), and the European Union (EU) on behalf of its member countries, on satisfactory alternative means to address the threatened impairment to the national security posed by imports of steel articles from those countries. Recognizing that each of these countries and the EU has an important security relationship with the United States, I determined that the necessary and appropriate means to address the threat to national security posed by imports of steel articles from these countries was to continue the ongoing discussions and to exempt steel articles imports from these countries from the tariff proclaimed in Proclamation 9705, as amended, until May 1, 2018.

4. In Proclamation 9740 of April 30, 2018 (Adjusting Imports of Steel Into the United States), I noted that the United States had agreed in principle with Argentina, Australia, and Brazil on satisfactory alternative means to address the threatened impairment to our national security posed by steel articles imports from these countries and extended the temporary exemption of these countries from the tariff proclaimed in Proclamation 9705, as amended, in order to finalize the details.

5. The United States has agreed on a range of measures with these countries, including measures to reduce excess steel production and excess steel capacity, measures that will contribute to increased capacity utilization in the United States, and measures to prevent the transshipment of steel articles

and avoid import surges. In my judgment, these measures will provide effective, long-term alternative means to address these countries' contribution to the threatened impairment to our national security by restraining steel articles exports to the United States from each of them, limiting transshipment and surges, and discouraging excess steel capacity and excess steel production. In light of these agreements, I have determined that steel articles imports from these countries will no longer threaten to impair the national security and thus have decided to exclude these countries from the tariff proclaimed in Proclamation 9705, as amended. The United States will monitor the implementation and effectiveness of the measures agreed upon with these countries to address our national security needs, and I may revisit this determination, as appropriate.

6. In light of my determination to exclude, on a long-term basis, these countries from the tariff proclaimed in Proclamation 9705, as amended, I have considered whether it is necessary and appropriate in light of our national security interests to make any corresponding adjustments to such tariff as it applies to other countries. I have determined that, in light of the agreed-upon measures with these countries, and the fact that the tariff will now apply to imports of steel articles from additional countries, it is necessary and appropriate, at this time, to maintain the current tariff level as it applies to other countries.

7. Section 232 of the Trade Expansion Act of 1962, as amended, authorizes the President to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

8. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTSUS) the substance of statutes affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including section 232 of the Trade Expansion Act of 1962, as amended, section 301 of title 3, United States Code, and section 604 of the Trade Act of 1974, as amended, do hereby proclaim as follows:

(1) The superior text to subheadings 9903.80.05 through 9903.80.58 of the HTSUS is amended by replacing ''South Korea'' with ''Argentina, of Brazil, or of South Korea''.

(2) For the purposes of administering the quantitative limitations applicable to subheadings 9903.80.05 through 9903.80.58 for Argentina and Brazil, the annual aggregate limits for each country set out in the Annex to this proclamation shall apply for the period starting with calendar year 2018 and for subsequent years, unless modified or terminated. The quantitative limitations applicable to subheadings 9903.80.05 through 9903.80.58 for these countries, which for calendar year 2018 shall take into account all steel articles imports from each respective country since January 1, 2018, shall be effective for steel articles entered for consumption, or withdrawn from warehouse for consumption, on or after June 1, 2018, and shall be implemented by U.S. Customs and Border Protection (CBP) of the Department of Homeland Security as soon as practicable, consistent with the superior text to subheadings 9903.80.05 through 9903.80.58. The Secretary of Commerce shall monitor the implementation of the quantitative limitations applicable to subheadings 9903.80.05 through 9903.80.58 and shall, in consultation with the Secretary of Defense, the United States Trade Representative, and such other senior Executive Branch officials as the Secretary deems appropriate, inform the President of any circumstance that in the Secretary's opinion might indicate that an adjustment of the quantitative limitations is necessary.

(3) The text of subdivision (e) of U.S. note 16 to subchapter III of chapter 99 of the HTSUS is amended by striking the last sentence and inserting in lieu thereof the following sentence: ''Beginning on July 1, 2018, imports from any such country in an aggregate quantity under any such subheading during any of the periods January through March, April through June, July through September, or October through December in any year that is in excess of 500,000 kg and 30 percent of the total aggregate quantity provided for a calendar year for such country, as set forth on the internet site of CBP, shall not be allowed.''.

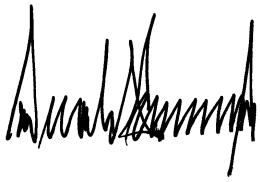
(4) The Secretary of Commerce, in consultation with CBP and with other relevant executive departments and agencies, shall revise the HTSUS so that it conforms to the amendments and effective dates directed in this proclamation. The Secretary shall publish any such modification to the HTSUS in the *Federal Register*.

(5) Clause 5 of Proclamation 9711, as amended, is amended by striking the phrase ''as amended by Proclamation 9711,'' in the first and second sentences and inserting in lieu thereof the following phrase: ''as amended, or to the quantitative limitations established by proclamation,''. Clause 5 of Proclamation 9711, as amended, is further amended by inserting the phrase ''or quantitative limitations'' after the words ''ad valorem rates of duty'' in the first and second sentences.

(6) Clause 5 of Proclamation 9740 is amended by striking the phrase ''as amended by clause 1 of this proclamation,'' and inserting in lieu thereof the following phrase: ''as amended, or to the quantitative limitations established by proclamation,'' in the first sentence. Clause 5 of Proclamation 9740 is further amended by striking the words ''by clause 4 of this proclamation'' from the second sentence.

(7) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



Billing code 3295–F8–P

ANNEX

For the purposes of administering the quantitative limitations applicable to subheadings 9903.80.05 through 9903.80.58 with respect to Argentina and Brazil, the following annual aggregate limits shall apply for the period starting with calendar year 2018 and for subsequent years, unless modified or terminated:

ARGENTINA

Heading/ Subheading	Article description	Quantitative Limitation
	Iron or steel products of Argentina enumerated in U.S. note 16(b) to this subchapter, if entered in aggregate quantities prescribed in subdivision (e) of such note for any calendar year starting on January 1, 2018 and for any portion thereof as prescribed in such subdivision (e):	
9903.80.05	Hot-rolled sheet, provided for in subheading 7208.10.60, 7208.26.00, 7208.27.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7208.90.00, 7225.30.70 or 7225.40.70	6,475,837 kg
9903.80.06	Hot-rolled strip, provided for in subheading 7211.19.15, 7211.19.20, 7211.19.30, 7211.19.45, 7211.19.60, 7211.19.75, 7226.91.70 or 7226.91.80	0 kg
9903.80.07	Hot-rolled plate, in coils, provided for in subheading 7208.10.15, 7208.10.30, 7208.25.30, 7208.25.60, 7208.36.00, 7208.37.00, 7211.14.00 (except for statistical reporting numbers 7211.14.0030 and 7211.14.0045) or 7225.30.30	3,450,561 kg
9903.80.08	Cold-rolled sheet and other products, provided for in subheading 7209.15.00, 7209.16.00, 7209.17.00, 7209.18.15, 7209.18.60, 7209.25.00, 7209.26.00, 7209.27.00, 7209.28.00, 7209.90.00, 7210.70.30, 7225.50.70, 7225.50.80 or 7225.99.00	4,733,644 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.09	Cold-rolled strip and other products, provided for in subheading 7211.23.15, 7211.23.20, 7211.23.30, 7211.23.45, 7211.23.60, 7211.29.20, 7211.29.45, 7211.29.60, 7211.90.00, 7212.40.10, 7212.40.50, 7226.92.50, 7226.92.70, 7226.92.80 or 7226.99.01 (except for statistical reporting numbers 7226.99.0110 and 7226.99.0130).....	0 kg
9903.80.10	Cold-rolled black plate, provided for in subheading 7209.18.25.....	0 kg
9903.80.11	Plate in cut lengths, provided for in subheading 7208.40.30, 7208.51.00, 7208.52.00, 7210.90.10, 7211.13.00, 7211.14.00 (except for statistical reporting number 7211.14.0090), 7225.40.30, 7225.50.60 or 7226.91.50.....	0 kg
9903.80.12	Flat-rolled products, hot-dipped, provided for in subheading 7210.41.00, 7210.49.00, 7210.70.60 (except for statistical reporting numbers 7210.70.6030 and 7210.70.6090), 7212.30.10, 7212.30.30, 7212.30.50, 7225.92.00 or 7226.99.01 (except for statistical reporting numbers 7226.99.0110 and 7226.99.0180).....	701 kg
9903.80.13	Flat-rolled products, coated, provided for in subheading 7210.20.00, 7210.61.00, 7210.69.00, 7210.70.60 (except for statistical reporting numbers 7210.70.6030 and 7210.70.6060), 7210.90.60, 7210.90.90, 7212.50.00 or 7212.60.00.....	0 kg
9903.80.14	Tin-free steel, provided for in subheading 7210.50.00.....	0 kg
9903.80.15	Tin plate, provided for in subheading 7210.11.00, 7210.12.00 or 7212.10.00.....	0 kg
9903.80.16	Silicon electrical steel sheets and strip, provided for in subheading 7225.11.00, 7225.19.00, 7226.11.10, 7226.11.90, 7226.19.10 or 7226.19.90.....	0 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.17	Sheets and strip electrolytically coated or plated with zinc, provided for in subheading 7210.30.00, 7210.70.60 (except for statistical reporting numbers 7210.70.6060 and 7210.70.6090), 7212.20.00, 7225.91.00 or 7226.99.01 (except for statistical reporting numbers 7226.99.0130 and 7226.99.0180).....	0 kg
9903.80.18	Oil country pipe and tube goods, provided for in subheading 7304.23.30, 7304.23.60, 7304.29.10, 7304.29.20, 7304.29.31, 7304.29.41, 7304.29.50, 7304.29.61, 7305.20.20, 7305.20.40, 7305.20.60, 7305.20.80, 7306.29.10, 7306.29.20, 7306.29.31, 7306.29.41, 7306.29.60 or 7306.29.81.....	147,963,294 kg
9903.80.19	Line pipe exceeding 406.4 mm in outside diameter, provided for in subheading 7304.19.10 (except for statistical reporting numbers 7304.19.1020, 7304.19.1030, 7304.19.1045 and 7304.19.1060), 7304.19.50 (except for statistical reporting numbers 7304.19.5020 and 7304.19.5050), 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10 or 7305.19.50.....	0 kg
9903.80.20	Line pipe not exceeding 406.4 mm in outside diameter, provided for in subheading 7304.19.10 (except for statistical reporting number 7304.19.1080), 7304.19.50 (except for statistical reporting number 7304.19.5080), 7306.19.10 (except for statistical reporting number 7306.19.1050) or 7306.19.51 (except for statistical reporting number 7306.19.5150).....	4,988,957 kg
9903.80.21	Other line pipe, provided for in subheading 7306.19.10 (except for statistical reporting number 7306.19.1010) or 7306.19.51 (except for statistical reporting number 7306.19.5110).....	0 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.22	Standard pipe, provided for in subheading 7304.39.00 (except for statistical reporting numbers 7304.39.0002, 7304.39.0004, 7304.39.0006, 7304.39.0008, 7304.39.0028, 7304.39.0032, 7304.39.0040, 7304.39.0044, 7304.39.0052, 7304.39.0056, 7304.39.0068 and 7304.39.0072), 7304.59.80 (except for statistical reporting numbers 7304.59.8020, 7304.59.8025, 7304.59.8035, 7304.59.8040, 7304.59.8050, 7304.59.8055, 7304.59.8065 and 7304.59.8070) or 7306.30.50 (except for statistical reporting numbers 7306.30.5010, 7306.30.5015, 7306.30.5020 and 7306.30.5035).....	2,378,183 kg
9903.80.23	Structural pipe and tube, provided for in subheading 7304.90.10, 7304.90.30, 7305.31.20, 7305.31.40, 7305.31.60 (except for statistical reporting number 7305.31.6010), 7306.30.30, 7306.50.30, 7306.61.10, 7306.61.30, 7306.69.10 or 7306.69.30.....	2,374 kg
9903.80.24	Mechanical tubing and other products, provided for in subheading 7304.31.30, 7304.31.60 (except for statistical reporting numbers 7304.31.6010), 7304.39.00 (except for statistical reporting numbers 7304.39.0002, 7304.39.0004, 7304.39.0006, 7304.39.0008, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0036, 7304.39.0048, 7304.39.0062, 7304.39.0076 and 7304.39.0080), 7304.51.10, 7304.51.50 (except for statistical reporting numbers 7304.51.5005, 7304.51.5015 and 7304.51.5045), 7304.59.10, 7304.59.60, 7304.59.80 (except for statistical reporting numbers 7304.59.8010, 7304.59.8015, 7304.59.8030, 7304.59.8045, 7304.59.8060 and 7304.59.8080), 7304.90.50, 7304.90.70, 7306.30.10, 7306.30.50 (except for statistical reporting numbers 7306.30.5010, 7306.30.5025, 7306.30.5028, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090), 7306.50.10, 7306.50.50 (except for statistical reporting number 7306.50.5010), 7306.61.50, 7306.61.70 (except for statistical reporting number 7306.61.7030), 7306.69.50 or 7306.69.70 (except for statistical reporting number 7306.69.7030).....	8,758,712 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.25	Pressure tubing and other products, provided for in subheading 7304.31.60 (except for statistical reporting number 7304.31.6050), 7304.39.00 (except for statistical reporting numbers 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.39.0076 and 7304.39.0080), 7304.51.50 (except for statistical reporting numbers 7304.51.5005 and 7304.51.5060), 7304.59.20, 7306.30.50 (except for statistical reporting numbers 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5028, 7306.30.5032, 7306.30.5035, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090) or 7306.50.50 (except for statistical reporting numbers 7306.50.5030, 7306.50.5050 and 7306.50.5070).....	128,482 kg
9903.80.26	Tubes or pipes for piling and other products, provided for in subheading 7305.39.10 or 7305.39.50.....	0 kg
9903.80.27	Pipes and tubes, not specially provided for, provided for in subheading 7304.51.50 (except for statistical reporting numbers 7304.51.5015, 7304.51.5045 and 7304.51.5060), 7305.90.10, 7305.90.50, 7306.90.10 or 7306.90.50.....	3,743 kg
9903.80.28	Hot-rolled sheet of stainless steel, provided for in subheading 7219.13.00, 7219.14.00, 7319.23.00 or 7219.24.00.....	0 kg
9903.80.29	Hot-rolled strip of stainless steel and other products, provided for in subheading 7220.12.10 or 7220.12.50...	0 kg
9903.80.30	Hot-rolled plate of stainless steel, in coils, and other products, provided for in subheading 7219.11.00 or 7219.12.00.....	0 kg
9903.80.31	Cold-rolled sheet of stainless steel and other products, provided for in subheading 7219.32.00, 7219.33.00, 7219.34.00, 7219.35.00 or 7219.90.00.....	0 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.32	Cold-rolled strip of stainless steel, provided for in subheading 7220.20.10, 7220.20.60, 7220.20.70, 7220.20.80, 7220.20.90 or 7220.90.00	0 kg
9903.80.33	Cold-rolled plate of stainless steel, in coils, provided for in subheading 7219.31.00 (except for statistical reporting number 7219.31.0050)	0 kg
9903.80.34	Wire of stainless steel, drawn, provided for in subheading 7223.00.10, 7223.00.50 or 7223.00.90	0 kg
9903.80.35	Pipes and tubes of stainless steel, provided for in subheading 7304.41.30, 7304.41.60, 7304.49.00, 7305.31.60 (except for statistical reporting number 7305.31.6090), 7306.40.10, 7306.40.50, 7306.61.70 (except 7306.61.7060) or 7306.69.70 (except for statistical reporting number 7306.69.7060)	0 kg
9903.80.36	Line pipe of stainless steel, provided for in subheading 7304.11.00 or 7306.11.00	0 kg
9903.80.37	Bars and rods of stainless steel, cold finished, provided for in subheading 7222.20.00 or 7222.30.00	0 kg
9903.80.38	Bars and rods of stainless steel, hot-rolled, provided for in heading 7221.00.00 (except for statistical reporting numbers 7221.00.0017, 7221.00.0018 and 7221.00.0030) or subheading 7222.11.00, 7222.19.00 or 7222.40.30 (except for statistical reporting numbers 7222.40.3025 and 7222.40.3045)	0 kg
9903.80.39	Blooms, billets and slabs of stainless steel and other products, provided for in subheading 7218.91.00 and 7218.99.00	0 kg
9903.80.40	Oil country pipe and tube goods of stainless steel and other products, provided for in subheading 7304.22.00, 7304.24.30, 7304.24.40, 7304.24.60, 7306.21.30, 7306.21.40 or 7306.21.80	34,298 kg
9903.80.41	Ingot and other primary forms of stainless steel, provided for in subheading 7218.10.00	0 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.42	Flat-rolled products of stainless steel, provided for in subheading 7219.21.00, 7219.22.00, 7219.31.00 (except for statistical reporting number 7219.31.0010) or 7220.11.00	0 kg
9903.80.43	Bars and rods, hot-rolled, in irregularly wound coils, of stainless steel, provided for in heading 7221.00.00 (except for statistical reporting numbers 7221.00.0005, 7221.00.0045 and 7221.00.0075)	0 kg
9903.80.44	Angles, shapes and sections of stainless steel, provided for in subheading 7222.40.30 (except for statistical reporting numbers 7222.40.3065 and 7222.40.3085) or 7222.40.60	209 kg
9903.80.45	Angles, shapes and sections, provided for in subheading 7216.31.00, 7216.32.00, 7216.33.00, 7216.40.00, 7216.50.00, 7216.99.00, 7228.70.30 (except for statistical reporting numbers 7228.70.3060 and 7228.70.3081) or 7228.70.60	0 kg
9903.80.46	Bars and rods, hot-rolled, in irregularly wound coils, provided for in subheading 7213.91.30, 9213.91.45, 7213.91.60, 7213.99.00 (except for statistical reporting number 7213.99.0060), 7227.20.00 (except for statistical reporting number 7227.20.0080) or 7227.90.60 (except for statistical reporting numbers 7227.90.6005, 7227.90.6010, 7227.90.6040 and 7227.90.6090)	182,555 kg
9903.80.47	Wire (other than of stainless steel), provided for in subheading 7217.10.10, 7217.10.20, 7217.10.30, 7217.10.40, 7217.10.50, 7217.10.60, 7217.10.70, 7217.10.80, 7217.10.90, 7217.20.15, 7217.20.30, 7217.20.45, 7217.20.60, 7217.20.75, 7217.30.15, 7217.30.30, 7217.30.45, 7217.30.60, 7217.30.75, 7217.90.10, 7217.90.50, 7229.20.00, 7229.90.10, 7229.90.50 or 7229.90.90	2,076 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.48	Bars, hot-rolled, not of stainless steel, provided for in subheading 7213.20.00, 7213.99.00 (except for statistical reporting numbers 7213.99.0030 and 7213.99.0090), 7214.10.00, 7214.30.00, 7214.91.00, 7214.99.00, 7215.90.10, 7227.20.00 (except for statistical reporting number 7227.20.0030), 7227.90.60 (except for statistical reporting numbers 7227.90.6020, 7227.90.6030 and 7227.90.6035), 7228.20.10, 7228.30.80 (except for statistical reporting number 7228.30.8010), 7228.40.00, 7228.60.60 or 7228.80.00	896,377 kg
9903.80.49	Bars, cold-finished, not of stainless steel, provided for in subheading 7215.10.00, 7215.50.00, 7215.90.30, 7215.90.50, 7228.20.50, 7228.50.50 or 7228.60.80	0 kg
9903.80.50	Angles, shapes and sections of a type known as "light-shaped bars" and other products, provided for in subheading 7216.10.00, 7216.21.00, 7216.22.00 or 7228.70.30 (except for statistical reporting numbers 7228.70.3010, 7228.70.3020 and 7228.70.3041)	0 kg
9903.80.51	Reinforcing bars, provided for in subheading 7213.10.00, 7214.20.00 or 7228.30.80 (except for statistical reporting numbers 7228.30.8005, 7228.30.8015, 7228.30.8041, 7228.30.8045 and 7228.30.8070)	0 kg
9903.80.52	Sheet piling, provided for in subheading 7301.10.00	0 kg
9903.80.53	Nonumerated railroad goods, provided for in subheading 7302.40.00, 7302.90.10 and 7302.90.90	0 kg
9903.80.54	Rails other than those known as "standard rails," provided for in subheading 7302.10.10 (except for statistical reporting numbers 7302.10.1010, 7302.10.1035, 7302.10.1065 and 7302.10.1075)	0 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.55	Rails known as "standard rails," provided for in subheading 7302.10.10 (except for statistical reporting numbers 7302.10.1015, 7302.10.1025, 7302.10.1045 and 7302.10.1055) or 7302.10.50.....	0 kg
9903.80.56	Products of tool steel and other products, provided for in subheading 7224.10.00 (except for statistical reporting numbers 7224.10.0005 and 7224.10.0075), 7224.90.00 (except for statistical reporting numbers 7224.90.0005, 7224.90.0045, 7224.90.0055, 7224.90.0065 and 7224.90.0075), 7225.30.11, 7225.30.51, 7225.40.11, 7225.40.51, 7225.50.11, 7226.20.00, 7226.91.05, 7226.91.15, 7226.91.25, 7226.92.10, 7226.92.30, 7227.10.00, 7227.90.10, 7227.90.20, 7228.10.00, 7228.30.20, 7228.30.40, 7228.30.60, 7228.50.10, 7228.60.10 or 7229.90.05.....	0 kg
9903.80.57	Blooms, billets and slabs, semi-finished, provided for in subheading 7207.11.00, 7207.12.00, 7207.19.00, 7207.20.00 or 7224.90.00 (except for statistical reporting numbers 7224.90.0015, 7224.90.0025, and 7224.90.0035).....	0 kg
9903.80.58	Ingots, provided for in subheading 7206.10.00, 7206.90.00 or 7224.10.00 (except for statistical reporting number 7224.10.0045).....	0 kg

BRAZIL

Heading/ Subheading	Article description	Quantitative Limitation
	Iron or steel products of Brazil enumerated in U.S. note 16(b) to this subchapter, if entered in aggregate quantities prescribed in subdivision (e) of such note for any calendar year starting on January 1, 2018 and for any portion thereof as prescribed in such subdivision (e):	
9903.80.05	Hot-rolled sheet, provided for in subheading 7208.10.60, 7208.26.00, 7208.27.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7208.90.00, 7225.30.70 or 7225.40.70	108,453,546 kg
9903.80.06	Hot-rolled strip, provided for in subheading 7211.19.15, 7211.19.20, 7211.19.30, 7211.19.45, 7211.19.60, 7211.19.75, 7226.91.70 or 7226.91.80	5,730 kg
9903.80.07	Hot-rolled plate, in coils, provided for in subheading 7208.10.15, 7208.10.30, 7208.25.30, 7208.25.60, 7208.36.00, 7208.37.00, 7211.14.00 (except for statistical reporting numbers 7211.14.0030 and 7211.14.0045) or 7225.30.30	21,645,653 kg
9903.80.08	Cold-rolled sheet and other products, provided for in subheading 7209.15.00, 7209.16.00, 7209.17.00, 7209.18.15, 7209.18.60, 7209.25.00, 7209.26.00, 7209.27.00, 7209.28.00, 7209.90.00, 7210.70.30, 7225.50.70, 7225.50.80 or 7225.99.00	51,717,234 kg
9903.80.09	Cold-rolled strip and other products, provided for in subheading 7211.23.15, 7211.23.20, 7211.23.30, 7211.23.45, 7211.23.60, 7211.29.20, 7211.29.45, 7211.29.60, 7211.90.00, 7212.40.10, 7212.40.50, 7226.92.50, 7226.92.70, 7226.92.80 or 7226.99.01 (except for statistical reporting numbers 7226.99.0110 and 7226.99.0130)	220,366 kg
9903.80.10	Cold-rolled black plate, provided for in subheading 7209.18.25	0 kg
9903.80.11	Plate in cut lengths, provided for in subheading 7208.40.30, 7208.51.00, 7208.52.00, 7210.90.10, 7211.13.00, 7211.14.00 (except for statistical reporting	

Heading/ Subheading	Article description	Quantitative Limitation
	number 7211.14.0090), 7225.40.30, 7225.50.60 or 7226.91.50	9,116,198 kg
9903.80.12	Flat-rolled products, hot-dipped, provided for in subheading 7210.41.00, 7210.49.00, 7210.70.60 (except for statistical reporting numbers 7210.70.6030 and 7210.70.6090), 7212.30.10, 7212.30.30, 7212.30.50, 7225.92.00 or 7226.99.01 (except for statistical reporting numbers 7226.99.0110 and 7226.99.0180)	179,284,354 kg
9903.80.13	Flat-rolled products, coated, provided for in subheading 7210.20.00, 7210.61.00, 7210.69.00, 7210.70.60 (except for statistical reporting numbers 7210.70.6030 and 7210.70.6060), 7210.90.60, 7210.90.90, 7212.50.00 or 7212.60.00	49,974,441 kg
9903.80.14	Tin-free steel, provided for in subheading 7210.50.00	2,428,916 kg
9903.80.15	Tin plate, provided for in subheading 7210.11.00, 7210.12.00 or 7212.10.00	11,315,455 kg
9903.80.16	Silicon electrical steel sheets and strip, provided for in subheading 7225.11.00, 7225.19.00, 7226.11.10, 7226.11.90, 7226.19.10 or 7226.19.90	2,186,384 kg
9903.80.17	Sheets and strip electrolytically coated or plated with zinc, provided for in subheading 7210.30.00, 7210.70.60 (except for statistical reporting numbers 7210.70.6060 and 7210.70.6090), 7212.20.00, 7225.91.00 or 7226.99.01 (except for statistical reporting numbers 7226.99.0130 and 7226.99.0180)	687,693 kg
9903.80.18	Oil country pipe and tube goods, provided for in subheading 7304.23.30, 7304.23.60, 7304.29.10, 7304.29.20, 7304.29.31, 7304.29.41, 7304.29.50, 7304.29.61, 7305.20.20, 7305.20.40, 7305.20.60, 7305.20.80, 7306.29.10, 7306.29.20, 7306.29.31, 7306.29.41, 7306.29.60 or 7306.29.81	56,857,548 kg
9903.80.19	Line pipe exceeding 406.4 mm in outside diameter, provided for in subheading 7304.19.10 (except for statistical reporting numbers 7304.19.1020, 7304.19.1030, 7304.19.1045 and 7304.19.1060),	

Heading/ Subheading	Article description	Quantitative Limitation
	7304.19.50 (except for statistical reporting numbers 7304.19.5020 and 7304.19.5050), 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10 or 7305.19.50	40,712 kg
9903.80.20	Line pipe not exceeding 406.4 mm in outside diameter, provided for in subheading 7304.19.10 (except for statistical reporting number 7304.19.1080), 7304.19.50 (except for statistical reporting number 7304.19.5080), 7306.19.10 (except for statistical reporting number 7306.19.1050) or 7306.19.51 (except for statistical reporting number 7306.19.5150)	21,382,360 kg
9903.80.21	Other line pipe, provided for in subheading 7306.19.10 (except for statistical reporting number 7306.19.1010) or 7306.19.51 (except for statistical reporting number 7306.19.5110)	57,319 kg
9903.80.22	Standard pipe, provided for in subheading 7304.39.00 (except for statistical reporting numbers 7304.39.0002, 7304.39.0004, 7304.39.0006, 7304.39.0008, 7304.39.0028, 7304.39.0032, 7304.39.0040, 7304.39.0044, 7304.39.0052, 7304.39.0056, 7304.39.0068 and 7304.39.0072), 7304.59.80 (except for statistical reporting numbers 7304.59.8020, 7304.59.8025, 7304.59.8035, 7304.59.8040, 7304.59.8050, 7304.59.8055, 7304.59.8065 and 7304.59.8070) or 7306.30.50 (except for statistical reporting numbers 7306.30.5010, 7306.30.5015, 7306.30.5020 and 7306.30.5035)	987,756 kg
9903.80.23	Structural pipe and tube, provided for in subheading 7304.90.10, 7304.90.30, 7305.31.20, 7305.31.40, 7305.31.60 (except for statistical reporting number 7305.31.6010), 7306.30.30, 7306.50.30, 7306.61.10, 7306.61.30, 7306.69.10 or 7306.69.30	642,480 kg
9903.80.24	Mechanical tubing and other products, provided for in subheading 7304.31.30, 7304.31.60 (except for statistical reporting numbers 7304.31.6010), 7304.39.00 (except for statistical reporting numbers 7304.39.0002, 7304.39.0004, 7304.39.0006, 7304.39.0008, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0036, 7304.39.0048,	

Heading/ Subheading	Article description	Quantitative Limitation
	7304.39.0062, 7304.39.0076 and 7304.39.0080), 7304.51.10, 7304.51.50 (except for statistical reporting numbers 7304.51.5005, 7304.51.5015 and 7304.51.5045), 7304.59.10, 7304.59.60, 7304.59.80 (except for statistical reporting numbers 7304.59.8010, 7304.59.8015, 7304.59.8030, 7304.59.8045, 7304.59.8060 and 7304.59.8080), 7304.90.50, 7304.90.70, 7306.30.10, 7306.30.50 (except for statistical reporting numbers 7306.30.5010, 7306.30.5025, 7306.30.5028, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090), 7306.50.10, 7306.50.50 (except for statistical reporting number 7306.50.5010), 7306.61.50, 7306.61.70 (except for statistical reporting number 7306.61.7030), 7306.69.50 or 7306.69.70 (except for statistical reporting number 7306.69.7030).....	1,611,145 kg
9903.80.25	Pressure tubing and other products, provided for in subheading 7304.31.60 (except for statistical reporting number 7304.31.6050), 7304.39.00 (except for statistical reporting numbers 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.39.0076 and 7304.39.0080), 7304.51.50 (except for statistical reporting numbers 7304.51.5005 and 7304.51.5060), 7304.59.20, 7306.30.50 (except for statistical reporting numbers 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5028, 7306.30.5032, 7306.30.5035, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090) or 7306.50.50 (except for statistical reporting numbers 7306.50.5030, 7306.50.5050 and 7306.50.5070).....	1,728,024 kg
9903.80.26	Tubes or pipes for piling and other products, provided for in subheading 7305.39.10 or 7305.39.50.....	27 kg
9903.80.27	Pipes and tubes, not specially provided for, provided for in subheading 7304.51.50 (except for statistical reporting numbers 7304.51.5015, 7304.51.5045 and 7304.51.5060), 7305.90.10, 7305.90.50, 7306.90.10 or 7306.90.50.....	1,231 kg

Heading/ Subheading	Article description	Quantitative Limitation
9903.80.28	Hot-rolled sheet of stainless steel, provided for in subheading 7219.13.00, 7219.14.00, 7319.23.00 or 7219.24.00	1,051,455 kg
9903.80.29	Hot-rolled strip of stainless steel and other products, provided for in subheading 7220.12.10 or 7220.12.50	0 kg
9903.80.30	Hot-rolled plate of stainless steel, in coils, and other products, provided for in subheading 7219.11.00 or 7219.12.00	120,126 kg
9903.80.31	Cold-rolled sheet of stainless steel and other products, provided for in subheading 7219.32.00, 7219.33.00, 7219.34.00, 7219.35.00 or 7219.90.00	9,982,549 kg
9903.80.32	Cold-rolled strip of stainless steel, provided for in subheading 7220.20.10, 7220.20.60, 7220.20.70, 7220.20.80, 7220.20.90 or 7220.90.00	14,629 kg
9903.80.33	Cold-rolled plate of stainless steel, in coils, provided for in subheading 7219.31.00 (except for statistical reporting number 7219.31.0050)	0 kg
9903.80.34	Wire of stainless steel, drawn, provided for in subheading 7223.00.10, 7223.00.50 or 7223.00.90	63,219 kg
9903.80.35	Pipes and tubes of stainless steel, provided for in subheading 7304.41.30, 7304.41.60, 7304.49.00, 7305.31.60 (except for statistical reporting number 7305.31.6090), 7306.40.10, 7306.40.50, 7306.61.70 (except 7306.61.7060) or 7306.69.70 (except for statistical reporting number 7306.69.7060)	352,216 kg
9903.80.36	Line pipe of stainless steel, provided for in subheading 7304.11.00 or 7306.11.00	0 kg
9903.80.37	Bars and rods of stainless steel, cold finished, provided for in subheading 7222.20.00 or 7222.30.00	142,452 kg
9903.80.38	Bars and rods of stainless steel, hot-rolled, provided for in heading 7221.00.00 (except for statistical reporting numbers 7221.00.0017, 7221.00.0018 and	

Heading/ Subheading	Article description	Quantitative Limitation
	7221.00.0030) or subheading 7222.11.00, 7222.19.00 or 7222.40.30 (except for statistical reporting numbers 7222.40.3025 and 7222.40.3045)	1,354,481 kg
9903.80.39	Blooms, billets and slabs of stainless steel and other products, provided for in subheading 7218.91.00 and 7218.99.00	186 kg
9903.80.40	Oil country pipe and tube goods of stainless steel and other products, provided for in subheading 7304.22.00, 7304.24.30, 7304.24.40, 7304.24.60, 7306.21.30, 7306.21.40 or 7306.21.80	11,284 kg
9903.80.41	Ingot and other primary forms of stainless steel, provided for in subheading 7218.10.00	0 kg
9903.80.42	Flat-rolled products of stainless steel, provided for in subheading 7219.21.00, 7219.22.00, 7219.31.00 (except for statistical reporting number 7219.31.0010) or 7220.11.00	522,098 kg
9903.80.43	Bars and rods, hot-rolled, in irregularly wound coils, of stainless steel, provided for in heading 7221.00.00 (except for statistical reporting numbers 7221.00.0005, 7221.00.0045 and 7221.00.0075)	0 kg
9903.80.44	Angles, shapes and sections of stainless steel, provided for in subheading 7222.40.30 (except for statistical reporting numbers 7222.40.3065 and 7222.40.3085) or 7222.40.60	0 kg
9903.80.45	Angles, shapes and sections, provided for in subheading 7216.31.00, 7216.32.00, 7216.33.00, 7216.40.00, 7216.50.00, 7216.99.00, 7228.70.30 (except for statistical reporting numbers 7228.70.3060 and 7228.70.3081) or 7228.70.60	785,743 kg
9903.80.46	Bars and rods, hot-rolled, in irregularly wound coils, provided for in subheading 7213.91.30, 9213.91.45, 7213.91.60, 7213.99.00 (except for statistical reporting number 7213.99.0060), 7227.20.00 (except for statistical reporting number 7227.20.0080) or 7227.90.60 (except for statistical reporting numbers 7227.90.6005, 7227.90.6010, 7227.90.6040 and	

Heading/ Subheading	Article description	Quantitative Limitation
	7227.90.6090)	94,548,099 kg
9903.80.47	Wire (other than of stainless steel), provided for in subheading 7217.10.10, 7217.10.20, 7217.10.30, 7217.10.40, 7217.10.50, 7217.10.60, 7217.10.70, 7217.10.80, 7217.10.90, 7217.20.15, 7217.20.30, 7217.20.45, 7217.20.60, 7217.20.75, 7217.30.15, 7217.30.30, 7217.30.45, 7217.30.60, 7217.30.75, 7217.90.10, 7217.90.50, 7229.20.00, 7229.90.10, 7229.90.50 or 7229.90.90	5,683,988 kg
9903.80.48	Bars, hot-rolled, not of stainless steel, provided for in subheading 7213.20.00, 7213.99.00 (except for statistical reporting numbers 7213.99.0030 and 7213.99.0090), 7214.10.00, 7214.30.00, 7214.91.00, 7214.99.00, 7215.90.10, 7227.20.00 (except for statistical reporting number 7227.20.0030), 7227.90.60 (except for statistical reporting numbers 7227.90.6020, 7227.90.6030 and 7227.90.6035), 7228.20.10, 7228.30.80 (except for statistical reporting number 7228.30.8010), 7228.40.00, 7228.60.60 or 7228.80.00	19,466,296 kg
9903.80.49	Bars, cold-finished, not of stainless steel, provided for in subheading 7215.10.00, 7215.50.00, 7215.90.30, 7215.90.50, 7228.20.50, 7228.50.50 or 7228.60.80	892,811 kg
9903.80.50	Angles, shapes and sections of a type known as "light-shaped bars" and other products, provided for in subheading 7216.10.00, 7216.21.00, 7216.22.00 or 7228.70.30 (except for statistical reporting numbers 7228.70.3010, 7228.70.3020 and 7228.70.3041)	160,604 kg
9903.80.51	Reinforcing bars, provided for in subheading 7213.10.00, 7214.20.00 or 7228.30.80 (except for statistical reporting numbers 7228.30.8005, 7228.30.8015, 7228.30.8041, 7228.30.8045 and 7228.30.8070)	22,142,544 kg
9903.80.52	Sheet piling, provided for in subheading 7301.10.00	0 kg
9903.80.53	Nonumerated railroad goods, provided for in subheading 7302.40.00, 7302.90.10 and	

Heading/ Subheading	Article description	Quantitative Limitation
	7302.90.90	372,848 kg
9903.80.54	Rails other than those known as "standard rails," provided for in subheading 7302.10.10 (except for statistical reporting numbers 7302.10.1010, 7302.10.1035, 7302.10.1065 and 7302.10.1075)	1,089 kg
9903.80.55	Rails known as "standard rails," provided for in subheading 7302.10.10 (except for statistical reporting numbers 7302.10.1015, 7302.10.1025, 7302.10.1045 and 7302.10.1055) or 7302.10.50	939 kg
9903.80.56	Products of tool steel and other products, provided for in subheading 7224.10.00 (except for statistical reporting numbers 7224.10.0005 and 7224.10.0075), 7224.90.00 (except for statistical reporting numbers 7224.90.0005, 7224.90.0045, 7224.90.0055, 7224.90.0065 and 7224.90.0075), 7225.30.11, 7225.30.51, 7225.40.11, 7225.40.51, 7225.50.11, 7226.20.00, 7226.91.05, 7226.91.15, 7226.91.25, 7226.92.10, 7226.92.30, 7227.10.00, 7227.90.10, 7227.90.20, 7228.10.00, 7228.30.20, 7228.30.40, 7228.30.60, 7228.50.10, 7228.60.10 or 7229.90.05	9,426,132 kg
9903.80.57	Blooms, billets and slabs, semi-finished, provided for in subheading 7207.11.00, 7207.12.00, 7207.19.00, 7207.20.00 or 7224.90.00 (except for statistical reporting numbers 7224.90.0015, 7224.90.0025, and 7224.90.0035)	3,505,707,831 kg
9903.80.58	Ingots, provided for in subheading 7206.10.00, 7206.90.00 or 7224.10.00 (except for statistical reporting number 7224.10.0045)	8,719 kg

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Filed 6–4–18; 8:45 a.m.]

Billing code 7020–02–C

Presidential Documents

Proclamation 9760 of May 31, 2018

National Caribbean-American Heritage Month, 2018

By the President of the United States of America

A Proclamation

During Caribbean-American Heritage Month, we honor America's long-shared history with our neighbors in the Caribbean and celebrate the Caribbean Americans who have enriched our Nation.

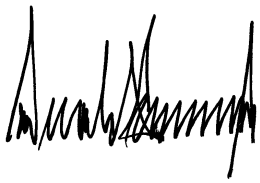
Caribbean Americans embody the American spirit, with their talents and hard work contributing greatly to America's economy. They protect our citizens as law enforcement officers, serve our communities as public officials, and mentor our country's young people as educators. Through their tremendous athleticism and determination, they have brought pride to the hearts of the American people as members of numerous U.S. Olympic teams. Their leadership and resolve have made incredible contributions to our society.

As trailblazers, Americans with Caribbean roots have sewn their own unique thread into the fabric of our Nation. Dr. William Thornton, a native of the British Virgin Islands, designed the United States Capitol and is generally considered the first ''Architect of the Capitol''. Jean Baptiste du Sable, the first permanent resident of Chicago, was born in Haiti. Widely recognized as the ''Founder of Chicago,'' his prosperous trade settlement has become one of the most iconic cities in the world.

This month, we acknowledge the numerous contributions of Caribbean Americans to our Nation, including those of the more than 4 million Caribbean Americans who live in the United States today. We are also deeply grateful to the many Caribbean Americans who have served or are currently serving our country as members of our Armed Forces.

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 June 2018 as National Caribbean-American Heritage Month. I encourage all Americans to join in celebrating the history, culture, and achievements of Caribbean Americans with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–12152
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Rules and Regulations

Federal Register
Vol. 83, No. 108
Tuesday, June 5, 2018

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

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 702 and 723

RIN 3133–AE89

Commercial Lending

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending the definition of member business loan (MBL) in its MBL rule with respect to 1- to 4- family dwellings. This regulatory change conforms to a recent amendment to the Federal Credit Act (FCU Act) by the Economic Growth, Regulatory Relief, and Consumer Protection Act (Economic Growth Act).

DATES: This rule is effective June 5, 2018.

FOR FURTHER INFORMATION CONTACT: Justin M. Anderson, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314–3428 or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background
II. Good Cause Exception
III. Regulatory Procedures

I. Background

On May 24, 2018, the President signed the Economic Growth Act,[1] which among other things, amended the definition section of the MBL provisions of the FCU Act.[2] Prior to the Economic Growth Act, the FCU Act defined an MBL, in relevant part, as any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose but does not include an extension of credit that is fully secured by a lien on a 1-to 4- family dwelling *that is the primary residence of a member.*[3]

The Economic Growth Act removed from that definition the words ''that is the primary residence of a member.'' As a result, the definition of an MBL now excludes all extensions of credit that are fully secured by a lien on a 1- to 4- family dwelling regardless of the borrower's occupancy status. Because these kinds of loans are no longer considered MBLs, they do not count towards the aggregate MBL cap imposed on each federally insured credit union by the FCU Act.

This statutory amendment became effective upon enactment of the Economic Growth Act. The Board is issuing this final rule to conform the NCUA's MBL rule to the revised FCU Act.

This final rule also revises the NCUA's Prompt Corrective Action rule, part 702,[4] by amending outdated citations to the NCUA's MBL rule. These changes are technical in nature and will not have any substantive effect.

II. Good Cause Exception

The Board is issuing this rule as final, without having first provided notice and an opportunity for public comment because the NCUA for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B). This rule implements a mandated statutory change that provides the NCUA with no choice and no discretion. The Board finds these reasons are good cause to dispense with the APA's notice and comment requirements.

III. Regulatory Procedures

1. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) (PRA), the NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements associated with part 723 are currently approved by OMB and assigned OMB control number 3133–0101. This rule will not impose any new paperwork burdens or amend existing paperwork burdens, as defined by the PRA.

2. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the APA. The NCUA believe this final rule is ''major'' within the meaning of the relevant sections of SBREFA. The NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

3. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The final rule does 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. The NCUA has therefore determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

4. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 723

Credit, Credit unions, Reporting and recordkeeping requirements.

[1] Economic Growth, Regulatory Relief, and Consumer Protection Act, S.2155, 115th Cong. (2018).

[2] *Id.* at sec. 105.

[3] 12 U.S.C. 1757a(c)(1)(B)(i).

[4] 12 CFR part 702.

By the National Credit Union Administration Board on May 30, 2018.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA amends 12 CFR parts 702 and 723 as follows:

PART 702—CAPITAL ADEQUACY

■ 1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

§ 702.104 [Amended]

■ 2. In § 702.104, amend paragraphs (a), (b), and (g) by removing the citation ''12 CFR 723.1'' and adding in its place ''12 CFR 723.8(b)'' and by removing the citation ''12 CFR 723.20'' and adding in its place ''12 CFR 723.10'' wherever they appear.

PART 723—MEMBER BUSINESS LOANS; COMMERCIAL LENDING

■ 3. The authority citation for part 723 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

■ 4. In § 723.8, add paragraph (b)(3) and revise paragraph (c) to read as follows:

§ 723.8 Aggregate member business loan limit; exclusions and exceptions.

* * * * *

(b) * * *

(3) Any loan that is fully secured by a lien on a 1- to 4- family dwelling.

(c) *Exception.* Any loan secured by a vehicle manufactured for household use that will be used for a commercial, corporate, or other business investment property or venture, or agricultural purpose, is not a commercial loan but it is a member business loan (if the outstanding aggregate net member business loan balance is $50,000 or greater) and must be counted toward the aggregate limit on a federally insured credit union's member business loans.

* * * * *

[FR Doc. 2018–11946 Filed 6–4–18; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1246; Product Identifier 2017–NM–086–AD; Amendment 39–19297; AD 2018–11–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–02–01, which applied to certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. AD 2014–02–01 required repetitive inspections of the rudder travel limiter (RTL) return springs and primary actuator, and corrective actions if necessary; and replacement of certain RTL return springs. This AD requires an inspection of the RTL return springs for signs of chafing; an inspection of the casing of the primary actuator for signs of chafing or missing paint; replacement of the RTL return springs; and an inspection of the lugs of the RTL limiter arm assembly for cracks, and modification or replacement, as applicable; and applicable corrective actions. This AD also adds airplanes to the applicability. This AD was prompted by reports that when installing the RTL return springs, the RTL limiter arm assembly lug(s) can become deformed. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 10, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 10, 2018.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone: 1–866–538–1247 or direct-dial telephone: 1–514–855–2999; fax 514–855–7401; email: *ac.yul@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1246.

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–2017–1246; 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 address for the Docket Office (telephone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–02–01, Amendment 39–17729 (79 FR 7382, February 7, 2014) (''AD 2014–02–01''). AD 2014–02–01 applied to certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on January 16, 2018 (83 FR 2090). The NPRM was prompted by reports that when installing RTL return spring part number BA–670–93468–1, the RTL limiter arm assembly lug(s) can become deformed when the RTL return spring attachment bolt is torqued; and the determination that additional airplanes are affected by the unsafe condition. The NPRM proposed to require an inspection of the RTL return springs for signs of chafing; an inspection of the casing of the primary actuator for signs of chafing or missing paint; replacement of the RTL return springs; and an inspection of the lugs of the RTL limiter arm assembly for cracks, and modification or replacement, as applicable; and applicable corrective

actions. The NPRM also proposed to add airplanes to the applicability. We are issuing this AD to prevent deformed RTL limiter arm assembly lug(s), which can lead to failure of the RTL limiter arm assembly lug(s). In combination with failure of the RTL, failure of the RTL limiter arm assembly lug(s) could result in reduced controllability of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2017–19, dated June 6, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

Transport Canada AD CF–2010–18R1 [which corresponds to FAA AD 2014–02–01] mandated a repetitive inspection and introduced a new rudder travel limiter (RTL) return spring, part number (P/N) BA670–93468–1, to correct the potential dormant RTL spring failure. This [Canadian] AD is issued to supersede the repetitive inspection and the replacement of the RTL spring due to discoveries made after the issuance of [Canadian] AD CF–2010–18R1.

When installing the RTL return spring P/N BA670–93468–1 as mandated by [Canadian] AD CF–2010–18R1, it was found that it is possible for the RTL limiter arm assembly lug to be deformed. The lugs become bent when the RTL return spring attachment bolt is torqued. This condition, if not corrected, can lead to failure of the limiter arm assembly lug. In combination with failure of the RTL, failure of the limiter arm assembly lug could affect the controllability of the aeroplane.

This [Canadian] AD mandates the inspection for cracked RTL limiter arm lugs and modification of the RTL limiter arm to prevent the RTL limiter arm lugs from bending during RTL assembly.

Required actions include: A detailed visual inspection of the RTL return springs for signs of chafing; a detailed visual inspection of the casing of the primary actuator for signs of chafing or missing paint; replacement of the RTL return springs; an eddy current inspection of the lugs of the RTL limiter arm assembly for cracks, and modification or replacement of the RTL limiter arm assembly, as applicable; and applicable corrective actions. Corrective actions include: replacement of the RTL return springs, repair of the primer and topcoat of the primary actuator, and replacement of the primary actuator. 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–2017–1246.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The Air Line Pilots Association, International supported the NPRM.

Conclusion

We reviewed the available data, including 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

Bombardier has issued Bombardier Service Bulletin 670BA–27–070, Revision B, dated March 31, 2017. This service information describes procedures for an inspection of the RTL return springs for signs of chafing; an inspection of the casing of the primary actuator for signs of chafing or missing paint; replacement of the RTL return springs; and an inspection of the lugs of the RTL limiter arm assembly for cracks, and modification or replacement, as applicable; 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 544 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
16 work-hours × $85 per hour = $1,360	$2,960	$4,320	$2,350,080

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

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 removing Airworthiness Directive (AD) 2014–02–01, Amendment 39–17729 (79 FR 7382, February 7, 2014) and adding the following new AD:

2018–11–09 Bombardier, Inc.: Amendment 39–19297; Docket No. FAA–2017–1246; Product Identifier 2017–NM–086–AD.

(a) Effective Date

This AD is effective July 10, 2018.

(b) Affected ADs

This AD replaces AD 2014–02–01, Amendment 39–17729 (79 FR 7382, February 7, 2014) (''AD 2014–02–01'').

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial number 10002 through 10344 inclusive.

(2) Bombardier, Inc., Model CL–600–2D15 (Regional Jet Series 705) airplanes and Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 through 15397 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by reports that when installing the rudder travel limiter (RTL) return springs, the RTL limiter arm assembly lug(s) can become deformed. We are issuing this AD to prevent deformed RTL limiter arm assembly lug(s), which can lead to failure of the RTL limiter arm assembly lug(s). In combination with failure of the RTL, failure of the RTL limiter arm assembly lug(s) could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Inspections, Modification, and Replacement

(1) For airplanes equipped with RTL return spring part number BA–670–93465–1 or E0650–069–02750S: Within 800 flight hours or 4 months after the effective date of this AD, whichever occurs first, do a detailed visual inspection of the casing of the primary actuator for signs of chafing or missing paint, and all applicable corrective actions; replace the RTL return springs; and do an eddy current inspection of the lugs of the RTL limiter arm assembly for cracks, and modify or replace the RTL limiter arm assembly, as applicable; in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–070, Revision B, dated March 31, 2017. Accomplishment of the actions specified in Bombardier Service Bulletin 670BA–27–059 does not meet the requirements of this paragraph.

(2) For airplanes equipped with RTL return spring part number BA–670–93468–1: Within 8,000 flight hours after the effective date of this AD, do a detailed visual inspection of the RTL return springs for signs of chafing, and applicable corrective actions; a detailed visual inspection of the casing of the primary actuator for signs of chafing or missing paint, and all applicable corrective actions; and do an eddy current inspection of the lugs of the RTL limiter arm assembly for cracks, and modify or replace the RTL limiter arm assembly, as applicable; in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–070, Revision B, dated March 31, 2017. Accomplishment of the actions specified in Bombardier Service Bulletin 670BA–27–059 does not meet the requirements of this paragraph.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Bombardier Service Bulletin 670BA–27–070, dated December 17, 2015.

(2) Bombardier Service Bulletin 670BA–27–070, Revision A, dated September 01, 2016.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2017–19, dated June 6, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1246.

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

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

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 670BA–27–070, Revision B, dated March 31, 2017.

(ii) Reserved.

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

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

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

Issued in Des Moines, Washington, on May 18, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–11414 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1421; Product Identifier 2014–NM–177–AD; Amendment 39–19302; AD 2018–11–14]

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 767–300 and –300F series airplanes. This AD was prompted by reports of fatigue cracking on airplanes with Aviation Partners Boeing winglets installed. This AD requires high frequency eddy current (HFEC) inspections for cracking of the lower outboard wing skin, and repair or modification if necessary. This AD also requires one of three follow-on actions: Repeating the HFEC inspections, modifying certain internal stringers and oversizing and plugging the existing fastener holes of the lower wing, or modifying the external doubler/tripler and doing repetitive post-modification inspections. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 10, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 10, 2018.

ADDRESSES: For service information identified in this final rule, contact Aviation Partners Boeing, 2811 S. 102nd Street, Suite 200, Seattle, WA 98168; telephone 206–762–1171; internet *https://www.aviationpartnersboeing.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1421.

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–2015–1421; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Allen Rauschendorfer, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA; phone and fax: 206–231–3528; email: *allen.rauschendorfer@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 767–300 and –300F series airplanes. The NPRM published in the **Federal Register** on June 5, 2015 (80 FR 32066). The NPRM was prompted by reports of fatigue cracking on airplanes with Aviation Partners Boeing winglets installed. The NPRM proposed to require a HFEC inspection for cracking of the lower outboard wing skin, and repair or modification if necessary. The NPRM also proposed to require one of three follow-on actions: Repeating the HFEC inspections, modifying certain internal stringers and oversizing and plugging the existing fastener holes of the lower wing, or modifying the external doubler/tripler and doing repetitive post-modification inspections.

We issued an SNPRM to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 767–300 and –300F series airplanes. The SNPRM published in the **Federal Register** on November 27, 2017 (82 FR 55958). The SNPRM proposed adding new HFEC inspections for cracking of an expanded area of the lower outboard wing skin for certain airplanes.

We are issuing this AD to address fatigue cracking in the lower outboard wing skin, which could result in failure and subsequent separation of the wing and winglet and consequent reduced controllability of the airplane.

Comments

We gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the SNPRM and the FAA's response to each comment. One commenter, Matt Leritz, supported the content of the SNRPM.

Request To Correct Compliance Time

Aviation Partners Boeing (APB) and United Airlines (UAL) asked that we correct the compliance time in paragraphs (h)(2)(ii) and (h)(3)(ii) of the proposed AD (in the SNPRM). The commenters stated that those paragraphs would require the initial post-repair HFEC inspection of the lower wing skin at stringer L–6.5 at the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017. The commenters added that the compliance time for the Part 3 HFEC inspection specified in paragraph 1.E. does not begin after doing the Part 2 repair, but instead begins after the initial issue of the service bulletin (after the effective date of the AD). UAL stated that, as written, this would require doing post-repair inspections on airplanes above the total flight-hour and flight-cycle threshold within 18 months after the effective date of the AD, regardless of if or when the repair was actually done. APB confirmed that the calendar-based compliance time in the referenced service information, for airplanes in Group 1, Configurations 2 and 3, and Groups 2 and 3, should be the same as for airplanes in Group 1, Configuration 1, on which the Part 2 repair has been done. The commenters asked that the compliance time for the Part 3 HFEC inspection be corrected to the following: ''Within 6,000 flight cycles after doing the Part 2 repair, or within 18,000 flight hours since doing the Part 2 repair, whichever occurs first.''

We agree with the commenters' request for the reasons provided. We have added paragraph (j)(3) of this AD to include this compliance-time exception.

Request To Remove a Certain Terminating Action

Boeing asked that we remove the terminating action sentence at the end of paragraph (g)(2) of the proposed AD (in the SNPRM). Paragraph (g)(2) of the proposed AD (in the SNPRM) applies to Group 3 airplanes with external doublers, and if a crack is found it requires a repair using a method

approved by the FAA. That paragraph also specifies that ''[a]n approved repair terminates the repetitive inspections required by paragraph (g)(2) of this AD.'' Boeing stated that any repair for cracks found will require follow-on repetitive inspections, which would be approved as part of the AMOC repair approval process.

We agree that the repairs for Group 3 airplanes will have an approved follow-on inspection program, but the repairs may apply to the cracked areas only. We do not agree with removing the terminating action provision because other areas may require the repetitive inspections specified in paragraph (g)(2) of this AD, for which approved terminating action would be appropriate. We have revised that sentence as follows: ''An approved repair terminates the repetitive inspections required by paragraph (g)(2) of this AD for the repaired area only.''

Request To Add Grace Period for Post-Repair (Modification) Inspections

American Airlines (AAL), APB, UAL, and Delta Airlines (Delta) asked that we add a grace period for the proposed post-repair (modification) inspections.

AAL stated that Table 4 of paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, includes numerous inspections that are due within a specified number of flight hours or flight cycles after previous repair or modification of the airplane. AAL added that since it has completed many repairs and modifications using previous revisions of the referenced service information, there will be airplanes out of compliance with the AD requirements on the effective date because there is no grace period based on the AD due date.

APB and Delta stated that paragraph (g) of the proposed AD (in the SNPRM) specifies compliance times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, for initial post-repair inspections. APB added that the referenced service information added a flight-hour threshold of 90,000 total flight cycles to the existing flight-cycle threshold of 30,000 total flight cycles for the initial compliance time. APB noted that the grace period published in the referenced service information for airplanes on which the flight-hour or flight-cycle threshold has been reached is set to 18 months after accomplishment of the repair. APB stated that this creates a drop-dead inspection situation for airplanes on which either the flight-hour or flight-cycle threshold has been reached, and on which the Part 8 or Part 11 repair was accomplished over 18 months ago. Delta stated that the compliance table on pages (i) and (ii) of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, should be added to paragraph 1.E., ''Compliance'' and included in the AD.

UAL stated that paragraph (g) of the proposed AD (in the SNPRM) would require the repetitive post-repair inspections specified in Parts 9 and 13 of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, in airplane total times or within 18 months after accomplishment of Part 8 and 11 repairs, respectively. UAL is concerned that older airplanes on which the repair was done more than 18 months ago could be out of compliance on the effective date of the AD. UAL noted that the 18-month grace period covers the initial inspection, but does not cover post-repair inspections. UAL suggested that we provide similar relief for airplanes on which the threshold has been exceeded.

We do not agree with the commenters' requests to add a grace period. The current revisions of the referenced service information provide a compliance time of 18 months for the initial inspection for all airplanes. The compliance times for certain conditional inspections are in terms of airplane threshold or time since accomplishment of the specified repair or modification. Those previously installed repairs or modifications may have been done using a version of Aviation Partners Boeing Service Bulletin AP767–57–010 before Revision 11 or alternative method, and may involve deviations, additional repair activity, and previous repairs. Under the provisions of paragraph (k) of this AD, we will consider requests for approval of AMOCs to extend the compliance time if sufficient data are submitted to substantiate that it would provide an acceptable level of safety. We have determined that each situation must be handled separately in the AMOC evaluation. We have not changed this AD in this regard.

Request To Add Compliance Tables to Certain Service Information

Delta asked that a compliance table be added to Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, for airplanes on which the actions specified in Aviation Partners Boeing Service Bulletin AP767–57–010 have been previously accomplished. Delta noted that page i of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, provides a compliance information table only for Group 3 airplanes; there are no tables for Groups 1 and 2 airplanes.

We do not agree with the commenter's request. The compliance information table on page i of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, provides only a description of additional work, if any, necessary based on work accomplished using the previous revision. These tables are reference information only, and do not reflect all the actions required by the AD. The necessary compliance tables are provided in paragraph 1.E., ''Compliance'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017. Therefore, we have not changed this AD in this regard.

Request To Clarify Group 4 Airplanes Not Affected

UAL asked that we include a clarification in the proposed AD (in the SNPRM) that Group 4 airplanes are not affected. UAL stated that Group 4 airplanes are identified in the effectivity table in paragraph 1.A. of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017. UAL noted that an equivalent change to the service information was incorporated during winglet installation with no additional work being necessary. UAL asked that we add paragraph (g)(3) to the AD to clarify that Group 4 airplanes are not affected by the requirements in the AD.

We agree with the commenter for the reasons provided. Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, specifies that an equivalent change has been incorporated in APB winglet retrofit kits for Group 4 airplanes, and that no more work is necessary on those airplanes. We have included a clarification in paragraph (g)(3) of this AD that specifies that Group 4 airplanes are not affected by the actions required by paragraph (g) of this AD.

Request To Remove an Airplane Having a Certain Line Number

FedEx asked that we remove the airplane having line number 1027 from the applicability in the proposed AD (in the SNPRM), or allow Aviation Partners Boeing Service Bulletin AP767–57–012, dated September 2015, as an AMOC. FedEx stated that it will be modifying that airplane by removing the winglets and installing Boeing wing tips in accordance with Aviation Partners Boeing Service Bulletin AP767–57–012,

dated September 2015. FedEx anticipated that the modification will be completed prior to the effective date of the AD. FedEx added that the unsafe condition will be addressed when the winglets are removed.

We do not agree with the commenter's request. There are many factors that led to the cracking of the lower wing skin, and the additional loading of the winglet is only one of those factors. Other contributory factors are design details with the added internal wing structure, which resulted in shortening the fatigue life of the blended winglet installation. We have not changed this AD in this regard.

Request Approval for Alternative Open Hole HFEC Inspection

UAL asked that provisions be added to paragraph (g) of the proposed AD (in the SNPRM) to allow an alternative open-hole HFEC inspection procedure to inspect for cracking at the five inboard fastener locations. UAL stated that an open-hole HFEC inspection with the fasteners removed, in accordance with nondestructive test (NDT) Part 6, Chapter 51–00–16, using the same notch sensitivity provides an equivalent crack detection method. UAL added that APB has concurred with the inspection. UAL concluded that it has been performing the optional preventive modification, which trims out the skin containing the five fastener holes, and allows for the open-hole HFEC to be performed easily because the fasteners in the doubler are removed.

We do not agree with the commenter's request. Although UAL developed an inspection method that works better for its situation, the HFEC inspection specified in the referenced service information is required by this AD to address all situations. However, under the provisions of paragraph (k) of this AD, we will consider requests for approval of AMOCs if sufficient data are submitted to substantiate that the open-hole HFEC inspection procedure provides an acceptable level of safety. We have not changed this AD in this regard.

Request To Clarify Credit for Previously Accomplished Repairs Approved by an Organization Designation Authorization (ODA)

All Nippon Airways (ANA), AAL, APB, and Delta asked that we clarify credit in paragraph (i) of the proposed AD (in the SNPRM), for previously accomplished repairs approved by a Boeing ODA prior to June 15, 2017.

ANA stated that during discussions with the FAA, it was informed that repair deviations approved by Boeing ODAs prior to the FAA approval of the APB revised fatigue analysis issued on June 15, 2017, and the release of Aviation Partners Boeing Service Bulletins AP767–57–010, Revision 11, AP767–57–013, Revision 1, and AP767–57–014, Revision 1, do not qualify for AMOC credit to the AD after it is released. ANA added that the proposed AD (in the SNPRM) would provide AMOC credit for repair deviations approved by Boeing ODAs with 8100–9 forms dated after June 15, 2017, because the Boeing ODAs would be using the APB revised fatigue analysis.

AAL stated that paragraph (i) of the proposed AD (in the SNPRM) specifies that repairs accomplished before June 15, 2017, and before the AD effective date approved by a Boeing ODA can be considered approved repairs in accordance with paragraphs (g) and (h) of the proposed AD (in the SNPRM). AAL added that Boeing has indicated through Multi-Operator Message MOM–MOM–17–0480–01B that repairs approved prior to June 15, 2017, can be re-evaluated and approved on a new 8100–9 form. AAL noted that the language in paragraph (i) should be clarified to indicate that repairs accomplished prior to June 15, 2017, are also acceptable, as long as they have an 8100–9 approval from a Boeing ODA dated after June 15, 2017.

APB requested that we clarify paragraph (i) of the proposed AD (in the SNPRM) to state that accomplishment of previous revisions of Aviation Partners Boeing Service Bulletins AP767–57–010 should be acceptable for credit for previously accomplished repairs and modifications of the lower outboard wing skin. APB stated that after the effective date of the AD, operators that did not seek relief for previously completed actions would need to request approval of AMOCs.

Delta stated that paragraph (i) of the proposed AD (in the SNPRM) provides repair approval for repairs of the lower outboard wing skin done after June 15, 2017, and before the effective date of the AD, that are approved by the Boeing ODA authorized by the Manager, Seattle ACO Branch, are approved for the applicable repairs required by paragraphs (g) and (h) of the AD. Delta added that prior to issuance of the referenced service information, both inspection and repair instructions for stringers L–9.5 and L–6.5 were contained in Revisions 1, 2, 4, 6, 7, 8, and 9 of Aviation Partners Boeing Service Bulletin AP767–57–010. Delta added that it has performed many inspections and repairs for stringers L–9.5 and L–6.5 with those revisions. Delta suggested that credit be provided for repairs approved by a Boeing 8100–9 or previously accomplished using Revisions 1, 2, 4, 6, 7, 8, and 9 of Aviation Partners Boeing Service Bulletin AP767–57–010. Delta added that AMOCs will have to be obtained for each approved 8100–9 if no credit is provided.

We agree to clarify the language in paragraph (i) of this AD to include certain language provided by the commenters' for the reasons provided. We have clarified the language in paragraph (i) of this AD by adding that the ODA repairs approved after June 15, 2017, and before the effective date of this AD, will have post-installation inspection requirements in lieu of the post-inspection instructions specified in Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

Request To Correct Error in Service Information

APB and UAL asked that we correct an error specified in Part 13 of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

APB and UAL stated that paragraphs (g)(1)(i)(D)(2), (g)(1)(ii)(B)(2), and (g)(1)(iii)(B)(2) of the proposed AD (in the SNPRM) would require the post-repair HFEC inspection in accordance with Part 13 of the referenced service information. UAL stated that Part 13, Step 1.d., specifies repeating the Part 9 HFEC inspection; however, it should specify repeating the Part 13 HFEC inspection because Part 9 applies to airplanes without the stringer replacement. UAL noted that the paragraphs in the proposed AD (in the SNPRM) correctly specify repeating the Part 13 HFEC inspection. UAL added that the steps in the referenced service information are listed as RC (required for compliance), and must be done to comply with the AD.

We agree that the error exists in the service information. We have added an exception in paragraph (j)(4) of this AD that specifies repeating the Part 13 HFEC inspection instead of the Part 9 inspection.

Request To Provide Credit for Previous Service Information

AAL, UAL, and United Parcel Service (UPS) asked that we provide credit for doing the modification required by paragraph (i) of the proposed AD (in the SNPRM) using previous revisions of the referenced service information. UAL and UPS noted that paragraph (i) of the

proposed AD (in the NPRM), which provided credit for previous actions using previous revisions of the referenced service information, was deleted in the SNPRM.

We do not agree with the commenters' requests. No credit is given for previously installed repairs or modifications due to each situation being unique; therefore, a re-evaluation will have to be done and may involve additional work for certain airplanes. Under the provisions of paragraph (k) of this AD, we will consider requests for approval of AMOCs if sufficient data are submitted to substantiate that work done using previous revisions of the service information provides an acceptable level of safety. We have not changed this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this 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 SNPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM.

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 APB Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017. The service information describes procedures for an HFEC inspection for cracking of the external surface of the lower outboard wing skin at stringer L–9.5, and on-condition actions that include repetitive HFEC inspections, modification by oversizing and plugging the existing fastener holes of the wing skin, repair (modification) of the stringer with new stringer, and repair (modification) of the stringer with external doubler/tripler; repetitive post-repair inspections for cracking, and repair.

We also reviewed APB Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017. The service information describes procedures for an HFEC inspection for cracking of the lower outboard wing skin at stringer L–6.5 and on-condition actions that include repetitive HFEC inspections, repair (modification) of the stringer with new stringer, repetitive post-repair HFEC inspections for cracking, and repair.

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

ESTIMATED COSTS—REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
HFEC Inspections	6 work-hours × $85 per hour = $510	$0	$510	$71,400

We estimate the following costs to do any necessary on-condition actions that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these on-condition actions.

ESTIMATED COSTS—ON-CONDITION ACTIONS

Action	Labor cost	Parts cost	Cost per product
Post-repair Inspections	6 work-hours × $85 per hour = $510 per inspection cycle.	$0	$510
Repair/Modification	262 work-hours × $85 per hour = $22,270	0	22,270

We have received no definitive data that would enable us to provide cost estimates for on-condition repairs for the post-repair inspections 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 and associated appliances 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):

2018–11–14 The Boeing Company: Amendment 39–19302; Docket No. FAA–2015–1421; Product Identifier 2014–NM–177–AD.

(a) Effective Date

This AD is effective July 10, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–300 and –300F series airplanes, certificated in any category, with Aviation Partners Boeing winglets installed; as identified in Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of fatigue cracking in the lower outboard wing skin at the inboard fastener of stringer L–9.5, and the lower outboard wing skin of stringer L–6.5, on airplanes with winglets installed per Supplemental Type Certificate ST01920SE. We are issuing this AD to prevent fatigue cracking in the lower outboard wing skin, which could result in failure and subsequent separation of the wing and winglet and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Repetitive Stringer L–9.5 Inspections, Modification, Repair (Modification), Repetitive Post-Repair Inspections, and Repair

(1) For Group 1 and Group 2 airplanes identified in Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, except as required by paragraph (j)(1) of this AD: Do a high frequency eddy current (HFEC) inspection for cracking of the lower outboard wing skin at stringer L–9.5, in accordance with Part 1 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(i) For airplanes on which ''Condition 1'' is found, as defined in the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, during any inspection required by paragraph (g)(1) or (g)(1)(i)(A) of this AD: Do the applicable actions required by paragraph (g)(1)(i)(A), (g)(1)(i)(B), (g)(1)(i)(C), or (g)(1)(i)(D) of this AD.

(A) Repeat the inspection specified in paragraph (g)(1) of this AD thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(B) Do the applicable actions required by paragraphs (g)(1)(i)(B)(*1*), (g)(1)(i)(B)(*2*), and (g)(1)(i)(B)(*3*) of this AD.

(*1*) Before further flight, do actions (modifications and repair (modification)) in accordance with Part 2, Part 3, Part 4, and Part 5, as applicable, of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*2*) For airplanes on which the repair (modification) specified in Part 5 of Aviation Partners Boeing Service Bulletin AP767–57–010 was done: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, do a post-repair HFEC inspection for cracking, in accordance with Part 12 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*3*) If any crack is found during any inspection required by paragraph (g)(1)(i)(B)(*2*) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(C) Do the actions required by paragraphs (g)(1)(i)(C)(*1*) and (g)(1)(i)(C)(*2*) of this AD, and do all applicable actions required by paragraph (g)(1)(i)(C)(*3*) of this AD.

(*1*) Before further flight, repair (modify) in accordance with Part 8 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*2*) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, do a post-repair HFEC inspection for cracking, in accordance with Part 9 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*3*) If any crack is found during any inspection required by paragraph (g)(1)(i)(C)(*2*) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(D) Do the actions required by paragraphs (g)(1)(i)(D)(*1*) and (g)(1)(i)(D)(*2*) of this AD, and do all applicable actions required by paragraph (g)(1)(i)(D)(*3*) of this AD.

(*1*) Before further flight, repair (modify) in accordance with Part 11 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*2*) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, do a post-repair HFEC inspection for cracking, in accordance with Part 13 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; except as required by paragraph (j)(4) of this AD.

(*3*) If any crack is found during any inspection required by paragraph (g)(1)(i)(D)(*2*) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(ii) For airplanes on which ''Condition 2'' is found, as defined in the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, during any inspection required by paragraph (g)(1) or (g)(1)(i)(A) of this AD: Do the actions required by paragraph (g)(1)(ii)(A) or (g)(1)(ii)(B) of this AD.

(A) Do the actions required by paragraphs (g)(1)(ii)(A)(*1*) and (g)(1)(ii)(A)(*2*) of this AD, and do all applicable actions required by paragraph (g)(1)(ii)(A)(*3*) of this AD.

(*1*) Before further flight, repair (modify) in accordance with Part 8 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*2*) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–

010, Revision 11, dated April 3, 2017, do a post-repair HFEC inspection for cracking, in accordance with Part 9 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*3*) If any crack is found during any inspection required by paragraph (g)(1)(ii)(A)(*2)* of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(B) Do the actions required by paragraphs (g)(1)(ii)(B)(*1*) and (g)(1)(ii)(B)(*2*) of this AD, and do all applicable actions required by paragraph (g)(1)(ii)(B)(*3*) of this AD.

(*1*) Before further flight, repair (modify) in accordance with Part 11 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*2*) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, do a post-repair HFEC inspection for cracking, in accordance with Part 13 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; except as required by paragraph (j)(4) of this AD.

(*3*) If any crack is found during any inspection required by paragraph (g)(1)(ii)(B)(*2*) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(iii) For airplanes on which ''Condition 3'' is found, as defined in the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, during the actions specified in paragraph (g)(1)(i)(B)(*1*) of this AD: Do the actions required by paragraph (g)(1)(iii)(A) or (g)(1)(iii)(B) of this AD.

(A) Do the actions required by paragraphs (g)(1)(iii)(A)(*1*) and (g)(1)(iii)(A)(*2*) of this AD, and do all applicable actions required by paragraph (g)(1)(iii)(A)(*3*) of this AD.

(*1*) Before further flight, repair (modify) in accordance with Part 8 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*2*) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, do a post-repair HFEC inspection for cracking, in accordance with Part 9 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*3*) If any crack is found during any inspection required by paragraph (g)(1)(iii)(A)(*2*) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(B) Do the actions required by paragraphs (g)(1)(iii)(B)(*1*) and (g)(1)(iii)(B)(*2*) of this AD, and do all applicable actions required by paragraph (g)(1)(iii)(B)(*3*) of this AD.

(*1*) Before further flight, repair (modify) in accordance with Part 11 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(*2*) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, do a post-repair HFEC inspection for cracking, in accordance with Part 13 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; except as required by paragraph (j)(4) of this AD.

(*3*) If any crack is found during any inspection required by paragraph (g)(1)(iii)(B)(*2*) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(iv) For airplanes on which ''Condition 4'' is found, as defined in the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, during any action specified in paragraph (g)(1)(i)(C)(*1*), (g)(1)(i)(D)(*1*) (g)(1)(ii)(A)(*1*), (g)(1)(ii)(B)(*1*), (g)(1)(iii)(A)(*1*), and (g)(1)(iii)(B)(*1*) of this AD: Repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(2) For Group 3 airplanes identified in Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, or within 6 months after the effective date of this AD, whichever occurs later, do an HFEC inspection for cracking of the lower outboard wing skin at stringer L–9.5, in accordance with Part 7 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017. Repeat the inspection thereafter at the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017. If any cracking is found during any inspection, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD. An approved repair terminates the repetitive inspections required by paragraph (g)(2) of this AD for the repaired area only.

(3) Group 4 airplanes identified in Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, are not affected by the actions required by paragraph (g) of this AD.

(h) Repetitive Stringer L–6.5 Inspections, Repair (Modification), Repetitive Post-Repair Inspections, and Repair

(1) For airplanes identified in Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, except as required by paragraph (j)(2) of this AD: Do an HFEC inspection for cracking of stringer L–6.5 of the lower outboard wing skin, in accordance with Part 1 of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017. If no cracking is found, repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, except as provided by paragraph (h)(3) of this AD.

(2) If any crack is found during any inspection required by paragraph (h)(1) of this AD, do the actions required by paragraphs (h)(2)(i) and (h)(2)(ii) of this AD, and do all applicable actions required by paragraph (h)(2)(iii) of this AD.

(i) Before further flight, repair (modify) stringer L–6.5, in accordance with Part 2 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

(ii) Except as required by paragraph (j)(3) of this AD: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, except as required by paragraph (j)(2) of this AD, do an HFEC post-repair inspection for cracking, in accordance with Part 3 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

(iii) If any crack is found during any inspection required by paragraph (h)(2)(ii) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(3) As an option to the repetitive inspections required by paragraph (h)(1) of this AD, do the actions required by paragraphs (h)(3)(i) and (h)(3)(ii) of this AD, and do all applicable actions required by paragraph (h)(3)(iii) of this AD.

(i) Before further flight after accomplishing the most recent inspection required by paragraph (h)(1) of this AD, repair (modify) stringer L–6.5, in accordance with Part 2 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

(ii) Except as required by paragraph (j)(3) of this AD: At the applicable time specified

in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, except as required by paragraph (j)(2) of this AD, do a post-repair HFEC inspection for cracking, in accordance with Part 3 of the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, and repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

(iii) If any crack is found during any inspection required by paragraph (h)(3)(ii) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) Repair Approval

Repairs of the lower outboard wing skin that were approved after June 15, 2017, and before the effective date of this AD, by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, are approved for the applicable repairs required by paragraphs (g) and (h) of this AD. The ODA repairs will have post-installation inspection requirements in lieu of the post-inspection instructions specified in Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017; and Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

(j) Exceptions to Service Information Specifications

(1) Where paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, specifies a compliance time ''after the issue date of Revision 11 of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, specifies a compliance time ''after the initial issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(3) For Condition 1 and Condition 2 airplanes: Where paragraph 1.E., ''Compliance,'' of Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017, specifies a compliance time for accomplishing the Part 3 HFEC inspection of 18 months ''after the initial issue date of this service bulletin,'' the required compliance time is 6,000 flight cycles or 18,000 flight hours, whichever occurs first, after doing the Part 2 repair.

(4) For airplanes on which a stringer L–9.5 replacement was accomplished per Part 11 of Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017: Where Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017, specifies repeating the post-repair HFEC inspection ''in Part 9,'' this AD requires repeating the post-repair HFEC inspection in Part 13.

(k) 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 (l) 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 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.

(4) Except as required by paragraphs (g)(1)(i)(B)(*3*), (g)(1)(i)(C)(*3*), (g)(1)(i)(D)(*3*), (g)(1)(ii)(A)(*3*), (g)(1)(ii)(B)(*3*), (g)(1)(iii)(A)(*3*), (g)(1)(iii)(B)(*3*), (g)(1)(iv), (g)(2), (h)(2)(iii), and (h)(3)(iii) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (k)(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.

(l) Related Information

For more information about this AD, contact Allen Rauschendorfer, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA; phone and fax: 206–231–3528; email: *allen.rauschendorfer@faa.gov.*

(m) 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) Aviation Partners Boeing Service Bulletin AP767–57–010, Revision 11, dated April 3, 2017.

(ii) Aviation Partners Boeing Service Bulletin AP767–57–014, Revision 1, dated April 12, 2017.

(3) For service information identified in this AD, contact Aviation Partners Boeing, 2811 S. 102nd Street, Suite 200, Seattle, WA 98168; telephone 206–762–1171; internet *https://www.aviationpartnersboeing.com.*

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

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

Issued in Des Moines, Washington, on May 21, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–11825 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1099; Product Identifier 2017–NM–093–AD; Amendment 39–19296; AD 2018–11–08]

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 767–200 and –300 series airplanes. This AD was prompted by a report of two cracks at a certain frame inner chord. This AD requires a detailed inspection for any material review board (MRB) filler installed in the area from the frame web to the stub-beam fitting at certain stations to determine if the filler extends above the frame-to-stub-beam joint, and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 10, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 10, 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, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1099.

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–2017–1099; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 S. 216th St., Des Moines, WA 98198; phone and fax: 206–231–3524; email: *wayne.lockett@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 767–200 and –300 series airplanes. The NPRM was published in the **Federal Register** on December 6, 2017 (82 FR 57552). The NPRM was prompted by a report of a crack on the transition radius of the station (STA) 883.5 frame inner chord and an additional crack indication at a fastener hole in the frame inner chord common to a material review board (MRB) filler that extended above the frame-to-stub-beam joint. The NPRM proposed to require a detailed inspection for any MRB filler installed in the area from the frame web to the stub-beam fitting at certain stations to determine if the filler extends above the frame-to-stub-beam joint, and applicable on-condition actions.

We are issuing this AD to detect and correct cracking of the frame inner chord, which could result in the inability of one or more overwing stub frames between STA 808 and STA 933, each a principal structural element, to sustain limit loads; this condition could adversely affect the structural integrity of the airplane.

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. Boeing concurred with the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the Supplemental Type Certificate (STC) ST01920SE does not affect the actions specified in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01920SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01920SE 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 To Confirm Intent of Compliance Time

Paragraph (h)(1) of the proposed AD allowed operators to substitute ''the effective date of this AD'' for ''the original issue date of Requirements Bulletin 767–53A0278 RB.'' United Airlines noted that this wording is different from that of recent NPRMs, where the AD effective date is the sole compliance date. United added that the proposed wording suggested that the operator can choose to use either the AD effective date or the original issue date of the RB when determining the compliance timeline. United requested that we clarify the intent of the provision of paragraph (h)(1) of the proposed AD.

We agree with the commenter. We have revised paragraph (h)(1) of this AD to specify use of the effective date of this AD in determining the compliance time.

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 addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017. This service information describes procedures for a detailed inspection for any MRB filler installed in the area from the frame web to the stub-beam fitting on the left and right side at STA 859.5, 883.5, and 903.5 to determine if the filler extends above the frame-to-stub-beam joint, and applicable on-condition actions. The applicable on-condition actions include repetitive surface high frequency eddy current inspections and repair for cracking in the frame inner chord around the end fastener common to each affected MRB filler. 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 51 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Detailed Inspection	20 work-hours × $85 per hour = $1,700	$0	$1,700	$86,700

We estimate the following costs to do any necessary on-condition actions that would be required. We have no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION INSPECTIONS

Labor cost	Parts cost	Cost per product
3 work-hours × $85 per hour = $255 per inspection cycle	$0	$255 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition repairs 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 and associated appliances 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):

2018–11–08 The Boeing Company: Amendment 39–19296; Docket No. FAA–2017–1099; Product Identifier 2017–NM–093–AD.

(a) Effective Date

This AD is effective July 10, 2018.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 767–200 and –300 series airplanes, as identified in Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027F43B9A7486E86257B1D006591EE?OpenDocument&Highlight=st01920se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01920SE 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 a report of a crack on the transition radius of the station (STA) 883.5 frame inner chord and an additional crack indication at a fastener hole in the frame inner chord common to a material review board (MRB) filler that extended above the frame-to-stub-beam joint. We are issuing this AD to detect and correct cracking of the frame inner chord, which could result in the inability of one or more overwing stub frames between STA 808 and STA 933, each a principal structural element, to sustain limit loads; this condition could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as required by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017.

Note 1 to paragraph (g) of this AD: Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 767–53A0278, dated June 30, 2017, which is referred to in Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, uses the phrase ''the original issue date of Requirements Bulletin 767–53A0278 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, specifies contacting Boeing, this AD requires repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(3) For airplanes identified as Group 1, Configuration 1, in Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, that have been modified to a freighter configuration: The actions specified in Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, for Group 1, Configuration 2, must be done instead of the actions for Group 1, Configuration 1, except as required by paragraph (h)(2) of this AD.

(4) For airplanes identified as Group 2, Configuration 1, in Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, that have been modified to a freighter configuration: The actions specified in Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017, for Group 2, Configuration 2, must be done instead of the actions for Group 2, Configuration 1, except as required by paragraph (h)(2) of this AD.

(i) 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 (j) 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.

(j) Related Information

For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 S. 216th St., Des Moines, WA 98198; phone and fax: 206–231–3524; email: *wayne.lockett@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 767–53A0278 RB, dated June 30, 2017.

(ii) Reserved.

(3) For 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, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on May 18, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–11427 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0779; Product Identifier 2017–NM–040–AD; Amendment 39–19301; AD 2018–11–13]

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 787–8 airplanes. This AD was prompted by a report of possible degraded bond-line performance of co-bonded upper wing stringer-to-skin joints. This AD requires repetitive inspections of certain upper wing stringers for any disbond and corrective actions, if necessary; and a terminating preventive modification of installing disbond arrestment (DBA) fasteners. This AD also requires revising the inspection or maintenance program to incorporate an airworthiness limitation. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 10, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 10, 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, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0779.

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–2017–0779; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule,

the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Allen Rauschendorfer, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3528; email: *allen.rauschendorfer@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 787–8 airplanes. The NPRM was published in the **Federal Register** on August 25, 2017 (82 FR 40511). The NPRM was prompted by a report of possible degraded bond-line performance of co-bonded upper wing stringer-to-skin joints. The NPRM proposed to require repetitive inspections of certain upper wing stringers for any disbond, and corrective actions if necessary; and a terminating preventive modification of installing DBA fasteners. The NPRM also proposed to require revising the inspection or maintenance program to incorporate an airworthiness limitation.

The degraded stringer bond-line does not meet the residual strength requirements if an adjacent stringer becomes disbonded due to induced damage at a critical location. We are issuing this AD to prevent upper wing stringer-to-skin joint disbonding, which can reduce the structural integrity of the airplane.

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.

Support for the NPRM

One commenter, Ken Mayes, and United Airlines (UAL) expressed support for the NPRM.

Request To Specify Updated Service Information

UAL, Japan Airlines (JAL), All Nippon Airways (ANA), and Boeing requested that we specify a later revision of the service information. Boeing pointed out that Issue 002 of Boeing Alert Service Bulletin B787–81205–SB570030–00 is expected to be released in the first half of 2018. JAL pointed out that Boeing has released Information Notice B787–81205–SB570030–00 IN–01, dated April 5, 2017, to include a certain special tool. JAL mentioned communications with Boeing regarding ''location 2'' fasteners that are for the dry bay installation and part of the basic design features. JAL also mentioned that Boeing communicated that certain specifications for ultraviolet protections were not the latest revisions in Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017. JAL specifically mentioned its preference to avoid deviations based on these issues. UAL specified that seven airplanes from the UAL fleet are affected by the NPRM. ANA pointed out that Issue 002 of Boeing Alert Service Bulletin B787–81205–SB570030–00 is expected to include alternative non-destructive test (NDT) procedures, alternative cleaning procedures, additional removal and installation specifications, and alternative special tools. ANA also pointed out that certain details regarding the new copper foils are incorrect in Issue 001 of the service information and that Issue 002 will correct those inaccuracies.

We do not consider that delaying this action until release of the planned service bulletin is warranted. Issue 002 of Boeing Alert Service Bulletin B787–81205–SB570030–00 is not yet approved, and we cannot specify future revisions of service information in this AD. Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, is the currently available revision, and it provides adequate information to address the identified unsafe condition. We have not reviewed the proposed Issue 002 of Boeing Alert Service Bulletin B787–81205–SB570030–00. However, the proposed Issue 002 of Boeing Alert Service Bulletin B787–81205–SB570030–00, is expected to provide more options, clarifications, and corrections, which may be helpful, but are not necessary to accomplish the requirements of this AD. These revisions are not expected to affect an operator's ability to comply with this AD. Therefore, we do not plan to wait for the release of Issue 002 of Boeing Alert Service Bulletin B787–81205–SB570030–00 before issuing this AD. However, we will consider requests for approval of an alternative method of compliance (AMOC) to allow the use of Issue 002 of Boeing Alert Service Bulletin B787–81205–SB570030–00 after it has been published, under the provisions of paragraph (l) of this AD. We have not changed this final rule regarding this issue.

Request To Clarify Information Leading to AD Action

Boeing requested that we clarify the information leading to the AD action in the **SUMMARY** of the NPRM and paragraph (e) of the proposed AD. The commenter pointed out that Boeing notified the FAA of possible degraded bond-line performance, but that there have been no reports of stringer disbonds found in the fleet.

We agree for the reasons provided. We have revised the **SUMMARY** section of this final rule and paragraph (e) of this AD to specify that this AD was prompted by a report of possible degraded bond-line performance of co-bonded upper wing stringer-to-skin joints.

Request To Clarify the Cause of the Possible Degraded Bond-Line Performance

Boeing requested that we clarify the cause of the possible degraded bond-line performance. The commenter pointed out that a specific type of Boeing Material Specification (BMS) 8–308 peel ply, and exposure to cure times that exceeded 4 hours at a temperature of 355 Fahrenheit degrees (±10 Fahrenheit degrees), are contributing factors. The commenter also pointed out that other types of BMS 8–308 peel ply are not affected by the unsafe condition. The commenter also mentioned that the temperature specified (345 Fahrenheit degrees (±10 Fahrenheit degrees)) in Boeing Alert Service Bulletin 787–81205–SB570030–00, Issue 001, dated March 17, 2017, in the description of the incident was incorrect.

We agree that clarification is necessary, in that, the BMS 8–308 specification includes multiple different types of peel ply material, and not all BMS 8–308 material types are affected by this AD. In fact, the replacement peel ply material specified in the service information was also selected from the BMS 8–308 specification. However, we do not agree to specify the temperature in this AD, because that information is not restated in the final rule. We have not changed this final rule regarding this issue.

Request To Clarify the Condition That Could Cause the Unsafe Condition

Boeing requested that we revise the Discussion section of the NPRM to clarify the condition that could cause the unsafe condition. The commenter pointed out that the upper wing stringer-to-skin joint may not sustain limit load if a stringer has a one-bay

disbond and is adjacent to a critical stringer with a degraded bond-line, which could adversely affect the structural integrity of the airplane. The commenter also pointed out that the degraded bond-lines are good for ultimate load and long-term durability when not assuming an adjacent stringer disbond. The commenter stated that the only way to show less than limit load capability is to assume that the degraded bond-line is adjacent to a one-bay disbond.

We agree that clarification is necessary, in that, the unsafe condition is a residual strength requirement that assumes an already damaged structure. We have revised the Discussion section of this final rule to reflect this condition.

Request To Clarify ''Assumed'' Conditions of Unsafe Condition

Boeing requested that we revise the NPRM to specify that the unsafe condition is based on additional assumed conditions. The commenter stated that the NPRM would not prevent anything, as the structure is good for ultimate static and fatigue, but would ensure that no ''assumed'' disbonds could be adjacent to a degraded bond-line.

We disagree with the request to revise paragraph (e) of this AD. This AD mandates inspections and provides a terminating action for airplanes with a known manufacturing non-conformance, which, under certain conditions, could reduce the structural capability of the airframe to less than limit load. We have not changed this final rule regarding this issue.

Request To Specify That the Unsafe Condition Does Not Develop

Boeing requested that we revise the ''FAA's Determination'' section of the NPRM to specify that while the unsafe condition could exist, it cannot develop. The commenter pointed out that the unsafe condition is a function of fabrication and not durability issues.

We disagree to make the requested wording change. The ''FAA's Determination'' section of the NPRM is not restated in the final rule. We have not changed this final rule regarding this issue.

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 addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017. The service information describes procedures for inspection of certain upper wing stringers for any disbond and corrective actions; and for a preventive modification which consists of, depending on airplane configuration, applying copper foil to the upper wing at certain stringer and rib bay locations, installing DBA fasteners on the upper flanges of the upper wing stringers at the stringer and rib bay locations, applying cap seals to the DBA fasteners, and applying edge sealant to the stringers at the DBA fastener installation locations.

We have also reviewed Airworthiness Limitation (AWL) 57–AWL–13, ''Inspection Requirements for In-Tank Fasteners and Edge Seal near Disbond Arrestment (DBA) Fastener Installations in Lightning Zone 2,'' of Boeing 787 Special Compliance Items/Airworthiness Limitations, D011Z009–03–04, dated February 2017. This service information describes tasks for inspecting in-tank fasteners and edge seals near DBA fastener installations of lightning zone 2.

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 24 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	49 work-hours × $85 per hour = $4,165 per inspection cycle.	$0	$4,165 per inspection cycle.	$99,960 per inspection cycle.
Modification	Up to 352 work-hour × $85 per hour = $29,920.	1,902	Up to $31,822	Up to $763,728.
Maintenance or Inspection Program Revision.	1 work-hour × $85 per hour = $85	0	$85	$2,040.

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 and associated appliances 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):

2018–11–13 The Boeing Company: Amendment 39–19301; Docket No. FAA–2017–0779; Product Identifier 2017–NM–040–AD.

(a) Effective Date

This AD is effective July 10, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, and line numbers 10, 13, 15, 16, 17, 18, and 19.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of possible degraded bond-line performance of co-bonded upper wing stringer-to-skin joints. We are issuing this AD to prevent upper wing stringer-to-skin joint disbonding, which can reduce the structural integrity of the airplane.

(f) Compliance

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

(g) Inspections and Corrective Actions

For airplanes identified in Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, except as specified in paragraph (k)(1) of this AD, at the applicable time specified in paragraph 5., ''Compliance,'' of Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017: Do an ultrasonic inspection for any disbond on the left side and right side upper wing stringers; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, except as specified in paragraph (k)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection of the upper wing stringers thereafter at the applicable intervals specified in paragraph 5., ''Compliance,'' of Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, until the actions required by paragraph (j) of this AD are done.

(h) Maintenance or Inspection Program Revision

(1) For airplanes identified in Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017: Prior to or concurrently with accomplishing the actions required by paragraph (g) of this AD, revise the inspection or maintenance program, as applicable, to incorporate Airworthiness Limitation (AWL) 57–AWL–13, ''Inspection Requirements for In-Tank Fasteners and Edge Seal near Disbond Arrestment (DBA) Fastener Installations in Lightning Zone 2,'' of Boeing 787 Special Compliance Items/Airworthiness Limitations, D011Z009–03–04, dated February 2017 (''AWL 57–AWL–13''). The initial compliance time for accomplishing the tasks specified in AWL 57–AWL–13 is within 24,000 flight cycles or 12 years, whichever occurs first, after accomplishing the actions specified in Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017.

(2) For airplanes having line numbers 10, 13, and 15 through 19 inclusive: Within 60 days after the effective date of this AD, revise the inspection or maintenance program, as applicable, to incorporate AWL 57–AWL–13. The initial compliance time for accomplishing the tasks specified in AWL 57–AWL–13 is prior to the accumulation of 24,000 total flight cycles or within 12 years after the date of issuance of the original airworthiness certificate or date of issuance of the original export certificate of airworthiness, whichever occurs first.

(i) No Alternative Actions or Intervals

After the action required by paragraph (h) of this AD has been done, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l) of this AD.

(j) Inspection and Modification

For airplanes identified in Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, on which ''PART 3: PREVENTIVE MODIFICATION'' of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, has not been done at all of the unrepaired areas of the upper wing stringers, except as specified in paragraph (k)(1) of this AD: At the applicable time specified in paragraph 5., ''Compliance,'' of Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, except as specified in paragraph (k)(2) of this AD. Doing the actions required by this paragraph terminates the repetitive inspections required by paragraph (g) of this AD.

(1) Do an ultrasonic inspection for any disbond on the left side and right side upper wing stringers, and do all applicable corrective actions. Do all applicable corrective actions before further flight.

(2) Do the preventive modification in accordance with ''PART 3: PREVENTIVE MODIFICATION'' of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017.

(k) Exceptions to Service Information

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, uses the phrase ''the Issue 001 date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Service Bulletin B787–81205–SB570030–00, Issue 001, dated March 17, 2017, specifies contacting Boeing, and specifies that action as RC: This AD requires repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(l) 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 (m) 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.

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

(m) Related Information

For more information about this AD, contact Allen Rauschendorfer, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3528; email: *allen.rauschendorfer@faa.gov.*

(n) 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 B787–81205–SB570030–00, Issue 001, dated March 17, 2017.

(ii) Boeing Airworthiness Limitation 57–AWL–13, ''Inspection Requirements for In-Tank Fasteners and Edge Seal near Disbond Arrestment (DBA) Fastener Installations in Lightning Zone 2,'' of Boeing 787 Special Compliance Items/Airworthiness Limitations, D011Z009–03–04, dated February 2017.

(3) For 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, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on May 21, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–11816 Filed 6–4–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0490; Product Identifier 2018–NM–018–AD; Amendment 39–19299; AD 2018–11–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A350–941 airplanes. This AD requires a detailed inspection of the four retaining pins in the main landing gear support structure (MLGSS) trunnion block, left- and right-hand sides, and related investigative and corrective actions if necessary. This AD was prompted by a determination that short retaining pins may have been installed at the incorrect location of the MLGSS forward pintle. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective June 20, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 20, 2018.

We must receive comments on this AD by July 20, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0490.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0490; 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 AD, the regulatory 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 FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3218.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2018–0008, dated January 10, 2018 (referred to after this as the

Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A350–941 airplanes. The MCAI states:

Following an Airbus quality control review on the final assembly line, it was identified that short retaining pins may have inadvertently been installed at the incorrect location of the main landing gear support structure (MLGSS) forward pintle. On the A350, two short retaining pins are installed through the fuse pin carrier and four long retaining pins are installed through the trunnion block. These six retaining pins are to prevent rotation and migration of the fuse pins.

This condition, if not detected and corrected, could lead to premature failure of the retaining pin, subsequent fuse pin migration and disconnection, with consequent main landing gear collapse, possibly resulting in damage to the aeroplane and injury to the occupants.

To address this potential unsafe condition, Airbus issued Service Bulletin (SB) A350–57–P011 to provide inspection instructions.

For the reasons described above, this [EASA] AD requires a one-time detailed inspection (DET) of the four retaining pins installed in the MLGSS trunnion block, both left hand (LH) and right hand (RH) sides [for nonconforming (incorrect) pins, *i.e.,* those having a gap between the retaining pin and the forward surface of the trunnion block], and, depending on findings, accomplishment of applicable [related investigative actions, *i.e.,* a detailed inspection for damage or deformation of nonconforming pins and] corrective action(s) [including repairing or replacing damaged (cracked), deformed, or nonconforming retaining pins].

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0490.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A350–57–P011, dated May 17, 2017. This service information describes procedures for a detailed inspection of the four retaining pins installed in the MLGSS trunnion block, left- and right-hand sides, and related investigative and 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.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

Since none of the affected aircraft are currently on the U.S. Register, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0490; Product Identifier 2018–NM–018–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on 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 AD.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, we provide the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product
6 work-hours × $85 per hour = $510	$0	$510

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 16 work-hours × $85 per hour = Up to $1,360	Up to $16,000	Up to $17,360

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

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

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII,

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–11–11 Airbus: Amendment 39–19299; Docket No. FAA–2018–0490; Product Identifier 2018–NM–018–AD.

(a) Effective Date

This AD becomes effective June 20, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A350–941 airplanes, certificated in any category, manufacturer serial numbers (MSN) 0006 to 0040 inclusive, except MSN 0025, 0032, 0033, 0036, 0038, and 0039.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that short retaining pins may have been installed at the incorrect location of the main landing gear support structure (MLGSS) forward pintle. We are issuing this AD to address incorrect retaining pin installations, which could lead to premature failure of the retaining pin and subsequent fuse pin migration and disconnection, and could ultimately lead to main landing gear collapse and possible damage to the airplane.

(f) Compliance

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

(g) Detailed Inspection

Before exceeding 1,880 flight cycles since first flight of the airplane, accomplish a detailed inspection for nonconformance (incorrect retaining pins, *i.e.,* those having a gap between the retaining pin and the forward surface of the trunnion block) of the four retaining pins installed in the MLGSS trunnion block, left- and right-hand sides and related investigative actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–57–P011, dated May 17, 2017.

(h) Corrective Actions

(1) If, during any inspection required by paragraph (g) of this AD, any nonconforming retaining pin is found and that pin has damage (including cracks) or deformation: Before further flight, repair 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.

(2) If, during any inspection required by paragraph (g) of this AD, any nonconforming but undamaged and undeformed retaining pin is found: Before exceeding 1,880 flight cycles since first flight of the airplane, replace the nonconforming pin(s) with new conforming pins in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–57–P011, dated May 17, 2017.

(i) 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 International Section, send it to the attention of the person identified in paragraph (j)(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 EASA; or Airbus's 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.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2018–0008, dated January 10, 2018, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0490.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3218.

(k) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A350–57–P011, dated May 17, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on May 21, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–11688 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0100; Airspace Docket No. 18–ASW–3]

RIN 2120–AA66

Amendment of Class E Airspace; Duncan, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface at Halliburton Field, Duncan, OK. This action is a result of an airspace review caused by the decommissioning of the Duncan VHF omnidirectional range (VOR) navigation aid as part of the VOR Minimum Operational Network (MON) Program and the cancellation of the associated instrument procedures. The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database, as well as an editorial change removing the city associated with the airport name in the airspace legal designation.

DATES: Effective 0901 UTC, September 13, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Halliburton Field, Duncan, OK, to support instrument flight rules operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 10644; March 12, 2018) for Docket No. FAA–2018–0100 to amend the Class E airspace extending upward from 700 feet above the surface at Halliburton Field, Duncan, OK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile radius (decreased from a 6.7-mile radius) at Halliburton Field, Duncan, OK, and removes the extension to the north of the airport associated with the Halliburton Field Localizer. This action also adds an extension within 4 miles each side of the 359° bearing from the airport from the 6.6-mile radius to 11.6 miles north of the airport.

The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database, and the name of the city associated with the airport in the airspace legal description is being removed to comply with a change to FAA Order 7400.2L, Procedures for Handling Airspace Matters.

This action is necessary due to an airspace review caused by the decommissioning of the Duncan VOR as part of the VOR MON Program and cancellation of the associated instrument procedures.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW OK E5 Duncan, OK [Amended]

Halliburton Field, OK

(Lat. 34°28′17″ N, long. 97°57′36″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Halliburton Field, and within 4.0 miles each side of the 359° bearing from the airport extending from the 6.6-mile radius to 11.6 miles north of the airport.

Issued in Fort Worth, Texas, on May 24, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–11860 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0825; Airspace Docket No. 17–ASW–12]

RIN 2120–AA66

Amendment of Class D Airspace and Establishment of Class E Airspace; Norman, OK; and Amendment of Class E Airspace; Oklahoma City, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace and establishes Class E airspace designated as a surface area at University of Oklahoma Westheimer Airport, Norman, OK. The University of Oklahoma Westheimer Airport requested establishment of this airspace. This action also amends Class E airspace extending upward from 700 feet above the surface at the University of Oklahoma Westheimer Airport contained within the Oklahoma City, OK, airspace legal description, by removing the Oklahoma Westheimer Airport ILS localizer and realigning the southwest segment. Additionally, the name of the University of Oklahoma Westheimer Airport is being updated to coincide with the FAA's aeronautical database in the Class D airspace legal description. This action is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, September 13, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D airspace, establishes Class E airspace designated as a surface area, and amends Class E airspace extending upward from 700 feet above the surface at the University of Oklahoma Westheimer Airport, Norman, OK, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 44981; September 27, 2017) for Docket No. FAA–2017–0825 to amend Class D airspace, establish Class E airspace designated as a surface area, and amend Class E airspace extending upward from 700 feet above the surface at the University of Oklahoma Westheimer Airport, Norman, OK, to support IFR operations at the airport. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA discovered a typographic error in the regulatory text for Class E airspace designated as a surface area. The Notice

to Airmen information incorrectly references Class D airspace instead of Class E airspace.

Additionally, the names of the cities associated with the airports listed in the airspace descriptions have been removed to comply with a recent change to FAA Order 7400.2L, Procedures for Handling Airspace Matters.

Except for the edits noted above, this rule is the same as published in the NPRM.

Class D and E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71:

Amends Class D airspace to within a 4.2-mile radius (reduced from 4.5-miles) of University of Oklahoma Westheimer Airport (formerly University of Oklahoma Westheimer Airpark), Norman, OK, and updates the name of the airport to coincide with the FAA's aeronautical database;

Establishes Class E airspace designated as a surface area within a 4.2-mile radius of University of Oklahoma Westheimer Airport, and corrects the reference to the NOTAM information to Class E airspace vice Class D airspace; and

Amends Class E airspace extending upward from 700 feet above the surface at University of Oklahoma, Westheimer Airport, Norman, OK, contained within the Oklahoma City, OK, airspace description, to within a 6.7-mile radius (reduced from 8.9-miles), removing the University of Oklahoma Westheimer Airport ILS Localizer from the airspace description, and realigning the southwest extension to 2-miles (increased from 1.8-miles) either side of the 213° bearing from the airport (previously referenced from the University of Oklahoma Westheimer Airport ILS Localizer) from the 6.7-mile radius to 7.8-miles southwest of the airport.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW OK D Norman, OK [Amended]

University of Oklahoma Westheimer Airport, OK
(Lat. 35°14′44″ N, long. 97°28′20″ W)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4.2-mile radius of University of Oklahoma Westheimer Airport, excluding that airspace within the Oklahoma City, OK, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as a Surface Area

* * * * *

ASW OK E2 Norman, OK [New]

University of Oklahoma Westheimer Airport, OK
(Lat. 35°14′44″ N, long. 97°28′20″ W)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4.2-mile radius of University of Oklahoma Westheimer Airport excluding that airspace within the Oklahoma City, OK, Class C airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASW OK E5 Oklahoma City, OK [Amended]

Will Rogers World Airport, OK
(Lat. 35°23′35″ N, long. 97°36′03″ W)

Tinker AFB, OK
(Lat. 35°24′53″ N, long. 97°23′12″ W)

University of Oklahoma Westheimer Airport, OK
(Lat. 35°14′44″ N, long. 97°28′20″ W)

David Jay Perry Airport, OK
(Lat. 35°09′18″ N, long. 97°28′13″ W)

Clarence E. Page Municipal Airport, OK
(Lat. 35°29′17″ N, long. 97°49′25″ W)

El Reno Regional Airport, OK
(Lat. 35°28′22″ N, long. 98°00′21″ W)

Wiley Post Airport, OK
(Lat. 35°32′03″ N, long. 97°38′49″ W)

Sundance Airport, OK
(Lat. 35°36′07″ N, long. 97°42′22″ W)

That airspace extending upward from 700 feet above the surface within an 8.1-mile radius of Will Rogers World Airport, and within an 8.2-mile radius of Tinker AFB, and within a 6.7-mile radius of University of Oklahoma Westheimer Airport, and within 2.0 miles each side of the 213° bearing from the airport extending from the 6.7-mile

radius to 7.8 miles southwest of the airport, and within a 6.3-mile radius of David Jay Perry Airport, and within a 6.5-mile radius of Clarence E. Page Municipal Airport, and within a 6.6-mile radius of El Reno Regional Airport, and within a 6.8-mile radius of Wiley Post Airport, and within a 6.8-mile radius of Sundance Airport.

Issued in Fort Worth, Texas, on May 24, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–11861 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0020; Airspace Docket No. 17–AGL–28]

RIN 2120–AA66

Amendment of Class E Airspace; Flint, MI, and Establishment of Class E Airspace; Owosso, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Bishop International Airport, Flint, MI, and establishes separate Class E airspace extending upward from 700 feet above the surface at Owosso Community Airport, Owosso, MI. This action is necessary due to the closure of the Athelone Williams Memorial Airport, Davison, MI, which is included in the Flint, MI, airspace description; the cancellation of the instrument approach procedures at the Genesys Regional Medical Center, Grand Blanc, MI, also included in the Flint, MI, airspace description; and updates the Bishop International Airport airspace and the Owosso Community Airport airspace to comply with FAA Order 7400.2L, Procedures for Handling Airspace Matters. The geographic coordinates of the Bishop International Airport and Prices Airport, Linden, MI, are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, September 13, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Bishop International Airport, Flint, MI, and establishes separate Class E airspace extending upward from 700 feet above the surface at Owosso Community Airport, Owosso, MI, to support instrument flight rules (IFR) operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** for Docket No. FAA–2018–0020 (83 FR 8638; February 28, 2018) to amend Class E airspace extending upward from 700 feet above the surface at Bishop International Airport, Flint, MI, and establish separate Class E airspace extending upward from 700 feet above the surface at Owosso Community Airport, Owosso, MI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA discovered a typographical error in the geographic coordinates for Bishop International Airport in the Class E airspace extending upward from 700 feet above the surface airspace description. That error has been corrected in this action.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71:

Modifies the Class E airspace designated as a surface area at Bishop International Airport, Flint, MI, by updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database, and replaces the outdated term ''Airport/Facility Directory'' with the term ''Chart Supplement'' in the airspace legal description;

Modifies the Class E airspace area extending upward from 700 feet above the surface to within a 6.9-mile radius (decreased from a 10.5-mile radius) at Bishop International Airport; removes the extension to the north referencing the Flint ILS localizer; adds an extension 2.4 miles each side of the 016° radial of the Flint VORTAC extending from the 6.9-mile radius to 7.9 miles north of the airport; adds an extension 2.4 miles each side of the 179° radial of the Flint VORTAC extending from the 6.9-mile radius to 7.9 miles south of the airport; removes the Owosso Community Airport, Owosso, MI, from the airspace description (a separate

Class E airspace area extending upward from 700 feet above the surface is being created for Owosso Community Airport as it no longer adjoins the Flint, MI, Class E airspace area extending upward from 700 feet above the surface with this amendment); removes Athelone Williams Memorial Airport, Davison, MI, from the airspace description; removes the PETLI LOM from the airspace description; removes Genesys Regional Medical Center, Grand Blanc, MI, from the airspace description; updates the geographic coordinates for Bishop International Airport and Prices Airport, Linden, MI, to coincide with the FAA's aeronautical database; and removes exclusionary language contained in the legal description to comply with FAA Order 7400.2L; and

Establishes Class E airspace area extending upward from 700 feet above the surface to within a 6.4-mile radius of Owosso Community Airport, Owosso, MI.

Airspace reconfiguration is necessary due to the closure of the Athelone Williams Memorial Airport and the cancellation of the instrument procedures at the Genesys Regional Medical Center, as they no longer require a Class E airspace area extending upward from 700 feet above the surface. This action enhances safety and the management of IFR operations at these airports.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002. Class E Surface Area Airspace.

* * * * *

AGL MI E2 Flint, MI [Amended]

Bishop International Airport, MI
(Lat. 42°57′56″ N, long. 83°44′41″ W)

That airspace extending upward from the surface within a 5-mile radius of Bishop International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AGL MI E5 Flint, MI [Amended]

Bishop International Airport, MI
(Lat. 42°57′56″ N, long. 83°44′41″ W)
Prices Airport, MI
(Lat. 42°48′27″ N, long. 83°46′08″ W)
Flint VORTAC
(Lat. 42°58′00″ N, long. 83°44′49″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Bishop International Airport, and within 2.4 miles each side of the 016° radial of the Flint VORTAC extending from the 6.9-mile radius to 7.9 miles north of Bishop International Airport, and within 2.4 miles each side of the 179° radial of the Flint VORTAC extending from the 6.9-mile radius to 7.9 miles south of Bishop International Airport, and within a 6.4-mile radius of Prices Airport.

* * * * *

AGL MI E5 Owosso, MI [New]

Owosso Community Airport, MI
(Lat. 42°59′35″ N, long. 84°08′19″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Owosso Community Airport.

Issued in Fort Worth, Texas, on May 24, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–11864 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0618; Airspace Docket No. 17–ASW–9]

RIN 2120–AA66

Establishment of Class D Airspace; Burns Flat, OK; Revocation of Class D Airspace; Clinton-Sherman Airport, OK; and Amendment of Class E Airspace for the Following Oklahoma Towns: Burns Flat, OK; Clinton, OK; and Elk City, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at Clinton-Sherman Airport, Burns Flat, OK; removes Class D airspace at Clinton-Sherman Airport, Clinton-Sherman Airport, OK; and amends Class E airspace extending upward from 700 feet above the surface at Clinton-Sherman Airport, Burns Flat, OK; Clinton Municipal Airport, Clinton, OK; and Elk City Regional Business Airport, Elk City, OK. This action is due to the decommissioning of the Sayre co-located VHF omnidirectional range and tactical air navigation (VORTAC) facility, which provided navigation guidance for the instrument procedures to these airports. The VORTAC is being decommissioned as part of the VHF omnidirectional range (VOR) Minimum Operational Network (MON) Program.

DATES: Effective 0901 UTC, September 13, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class D airspace at Clinton-Sherman Airport, Burns Flat, OK; removes Class D airspace at Clinton-Sherman Airport, Clinton-Sherman Airport, OK; and amends Class E airspace extending upward from 700 feet above the surface at Clinton-Sherman Airport, Burns Flat, OK; Clinton Municipal Airport, Clinton, OK; and Elk City Regional Business Airport, Elk City, OK, to support the management of instrument flight rule (IFR) operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 40078; August 24, 2017) for Docket No. FAA–2017–0618 to establish Class D airspace at Clinton-Sherman Airport, Burns Flat, OK; remove Class D airspace at Clinton-Sherman Airport, Clinton-Sherman Airport, OK; and amend Class E airspace extending upward from 700 feet above the surface at Clinton-Sherman Airport, Burns Flat, OK; Clinton Municipal Airport, Clinton, OK; and Elk City Regional Business Airport, Elk City, OK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraphs 5000 and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71:

Establishes Class D airspace within a 4.7-mile radius of Clinton-Sherman Airport, Burns Flat, OK, to replace the airspace designation of Clinton-Sherman Airport, Clinton-Sherman Airport, OK, and bring the airspace legal descriptions in line with the requirements of FAA Order 7400.2L, Procedures for Handling Airspace Matters;

Removes Class D airspace at Clinton-Sherman Airport, Clinton-Sherman Airport, OK; and

Modifies Class E airspace extending upward from 700 feet above the surface as follows:

Within a 7.2-mile radius (reduced from an 8.2-mile radius) of Clinton-Sherman Airport, Burns Flat, OK, and removes the Burns Flat VORTAC and extensions to the south and north of the airport from the airspace legal description;

Correcting the airspace header to Clinton, OK, (formerly Clinton Municipal Airport, OK) to comply with FAA Order 7400.2L, removes the extension south of Clinton Regional Airport (formerly Clinton Municipal Airport), adds an extension 2 miles each side of the 359° bearing from the airport from the 6.5-mile radius to 7 miles north of the airport, and updates the name of the airport to coincide with the FAA's aeronautical database; and

Within a 6.5-mile radius (increased from a 6.4-mile radius) of Elk City Regional Business Airport (formerly Elk City Municipal Airport), Elk City, OK, removes the extension to the northeast of the airport, removes the Elk City RBN from the airspace legal description, and updates the name and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Sayre VORTAC as part of the VOR MON Program, and to bring the airspace and airspace descriptions into compliance with FAA Order 7400.2L. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at these airports.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW OK D Burns Flat, OK [New]

Clinton-Sherman Airport, OK
(Lat. 35°20′23″ N, long. 99°12′02″ W)

That airspace extending upward from the surface to and including 4,500 feet within a 4.7-mile radius of Clinton-Sherman Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

ASW OK D Clinton-Sherman Airport, OK [Removed]

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

* * * * *

ASW OK E5 Burns Flat, OK [Amended]

Clinton-Sherman Airport, OK
(Lat. 35°20′23″ N, long. 99°12′02″ W)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of Clinton-Sherman Airport.

* * * * *

ASW OK E5 Clinton, OK [Amended]

Clinton Regional Airport, OK
(Lat. 35°32′18″ N, long. 98°55′58″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Clinton Regional Airport, and within 2.0 miles each side of the 359° bearing from the airport extending from the 6.5-mile radius to 7.0 miles north of the airport.

* * * * *

ASW OK E5 Elk City, OK [Amended]

Elk City Regional Business Airport, OK
(Lat. 35°25′51″ N, long. 99°23′39″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Elk City Regional Business Airport.

Issued in Fort Worth, Texas, on May 24, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–11858 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31196; Amdt. No. 3802]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 5, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 5, 2018.

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

For Examination

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

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

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

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

Availability

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

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

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

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on May 18, 2018.

John S. Duncan,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

AIRAC date	State	City	Airport	FDC NO.	FDC date	Subject
21-Jun-18	MI	Boyne Falls	Boyne Mountain	8/5325	4/30/18	This NOTAM, published in TL 18–13, is hereby rescinded in its entirety.
21-Jun-18	MI	Flint	Bishop Intl	7/9070	5/14/18	RNAV (GPS) RWY 18, Amdt 1A
21-Jun-18	ND	Oakes	Oakes Muni	8/1046	4/30/18	RNAV (GPS) RWY 30, Orig-A
21-Jun-18	MI	Boyne Falls	Boyne Mountain	8/2421	5/14/18	RNAV (GPS) RWY 35, Orig
21-Jun-18	AR	West Memphis	West Memphis Muni	8/2705	5/9/18	RNAV (GPS) RWY 17, Orig
21-Jun-18	AR	West Memphis	West Memphis Muni	8/2720	5/9/18	RNAV (GPS) RWY 35, Orig
21-Jun-18	NE	Red Cloud	Red Cloud Muni	8/4511	5/14/18	RNAV (GPS) RWY 34, Orig-A
21-Jun-18	SD	Watertown	Watertown Rgnl	8/6084	5/14/18	RNAV (GPS) RWY 12, Orig
21-Jun-18	CA	Groveland	Pine Mountain Lake	8/6207	5/2/18	RNAV (GPS) RWY 9, Orig-A
21-Jun-18	CA	Groveland	Pine Mountain Lake	8/6212	5/2/18	GPS RWY 27, Orig-A
21-Jun-18	WA	Seattle	Seattle-Tacoma Intl	8/6624	5/2/18	ILS OR LOC RWY 34C, Amdt 3D
21-Jun-18	WA	Seattle	Seattle-Tacoma Intl	8/6626	5/2/18	RNAV (GPS) Y RWY 16L, Amdt 5A
21-Jun-18	WA	Seattle	Seattle-Tacoma Intl	8/6627	5/2/18	RNAV (GPS) Y RWY 34C, Amdt 2C
21-Jun-18	TX	Stratford	Stratford Field	8/6666	5/2/18	Takeoff Minimums and Obstacle DP, Amdt 4
21-Jun-18	NM	Tucumcari	Tucumcari Muni	8/7528	5/2/18	VOR RWY 26, Amdt 6
21-Jun-18	MI	Owosso	Owosso Community	8/7559	5/2/18	VOR/DME RWY 29, Amdt 1C
21-Jun-18	MI	Owosso	Owosso Community	8/7562	5/2/18	RNAV (GPS) RWY 29, Amdt 1D
21-Jun-18	MI	Owosso	Owosso Community	8/7568	5/2/18	RNAV (GPS) RWY 11, Amdt 1D
21-Jun-18	MI	Rogers City	Presque Isle County	8/7570	5/2/18	RNAV (GPS) RWY 9, Orig
21-Jun-18	WI	Waukesha	Waukesha County	8/8589	5/2/18	ILS OR LOC RWY 10, Amdt 2A
21-Jun-18	MO	Aurora	Jerry Sumners Sr Aurora Muni	8/9573	5/9/18	RNAV (GPS) RWY 36, Orig-A
21-Jun-18	TX	Temple	Draughon-Miller Central Texas Rgnl.	8/9931	5/9/18	VOR RWY 33, Amdt 4

[FR Doc. 2018–11840 Filed 6–4–18; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31195; Amdt. No. 3801]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 5, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 5, 2018.

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

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

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

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on May 18, 2018.

John S. Duncan,

Executive Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 21 June 2018

Fort Madison, IA, Fort Madison Muni, RNAV (GPS) RWY 17, Amdt 1A
Big Rapids, MI, Roben-Hood, Takeoff Minimums and Obstacle DP, Amdt 6A
Detroit, MI, Detroit Metropolitan Wayne County, ILS OR LOC RWY 22L, ILS RWY 22L SA CAT I, Amdt 32A
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (RNP) W RWY 22R, Orig-A
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (RNP) X RWY 3R, Orig-A
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (RNP) X RWY 21L, Orig-A
St Paul, MN, St Paul Downtown Holman Fld, ILS OR LOC RWY 32, Amdt 6A
Omaha, NE, Eppley Airfield, RNAV (GPS) Y RWY 18, Amdt 4A
Saranac Lake, NY, Adirondack Rgnl, Takeoff Minimums and Obstacle DP, Amdt 8
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) Y RWY 6L, Amdt 2A
Ottawa, OH, Putnam County, VOR RWY 27, Amdt 2C

Effective 19 July 2018

Manley Hot Springs, AK, Manley Hot Springs, RNAV (GPS) RWY 18, Orig
Manley Hot Springs, AK, Manley Hot Springs, RNAV (GPS) RWY 36, Orig
Manley Hot Springs, AK, Manley Hot Springs, Takeoff Minimums and Obstacle DP, Orig
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Rgnl, ILS OR LOC RWY 34, Amdt 4
Auburn, CA, Auburn Muni, RNAV (GPS) RWY 7, Orig-B
Long Beach, CA, Long Beach/Daugherty Field/, ILS OR LOC RWY 30, Amdt 34
Long Beach, CA, Long Beach/Daugherty Field/, RNAV (RNP) RWY 26R, Amdt 1A
Long Beach, CA, Long Beach/Daugherty Field/, Takeoff Minimums and Obstacle DP, Amdt 6A
Long Beach, CA, Long Beach/Daugherty Field/, VOR OR TACAN RWY 30, Amdt 9
Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 12, Amdt 2
Palm Springs, CA, Jacqueline Cochran Rgnl, RNAV (GPS) RWY 30, Amdt 1
Palm Springs, CA, Jacqueline Cochran Rgnl, VOR RWY 30, Amdt 2
Palm Springs, CA, Jacqueline Cochran Rgnl, VOR–A, Amdt 1
Panama City, FL, Northwest Florida Beaches Intl, ILS OR LOC RWY 16, ILS RWY 16 SA CAT I, ILS RWY 16 SA CAT II, Amdt 3
Douglas, GA, Douglas Muni, ILS OR LOC RWY 4, Amdt 2C
Kahului, HI, Kahului, ILS OR LOC RWY 2, Amdt 25A
Springfield, IL, Abraham Lincoln Capital, VOR RWY 4, Orig-C
Sterling/Rockfalls, IL, Whiteside Co Arpt-Jos H Bittorf Fld, ILS OR LOC RWY 25, Amdt 11
Sterling/Rockfalls, IL, Whiteside Co Arpt-Jos H Bittorf Fld, LOC BC RWY 7, Amdt 6
Sterling/Rockfalls, IL, Whiteside Co Arpt-Jos H Bittorf Fld, NDB RWY 7, Amdt 6, CANCELED
Sterling/Rockfalls, IL, Whiteside Co Arpt-Jos H Bittorf Fld, RNAV (GPS) RWY 7, Amdt 1
Sterling/Rockfalls, IL, Whiteside Co Arpt-Jos H Bittorf Fld, RNAV (GPS) RWY 25, Amdt 1
Howell, MI, Livingston County Spencer J Hardy, RNAV (GPS) RWY 31, Amdt 1B
Howell, MI, Livingston County Spencer J Hardy, VOR RWY 31, Amdt 11A, CANCELED
Menominee, MI, Menominee Rgnl, ILS OR LOC RWY 3, Amdt 3
Menominee, MI, Menominee Rgnl, RNAV (GPS) RWY 3, Orig-A
Menominee, MI, Menominee Rgnl, RNAV (GPS) RWY 21, Orig-C
Menominee, MI, Menominee Rgnl, RNAV (GPS) RWY 32, Amdt 1C
Menominee, MI, Menominee Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3A
Menominee, MI, Menominee Rgnl, VOR–A, Amdt 3C
Cabool, MO, Cabool Memorial, RNAV (GPS) RWY 21, Orig-B
Cabool, MO, Cabool Memorial, VOR/DME RWY 21, Amdt 2A, CANCELED
Ithaca, NY, Ithaca Tompkins Rgnl, ILS OR LOC RWY 32, Amdt 7
Ithaca, NY, Ithaca Tompkins Rgnl, RNAV (GPS) RWY 32, Orig-B
Ithaca, NY, Ithaca Tompkins Rgnl, VOR RWY 14, Amdt 14A, CANCELED
Ogdensburg, NY, Ogdensburg Intl, RNAV (GPS) RWY 9, Amdt 1
Watertown, NY, Watertown Intl, Takeoff Minimums and Obstacle DP, Amdt 3
Tiffin, OH, Seneca County, NDB RWY 24, Amdt 7D
Tiffin, OH, Seneca County, RNAV (GPS) RWY 6, Orig-B
Tiffin, OH, Seneca County, RNAV (GPS) RWY 24, Amdt 1C
Tiffin, OH, Seneca County, VOR RWY 6, Amdt 9B
Anderson, SC, Anderson Rgnl, RNAV (GPS) RWY 23, Amdt 2
Weslaco, TX, Mid Valley, RNAV (GPS) RWY 14, Orig-A
Weslaco, TX, Mid Valley, VOR–A, Orig-B
Eastsound, WA, Orcas Island, RNAV (GPS) RWY 16, Amdt 2
Port Angeles, WA, William R Fairchild Intl, ILS OR LOC RWY 8, Amdt 3A
Port Angeles, WA, William R Fairchild Intl, RNAV (GPS) RWY 8, Amdt 1A
Port Angeles, WA, William R Fairchild Intl, RNAV (GPS) RWY 26, Amdt 1B
Port Angeles, WA, William R Fairchild Intl, Takeoff Minimums and Obstacle DP, Amdt 3A
Port Angeles, WA, William R Fairchild Intl, WATTR SEVEN, Graphic DP
New Holstein, WI, New Holstein Muni, RNAV (GPS) RWY 14, Orig-B

[FR Doc. 2018–11836 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 862, 866, 876, 880, and 884

[Docket No. FDA–2017–N–1129]

Medical Devices; Exemptions From Premarket Notification: Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is publishing an order to exempt a list of class II devices from premarket notification (510(k)) requirements, subject to certain limitations. This exemption from 510(k), subject to certain limitations, is immediately in effect for the listed class II devices. This exemption will decrease regulatory burdens on the medical device industry and will eliminate private costs and expenditures required to comply with certain Federal regulations. FDA is also amending the codified language for the listed class II devices to reflect this final determination. FDA is publishing this order in accordance with the section of the Federal Food, Drug, and Cosmetic Act (FD&C Act) permitting the exemption of a device from the requirement to submit a 510(k).

DATES: This order is effective June 5, 2018.

FOR FURTHER INFORMATION CONTACT: Scott McFarland, Center for Devices and

Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 66, Rm. 4676, Silver Spring, MD 20993–0002, 301–796–6217.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and the implementing regulations, 21 CFR part 807, subpart E, require persons who intend to market a new device to submit and obtain clearance of a premarket notification (510(k)) containing information that allows FDA to determine whether the new device is ''substantially equivalent'' within the meaning of section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a legally marketed device that does not require premarket approval.

On December 13, 2016, the 21st Century Cures Act (Cures Act) (Pub. L. 114–255) was signed into law. Section 3054 of the Cures Act amended section 510(m) of the FD&C Act. As amended, section 510(m)(2) provides that, 1 calendar day after the date of publication of the final list under section 510(1)(B), FDA may exempt a class II device from the requirement to submit a report under section 510(k) of the FD&C Act, upon its own initiative or a petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and provide a 60-calendar-day comment period. Within 120 days of publication of such notice, FDA shall publish an order in the **Federal Register** that sets forth its final determination regarding the exemption of the device that was the subject of the notice.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the January 21, 1998, **Federal Register** notice (63 FR 3142) and subsequently in the guidance the Agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff'' (''Class II 510(k) Exemption Guidance''). That guidance can be obtained through the internet at *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM080199.pdf* or by sending an email request to *CDRH-Guidance@fda.hhs.gov* to receive a copy of the document. Please use the document number 159 to identify the guidance you are requesting.

Accordingly, FDA generally considers the following factors to determine whether premarket notification is necessary for class II devices: (1) The device does not have a significant history of false or misleading claims or of risks associated with inherent characteristics of the device; (2) characteristics of the device necessary for its safe and effective performance are well established; (3) changes in the device that could affect safety and effectiveness will either (a) be readily detectable by users by visual examination or other means such as routine testing, before causing harm, or (b) not materially increase the risk of injury, incorrect diagnosis, or ineffective treatment; and (4) any changes to the device would not be likely to result in a change in the device's classification. FDA may also consider that, even when exempting devices, these devices would still be subject to the limitations on exemptions.

III. Comments on the Proposed Exemption and FDA Response

In the **Federal Register** of November 7, 2017 (82 FR 51633), FDA published a notice (''November 2017 notice'') announcing its intent to exempt, upon its own initiative, certain class II devices listed in table 1 from 510(k) requirements, subject to certain limitations, and provided opportunity for interested persons to submit comments by January 8, 2018. After reviewing comments received, FDA is now providing its final determination on exempting the certain class II devices listed in table 1 from 510(k) requirements, subject to certain limitations as identified in this order. FDA is also amending the codified language for the classification regulations for the certain class II devices listed in table 1 to reflect this final determination. Persons with pending 510(k) submissions for devices that are now exempt from 510(k), subject to the limitations, should withdraw their submissions.

In response to the November 2017 notice announcing FDA's intent to exempt those device types from 510(k) requirements, FDA received a submission from one commenter—a professional organization—opposing an exemption from 510(k) for the genetic health risk assessment test device type.

To make it easier to identify comments and our responses, the word ''Comment'' appears in parentheses before the comment's description, and the word ''Response'' in parentheses precedes the response. Specific issues raised by the comment and the Agency's response follows.

(Comment) The commenter recommended FDA not exempt one-time FDA reviewed genetic health risk assessment system devices from the 510(k) requirement because there would be insufficient oversight to ensure the analytical and clinical validity of these tests, consumers would be misled regarding which tests FDA has affirmed are scientifically valid, and concerns that, if one-time FDA reviewed genetic health risk assessment system devices were exempted, consumers would not be assured of being adequately informed about test quality. The commenter believed it is not possible to assess the analytical and clinical validity of all genetic health risks a company might offer by conducting a one-time review of its 'assessment system', as proposed by FDA. Such oversight, it is argued, will only allow FDA to assess the analytical and clinical validity, and 'mitigate the risks of false negatives and positives', for tests initially proposed by the company during this one-time review. The commenter believed that it does not appear that there will be assessment of the analytical or clinical validity of subsequent tests offered, nor any assessment of the risks to the consumer of an incorrect result. This commenter believed that FDA's proposal to exempt one-time FDA reviewed genetic health risk assessment system devices will not prevent scientifically invalid tests from being marketed to the public and lacks a comprehensive assessment. Further, the commenter argued that, after undergoing the one-time FDA review for genetic health risk assessment tests, companies would be able to market subsequent tests to the public as part of the same system and declare that the tests meet FDA's standards. Such tests would not be held to any specific standards of analytical or clinical validity. The public would likely assume (and purveyors would likely advertise) that FDA had reviewed and approved such tests as valid even though they had not been reviewed by the Agency. The commenter also argued that there is a vast range of quality (*i.e.,* scientific merit) of direct-to-consumer (DTC) genetic health risk assessment tests on the market. The commenter argued that the market's current mixing of entertainment tests, which make claims unsubstantiated by the scientific literature, with those tests which have a clinical utility, are clinically valid, and can be supported by current scientific

literature, is particularly confusing for the average consumer.

(Response) We agree that the concerns raised above are important. These concerns were considered during our review and development of the initial classification regulation for genetic health risk assessment system devices and in our consideration of whether to exempt one-time FDA reviewed genetic health risk assessment system devices from the 510(k) requirement. We believe these concerns have been addressed and accounted for in our determination that the 510(k) requirement is not necessary to provide a reasonable assurance of safety and effectiveness for these devices. We outline our rationale below.

Consumer understanding of genetic risk is clearly an important issue that was considered extensively by FDA in the context of genetic health risk assessment system devices. This issue was balanced with the increasing desire from the public to learn more about one's own genetic makeup and how it affects genetic risk for health conditions. To ensure that the tests and test reports are presented to the lay consumer in a manner that is understandable, we employed several requirements. Consumer understanding of the tests and associated test reports is assured by user comprehension study requirements, specific labeling requirements for these over-the-counter (OTC) tests, and general requirements for devices. The special labeling requirements for these devices under § 866.5950(b) (21 CFR 866.5950(b)) include providing information on the manufacturer's website about frequently asked questions, available professional guidelines, and how to obtain access to a genetic counselor.

A. User Comprehension Study

A user comprehension study is required under § 866.5950(b)(3)(iii)(M). The required user comprehension study must assess comprehension of the test process and results by potential users of the test with pre- and post-test user comprehension studies. This study must be conducted on a statistically sufficient sample size of non-trained individuals who represent the demographics of the United States as well as a diverse range of age and educational levels. The study must include directly evaluating a representative sample of the material being presented to the user during use of the test. The test that is given to the participants must be informed by a physician and/or genetic counselor that identifies the appropriate general and variant-specific concepts contained within the material being tested in the user comprehension study to ensure that all relevant concepts are incorporated in the study as well as having included the definition of the target condition being tested and related symptoms, explain the intended use and limitations of the test, explain the relevant ethnicities in regard to the variant tested, explain genetic health risks and relevance to the user's ethnicity, and assess participants' ability to understand the following comprehension concepts: The test's limitations, purpose, appropriate action, test results, and other factors that may have an impact on the test results. The outcome of this study has to meet rigorous standards, including meeting predefined primary endpoint criteria, including a minimum of a 90 percent or greater overall comprehension rate (*i.e.,* selection of the correct answer) for each comprehension concept. In addition, the testing must follow a format where users have limited time to complete the studies (such as an onsite survey format and a one-time visit with a cap on the maximum amount of time that a participant has to complete the tests). From our experience with user comprehension studies, the Agency believes that meeting or exceeding these user comprehension study requirements ensures that the materials presented to the user are adequate for OTC use. The information the test provider must provide on its website includes a summary table of comprehension rates regarding comprehension concepts (*e.g.,* purpose of test, test results, test limitations, ethnicity relevance for the test results, etc.) for each study report.

B. Frequently Asked Questions

The manufacturer's website must have a frequently asked questions section in the summary and technical information sections under § 866.5950(b)(3)(ii)(C)(*3*) and (b)(3)(iii)(L)(*3*). For the frequently asked questions sections, information must be included that is specific for each variant/disease pair that is reported and scientifically valid and supported by corresponding publications. Further information must be included that explains the health condition/disease being tested, the purpose of the test, the information the test will and will not provide, the relevance of race and ethnicity on the test results, information about the population to which the variants in the test is most applicable, the meaning of the result(s), other risks factors that contribute to disease, appropriate followup procedures, how the results of the test may affect the user's family, including children, and links to resources that provide additional information.

C. Resources

Likely the test labeling information provided by the test manufacturer will not be the sole source of information that the consumer is seeking or even requires. For this reason, there are requirements under § 866.5950(b)(3)(ii)(C)(*2*) and (b)(3)(iii)(L)(*2*) that the manufacturer of the test provide a pre-purchase page in the summary and technical information sections that includes information regarding professional guidelines for testing specific genes and variants. Similar information must be provided in the frequently asked questions section found in the summary and technical information sections on the manufacturer's website, under § 866.5950(b)(3)(ii)(C)(*3*) and (b)(3)(iii)(L)(*3*). These frequently asked questions sections must include a statement about the current professional guidelines for testing these specific gene(s) and variant(s) and, if guidelines do not exist for certain genes or variants being tested for, then this information must be provided as well. Further, to facilitate more personalized support, under § 866.5950(b)(1)(i)(E), test manufacturers are required to provide information in the § 809.10 (21 CFR 809.10) compliant labeling and any pre-purchase page and test report generated regarding how a user obtains access to a genetic counselor, board-certified clinical molecular geneticist, or equivalent healthcare professional regarding the results of a user's test.

D. Genetic Health Risk Assessment System Tests

The tests that fall under the genetic health risk assessment system regulation are identified in the regulation in § 866.5950(a) as a qualitative in vitro molecular diagnostic system used for detecting variants in genomic deoxyribonucleic acid (DNA) isolated from human specimens that will provide information to users about their genetic risk of developing a disease to inform lifestyle choices and/or conversations with a healthcare professional. This assessment system is for OTC use. This device does not determine the person's overall risk of developing a disease.

The limitations that are most important for lay users to know about the intended use of these tests that fall under this device type are conveyed via the limiting statements required, under § 866.5950(b)(1)(i), to be provided on the § 809.10 compliant labeling and any pre-purchase page and test report generated. One of these limiting statements must explain that this test is

not intended to diagnose a disease, tell you anything about your current state of health, or be used to make medical decisions, including whether or not you should take a medication or how much of a medication you should take. The limitations that are most important for healthcare professionals to know about the intended use of tests that fall under this device type are, under § 866.5950(b)(1)(ii), required to be provided in the § 809.10 labeling and any test report generated. These limitations include that the test is intended to provide users with their genetic information to inform lifestyle decisions and conversations with their doctor or other healthcare professional and that any diagnostic or treatment decisions should be based on testing and/or other information that a healthcare professional determines to be appropriate for a patient.

E. Rigorous Validation Requirements

FDA believes the analytical validation requirements are sufficiently detailed in the special controls under § 866.5950(b)(3)(iii)(J) that test providers will have no difficulty in appropriately following these requirements. A high accuracy requirement is necessary for tests that are provided under this regulation and accuracy point estimates for all variants is required to be 99 percent or higher under § 866.5950(b)(3)(iii)(J)(*1*)(*vii*) or else they cannot be claimed or reported. Once FDA has reviewed one test that demonstrates this level of accuracy, then the test provider has demonstrated an ability to meet the accuracy requirements for additional similar tests offered.

F. Four Important Limitations on the Scope of the Classification Regulation

FDA agrees that there are four important express limitations to the types of tests that can be offered under this classification regulation even when these special controls are met. Tests cannot be offered under this classification regulation that are indicated for prenatal testing; predisposition for cancer where the result of the test may lead to prophylactic screening, confirmatory procedures, or treatments that may incur morbidity or mortality to the patient; assessing the presence of genetic variants that impact the metabolism, exposure, response, risk of adverse events, dosing, or mechanisms of prescription or OTC medications; or assessing the presence of deterministic autosomal dominant variants.

G. False or Misleading Claims

It is a prohibited act for devices to have labeling that is false or misleading in any particular manner, and thus FDA would deem such device to be misbranded under section 502(a) of the FD&C Act (21 U.S.C. 352(a)). This prohibition would include prohibiting the manufacturer of a genetic health risk assessment test device from falsely or misleadingly representing a test as having been part of an original FDA cleared device when it was added subsequently to FDA clearance. This prohibition would also include falsely or misleadingly representing the analytical or clinical validity of one of its tests. In addition, under section 502(c) of the FD&C Act, it is a prohibited act and thus FDA would deem a device to be misbranded if any information required on the labeling of a device by FDA by or under the FD&C Act is not placed prominently thereon with such conspicuousness and in such terms, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. Thus, a genetic health risk assessment test device for which a manufacturer later modified the formerly compliant labeling to make the labeling such that the labeling was not likely to be read and understood by the ordinary individual under customary conditions of purchase and use would be a misbranded device.

H. Conclusion

In summary, all tests that are marketed under this classification regulation must meet the general controls and the special controls that are specified in the regulation. Ability of a manufacturer to meet these special controls is demonstrated during the one-time review. Even after the one-time review, the general controls and special controls must continue to be met, including for all tests added or modified after the one-time review of a manufacturer's device.

IV. Limitations on Exemptions

FDA has determined that 510(k) is not necessary to assure the safety and effectiveness of the class II devices listed in table 1. This determination is based, in part, on the Agency's knowledge of the device, including past experience and relevant reports or studies on device performance (as appropriate), the applicability of general and special controls, and the Agency's ability to limit an exemption.

A. General Limitations of Exemptions

FDA's exemption from 510(k) for class II devices listed in table 1 applies only to those devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A manufacturer of a listed device is still required to submit a 510(k) to FDA before introducing a device or delivering it for introduction into commercial distribution when the device meets any of the conditions described in §§ 862.9 to 892.9 (21 CFR 862.9 to 21 CFR 892.9).

B. Partial Limitations of Exemptions

In addition to the general limitations, FDA may also partially limit an exemption from 510(k) requirements to specific devices within a listed device type when initial Agency assessment determines that the factors laid out in the Class II 510(k) Exemption Guidance do not weigh in favor of exemption for all devices in a particular group. In such situations where a partial exemption limitation has been identified, FDA has determined that premarket notification is necessary to provide a reasonable assurance of safety and effectiveness for these devices. In table 1, for example, FDA is listing the exemption of the genetic health risk assessment system, but limits the exemption to such devices that have received a first-time FDA marketing authorization (*e.g.,* 510(k) clearance) for the genetic health risk assessment system (a ''one-time FDA reviewed genetic health risk assessment system''). FDA has determined that a one-time FDA review (*e.g.,* premarket notification) of a genetic health risk assessment system is necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that a one-time FDA review of a genetic health risk assessment system is necessary to mitigate the risk of false negatives and false positives by ensuring that certain information be submitted to FDA to allow the Agency to assess the safety and effectiveness of the devices as well as to ensure the devices perform to acceptable standards.

Exemption from the requirement of 510(k) does not exempt a device from other applicable regulatory controls under the FD&C Act, including the applicable general and special controls. This exemption from 510(k), subject to the limitations described above, is immediately in effect for the device types identified in table 1. This exemption will decrease regulatory burdens on the medical device industry and will eliminate private costs and

expenditures required to comply with Federal regulations.

V. List of Class II Devices

FDA is identifying the following list of class II devices that will no longer require premarket notification under section 510(k) of the FD&C Act, subject to the general limitations to the exemptions found in §§ 862.9 to 892.9 and any partial exemption limitations identified in table 1:

TABLE 1—CLASS II DEVICES

21 CFR section	Device type	Product code	Partial exemption limitation (if applicable)
862.1840	Total 25-hydroxyvitamin D Mass Spectrometry Test System.	PSL	
866.5950	Genetic Health Risk Assessment System.	PTA	Exemption is limited to a genetic health risk assessment system that has received a first-time FDA marketing authorization (*e.g.,* 510(k) clearance) for the genetic health risk assessment system (a ''one-time FDA reviewed genetic health risk assessment system'').
876.1500	Endoscope Disinfectant Basin	PUP	
880.6710	Purifier, Water, Ultraviolet, Medical	KMG	
884.5960	Vibrator for Therapeutic Use, Genital.	KXQ	

FDA is revising the name of product code PUP to further clarify the device type that this product code is intended to represent. The device type was previously ''Endoscope Maintenance System.'' To more accurately reflect the devices which fall within this device type (product code PUP), the device type has been renamed ''Endoscope Disinfectant Basin.'' Specifically, these devices are described as ''Wall-mounted tube(s) for holding disinfectant solution and endoscope insertion tubes and accessories.'' This description has not changed since publication of the November 2017 notice.

VI. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Paperwork Reduction Act of 1995

This final order refers to previously approved collections of information found in other FDA regulations and guidance. 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 part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR parts 801 and 809, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects

21 CFR Part 862

Medical devices.

21 CFR Part 866

Biologics, Laboratories, Medical devices.

21 CFR Parts 876, 880, and 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 862, 866, 876, 880, and 884 are amended as follows:

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

■ 1. The authority citation for part 862 continues to read as follows:

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

■ 2. In § 862.1840, revise paragraph (b) introductory text to read as follows:

§ 862.1840 Total 25-hydroxyvitamin D mass spectrometry test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in part 807, subpart E, of this chapter subject to the limitations in § 862.9. The device must comply with the following special controls:

* * * * *

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 3. The authority citation for part 866 continues to read as follows:

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

■ 4. In § 866.5950, revise paragraph (b) introductory text to read as follows:

§ 866.5950 Genetic health risk assessment system.

* * * * *

(b) *Classification.* Class II (special controls). The genetic health risk assessment system device, when it has previously received a first-time FDA marketing authorization (*e.g.,* 510(k) clearance) for the genetic health risk assessment system (a ''one-time FDA reviewed genetic health risk assessment system''), is exempt from the premarket notification procedures in part 807, subpart E, of this chapter subject to the limitations in § 866.9. The device must comply with the following special controls:

* * * * *

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

■ 5. The authority citation for part 876 continues to read as follows:

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

■ 6. In § 876.1500, revise paragraph (b)(1) to read as follows:

§ 876.1500 Endoscope and accessories.

* * * * *

(b) * * *

(1) Class II (performance standards). The device, when intended as an endoscope disinfectant basin, which consists solely of a container that holds disinfectant and endoscopes and accessories, is exempt from the premarket notification procedures in part 807, subpart E, of this chapter subject to the limitations in § 876.9.

* * * * *

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

■ 7. The authority citation for part 880 continues to read as follows:

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

■ 8. In § 880.6710, revise paragraph (b) to read as follows:

§ 880.6710 Medical ultraviolet water purifier.

* * * * *

(b) *Classification.* Class II (performance standards). The device is exempt from the premarket notification procedures in part 807, subpart E, of this chapter subject to the limitations in § 880.9.

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

■ 9. The authority citation for part 884 continues to read as follows:

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

■ 10 In § 884.5960, revise paragraph (b) to read as follows:

§ 884.5960 Genital vibrator for therapeutic use.

* * * * *

(b) *Classification.* Class II (performance standards). The device is exempt from the premarket notification procedures in part 807, subpart E, of this chapter subject to the limitations in § 884.9.

Dated: May 29, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–11879 Filed 6–1–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AQ15

Case Management Services Grant Program

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern programs benefitting homeless veterans to implement a new statutory requirement to establish a new grant program that will provide case management services to improve the retention of housing by veterans who were previously homeless and are transitioning to permanent housing and to veterans who are at risk of becoming homeless. The grant program established by this interim final rule will be an essential part of VA's attempts to eliminate homelessness among the veteran population.

DATES: This final rule is effective June 5, 2018. Comments must be received on or before August 6, 2018.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to: Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to ''RIN 2900–AQ15—Case Management Services Grant Program.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Jeffery Quarles, Director, Grant and Per Diem Program, (10NC1HM), VA National Grant and Per Diem Program Office, 10770 N 46th Street, Suite C–200, Tampa, FL 33617, (877) 332–0334. (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: In an effort to reduce homelessness in the veteran population, Congress has required VA to expand its benefits for homeless veterans by establishing a new grant program to provide funds to organizations within communities that will provide case management services to improve the retention of housing by veterans who were previously homeless and are transitioning to permanent housing and to veterans who are at risk of becoming homeless. See Public Law 114–315, sec. 712 (Dec. 16, 2016) (codified at 38 U.S.C. 2013). This interim final rule adds this new case management program to VA's Homeless Providers Grant and Per Diem Program regulations by adding a new subpart G to 38 CFR part 61 to accurately reflect these changes in law. The new case management program will mirror existing homeless grant per diem programs as much as possible for ease of administrating and running the new grant program.

61.90 Grant for Case Management Services—Program

Paragraph (a) of § 61.90 states that non-profit organizations and State, local, and tribal governments are eligible to apply for a grant to provide case management services. (For purposes of this program, the term ''tribal government'' means an entity described in paragraph (2) of the definition of public entity in 38 CFR 61.1.) To ensure that grant funding is used to provide case management services to as many veterans as possible, this same paragraph provides that case management services grant funds under this program ''may not be used for veterans who are receiving case management services from permanent supportive housing programs (*e.g.* Housing and Urban Development-VA Supportive Housing) or rapid re-housing/homeless prevention programs (*e.g.* Supportive Services for Veterans Families (SSVF)).'' Paragraph (b) identifies examples of case management services that grantees can provide using these grant funds. Such services include, but are not limited to, ''Making home visits by the case manager to monitor housing stability; Providing or coordinating educational activities related to meal planning, tenant responsibilities, the use of public transportation, community resources, financial management, and the development of natural supports; Making referrals to needed services, such as mental health, substance use disorder, medical, and employment services; and Participating in case conferencing with other service providers who are working with the veteran.'' Paragraph (c) sets a 6-month time limit for veterans to receive case management services. However, VA may approve a request to extend services beyond the 6-month period if an organization submits a request to VA in writing and VA approves it before the 6-month time limit expires. Because in most circumstances case management services are provided to veterans after they have been in receipt of benefits under the Grant and Per Diem Program, VA believes that 6 months would, in most cases, be sufficient time for a veteran to have the necessary tools in place to retain permanent housing.

61.92 Grant for Case Management Services—Application and Rating Criteria

For ease of administration and internal consistency between grant programs benefiting homeless veterans, VA will, to the extent applicable and appropriate, adopt standards for the

new case management services grant program from its existing capital grants program. VA has successfully used the application package requirements and rating criteria for the capital grants program found in in §§ 61.12 and 61.13 for other grant programs. See §§ 61.32 and 61.41, We, therefore, adopt these requirements and rating criteria as relevant and slightly modified to meet the needs of the case management services grant program, expecting their use will render equally successful results here. Specifically, an applicant must submit an application package for case management services grants, which must:

- Be on the correct application form.
- Be completed in all parts, including all information requested in the Notice of Fund Availability (NOFA).
- Include a signed Application for Federal Assistance (SF 424) that contains the Employer Identification Number or Taxpayer Identification Number (EIN/TIN) that corresponds to the applicant's Internal Revenue Service (IRS) 501(c)(3) or (19) determination letter. Applicants that apply under a group EIN/TIN must be identified by the parent EIN/TIN as a member or sub-unit of the parent EIN/TIN and provide supporting documentation.
- Be received before the deadline specified by the NOFA.

In addition, the applicant must be an eligible entity at the time of application; the activities for which funding is requested must be eligible for funding under this subpart; the applicant must submit an application and agree to comply with the requirements of this subpart and demonstrate the capacity to do so; the applicant must not have any outstanding obligation to VA that is in arrears, or have an overdue or unsatisfactory response to an audit; and, the applicant must not have been notified by VA as being in default. If the applicant does not meet any one of these requirements, the application will be rejected without further consideration.

As to the rating criteria, the criteria in § 61.13 have been adopted and modified for purposes of this more narrow program, as listed in full in the regulatory text. So, an applicant under this program must receive at least 750 points out of a possible 1000 in order to be considered eligible to receive a grant for case management services. Generally speaking, VA will grant points as follows: Up to 400 points for project planning; up to 200 points for the applicant's ability to develop and operate a project; up to 150 points for the demonstration of a substantial unmet need for supportive services for formerly homeless veterans; up to 50 points based on the review panel's confidence that the applicant has effectively demonstrated that the grant can be completed as described in the application; and up to 200 points for demonstrating the applicant has coordinated with Federal, state, local, private and other entities serving homeless persons or persons at risk for homelessness in the planning and operation of the case management services project.

61.94 Grant for Case Management Services—Selection of Grantees

Section 61.94 describes the selection process for grants available under this subpart and sets out the priorities among applicants as established in the law. Public Law 114–315 mandates that VA give extra priority to organizations that voluntarily stop receiving amounts provided by the Secretary under sections 2012 and 2061 of title 38 and converts a facility that the organization used to provide transitional housing services into a facility that the organization uses to provide permanent housing that meets housing quality standards established under section 8(o)(8)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(8)(B)). This extra priority is provided for in paragraph (a)(1) of § 61.94. We would add that in order to obtain this extra priority, organizations must provide documentation showing that the permanent housing meets these housing quality standards. VA will thus award case management services grants first to applicants whose applications that meet the criteria of § 61.94(a)(1). The Public Law also states that VA shall give priority to organizations that demonstrate a capability to provide case management services . . . particularly organizations that are successfully providing or have successfully provided transitional housing services using amounts provided by the Secretary under sections 2012 and 2061 of title 38. We are stating this priority in paragraph (a)(2). So, once all applications described in the ''extra priority'' paragraph are awarded a grant, VA will award grants to those who qualify for priority under paragraph (a)(2). Paragraph (a)(3) provides that VA may also consider applications from other organizations without a Grant and Per Diem grant that seek to provide time limited case management services ''to formerly homeless veterans who have exited VA transitional housing or other VA homeless residential treatment services to permanent housing.'' In order to permit VA to rank applications for these grants within each priority, paragraph (b) will state that within each of the three priorities in paragraph (a), an application with more points using the rating criteria in § 61.92(b) will be given a higher priority for a grant award. Ranking applications within each priority would be needed if VA only has enough funds to award grants to some but not all applicants in one of the above priorities.

61.96 Grant for Case Management Services—Awards

Section 61.96 describes the award and funding process for grants available under this subpart and identifies permissible uses for the grant funds. Paragraph (a) states that funding for grants for case management services will be offered from the Grant and Per Diem Program budget and will be annually limited by VA's funding availability and commitments to existing programs. VA's aim is to alert potential applicants that yearly funding for the program may vary, which will be stated in the NOFA. Because the available funding for the grants for case management services is limited, paragraph (b) identifies the limited authorized uses of grant funds for costs associated with administrating these grants. Specifically, case management services grant funds may be used for the following administrative purposes: Providing funding for case management staff; providing transportation for the case manager; providing cell phones and computers to facilitate home visits and other case management activities associated with the grant; and, providing office furniture for the use of the case management staff. For all grants awarded under this section, VA will incorporate into the grant agreements the agreement and funding actions described in § 61.61, which currently apply to the Grant and Per Diem Program. This will help align operations for this new grant program with current Grant and Per Diem Program practices. Paragraph (c) therefore states that VA will execute an agreement and make payments to the grantee in accordance with the award and funding actions applicable to the Grant and Per Diem Program as described in § 61.61.

61.98 Grant for Case Management Services—Requirements and Oversight

Section 61.98 provides that VA will oversee grants to make certain that grantees operate their programs in accordance with the requirements of §§ 61.90 through 61.98. VA's oversight responsibilities include reviewing and responding to requests from grantees for extensions to the otherwise applicable maximum 6-month time limit. Further,

this section states that grantees must also comply with the requirements of 38 CFR 61.65, 61.67(d), 61.67(e), and 61.80(c), (g), (h), (i), (n), (o), (p), and (q). Section 61.80 sets forth requirements for supportive housing and service centers for which assistance is provided under part 61. The assistance provided with case management services grants will not be for the construction, acquisition, renovation, or operation of supportive housing or service centers. We will thus not require grantees under this program to comply with those requirements in § 61.80 pertaining to housing and service centers. For example, VA will not require the housing in which the veterans who obtain services under this program reside to comply with the Life Safety code and state and local housing codes, licensing requirements, fire and safety requirements, or any other State of local requirements as would be otherwise imposed under § 61.80(a). We will also not require that supportive housing in which veterans who receive assistance under this program reside comply with the structural, space, and operational requirements in § 61.80(b) through (f), (m), and (r). We will not require compliance under this program with the requirements for service centers in § 61.80(k) and (l). Finally, we have addressed the requirements in § 61.80(j) by providing that VA may disapprove use of services provided by the grantee if VA determines that such services are of unacceptable quality in which case grant funds may not be used to pay for such services. VA lacks the authority to manage private or public entities and can only select grantees and oversee compliance with the terms of grant agreements consistent with §§ 61.90 through 61.98. VA similarly inspects and provides oversight to other Grant and Per Diem programs as a means to verify that grant funds and services are properly delivered by the grantee. As all transitional housing grants have some form of case management, we will apply the oversight requirements of 38 CFR part 61, subpart F, (in addition to those specifically listed above in § 61.80) as applicable, to grantees in the case management services program.

Administrative Procedure Act

In accordance with U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs has concluded that there is good cause to publish this rule without prior opportunity for public comment and to publish this rule with an immediate effective date. This final rule implements the mandates of section 712 of Public Law 114–315. Section 712 mandates that VA have regulations in place to implement this section no later than one year after the date of the enactment of the Public Law, which was December 16, 2017. One of VA's top priorities is the elimination of homelessness among the veteran population. This rule will, in support of this goal, provide veterans with case management services that will assist them in obtaining and maintaining permanent housing. This rule incorporates statutory requirements and complements the already existing Grant and Per Diem Program. The additional time associated with a public comment period would disadvantage and cause hardship to veterans who are in immediate or near-future need of the case management services available under this program (to avoid lapsing to a state of homelessness) and therefore would be contrary to the public interest. The Secretary finds that it is impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date. For the above reason, the Secretary issues this rule as an interim final rule with an immediate effective date. VA will consider and address comments that are received within 60 days of the date this interim final rule is published in the **Federal Register**.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this interim final rule, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rule if possible or, if not possible, such guidance is superseded by this rule.

Paperwork Reduction Act

This interim final rule includes a provision constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review.

OMB assigns control numbers to collections of information it approves. VA 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. Section 61.92 contains a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection of information as requested, VA will immediately remove the provision containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this interim final rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov*. Comments should indicate that they are submitted in response to ''RIN 2900–AQ15 Case Management Services Grant Program.''

OMB is required to make a decision concerning the collections of information contained in this interim final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if the comment is received within 30 days of publication. This does not affect the 60-day deadline for the public to comment on the interim final rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The collections of information contained in regulatory section 38 CFR 61.92 are described immediately following this paragraph, under their respective titles.

Title: Case Management Services Grant Program.

Summary of collection of information: Paragraph (a) requires that the applicant must meet the application requirements

in this paragraph (a) or the application will be rejected and not considered further. Such documentation must be submitted to VA by the deadline established in the Notice of Fund Availability.

Description of the need for information and use of information: The information is needed to establish eligibility for a case management services grant.

Description of likely respondents: Non-profit organizations, State and local governments, or Tribal Indian governments who seek to receive a case management services grant.

Estimated number of respondents per month/year: 100.

Estimated frequency of responses per month/year: 1 time per year.

Estimated average burden per response: 35 minutes.

Estimated total annual reporting and recordkeeping burden: 58 hours.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will only impact those entities that choose to participate and apply for a grant. Small entity applicants will not be affected to a greater extent than large entity applicants. Small entities must elect to participate, and it is considered a benefit to those who choose to apply. To the extent this final rule will have any impact on small entities, it will not have an impact on a substantial number of small entities. VA estimates that possibly up to 150 organizations will submit grant applications under this program and so be affected by this rule. The Secretary therefore certifies that the adoption of this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by OMB, unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.'' This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this interim final rule are as follows: 64.024 VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Acting Chief of Staff, Department of Veterans Affairs, approved this document on May 31, 2018, for publication.

Dated: May 31, 2018.

Consuela Benjamin,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

List of Subjects in 38 CFR Part 61

Administrative practice and procedure, Alcohol abuse, Alcoholism, Day care, Dental health, Drug abuse, Government contracts, Grant programs—health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

For the reasons set forth in the preamble, we are amending 38 CFR part 61 as follows:

PART 61—VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM

■ 1. The authority citation for part 61 is revised to read as follows:

Authority: 38 U.S.C. 501, 2001, 2002, 2011, 2012, 2013, 2061, 2064.

■ 2. Add subpart G to read as follows:

Subpart G—Case Management Services Grant Program

Sec.

61.90 Grant for case management services—program.
61.92 Grant for case management services—application and rating criteria.
61.94 Grant for case management services—selection of grantees.
61.96 Grant for case management services—awards.
61.98 Grant for case management services—requirements and oversight.

§ 61.90 Grant for case management services—program.

(a) *General.* VA may award grants for case management services to non-profit organizations and State, local and tribal governments for the provision of case management services to improve the retention of housing by veterans who were previously homeless and are

transitioning to permanent housing and to veterans who are at risk of becoming homeless. (For purposes of this program, the term ''tribal government'' means an entity described in paragraph (2) of the definition of ''public entity'' in 38 CFR 61.1.) The goals of the grant program are: The maintenance of permanent housing by a veteran following discharge from homeless residential services, a reduction in recidivism, and an increase in exits to permanent housing. These grant funds may not be used for veterans who are receiving case management services from permanent supportive housing programs (*e.g.* Housing and Urban Development—VA Supportive Housing) or rapid re-housing/homeless prevention programs (*e.g.* Supportive Services for Veterans Families (SSVF)).

(b) *Case management services.* Case management services include, but are not limited to, the following:

(1) Making home visits by the case manager to monitor housing stability;

(2) Providing or coordinating educational activities related to meal planning, tenant responsibilities, the use of public transportation, community resources, financial management, and the development of natural supports;

(3) Making referrals to needed services, such as mental health, substance use disorder, medical, and employment services; and

(4) Participating in case conferencing with other service providers who are working with the veteran.

(c) *Time limit.* Case management services may be provided for a particular veteran for up to 6 months, unless VA receives and approves a written request for additional time before the 6-month time limit expires.

§ 61.92 Grant for case management services—application and rating criteria.

(a) *General requirements.* When funds are available for grants for case management services authorized under §§ 61.90 through 61.98, VA will publish a Notice of Fund Availability (NOFA) in the **Federal Register** in accordance with § 61.3. The applicant must meet all of the following requirements or the application will be rejected without further consideration:

(1) The applicant must submit an application and comply with the application requirements identified in the NOFA, *e.g.,* complete all parts of the correct form and include all information requested in the NOFA.

(2) Include a signed Application for Federal Assistance (SF 424) that contains the applicant's Employer Identification Number or Taxpayer Identification Number (EIN/TIN). All non-profit applicants must provide their Internal Revenue Service 501(c)(3) or (19) determination letter, which includes the EIN/TIN contained in the application. Applicants that apply under a group EIN/TIN must be identified by the parent EIN/TIN as a member or sub-unit of the parent EIN/TIN and provide supporting documentation.

(3) The application must be received before the deadline established in the NOFA.

(4) The applicant must be a nonprofit organization or a State, local, or tribal government.

(5) The activities for which assistance is requested must be eligible for funding under §§ 61.90–61.98.

(6) The applicant must agree to comply with the requirements of §§ 61.90 through 61.98 and demonstrate the capacity to do so.

(7) The applicant must not have an outstanding obligation to VA that is in arrears, or have an overdue or unsatisfactory response to an audit.

(8) The applicant must not have been notified by VA as being in default.

(b) *Rating criteria.* To be eligible for a case management grant, an applicant must receive at least 750 points (out of a possible 1000) and must receive points under paragraphs (c) through (f) of this section.

(c) *Project plan.* VA will award up to 400 points based on the demonstration and quality of the following:

(1) The process used for deciding which veterans are referred and accepted for case management services.

(2) How, when, and by whom the progress of participants who are receiving case management services toward meeting their individual goals will be monitored, evaluated, and documented. This monitoring includes, but is not limited to, a description of how home visits would be provided and the general purpose and frequency anticipated of the home visits.

(3) How the participant's system of natural supports would be assessed and developed.

(4) How crisis intervention services will be coordinated, as needed, to promote the maintenance of permanent housing, access to medical care, mental health or substance use disorder treatment.

(5) How the applicant will provide education to case management participants, as needed, in the areas of tenant rights and responsibilities, rental/lease agreements, landlords rights and responsibilities, and budgeting.

(6) How case management services will be phased out.

(d) *Ability of the applicant to develop and operate a project.* VA will award up to 200 points based on the extent to which the applicant demonstrates the necessary staff and organizational experience to develop and operate the proposed project, based on the following:

(1) Staffing plan for the project that reflects the appropriate professional staff, both administrative and clinical;

(2) Experience of staff, or if staff is not yet hired, position descriptions and expectations of time to hire;

(3) Applicant's previous experience assessing and providing for the housing needs of formerly homeless veterans;

(4) Applicant's previous experience in providing case management services to assist persons in maintaining permanent housing;

(5) Applicant's previous experience in coordinating crisis intervention services, including medical, mental health, and substance use disorder services.

(6) Applicant's experience in working with local landlords as part of providing housing support services.

(7) Historical documentation of past performance both with VA and non-VA projects, including those from other Federal, state and local agencies, and audits by private or public entities.

(e) *Need.* VA will award up to 150 points based on the extent to which the applicant demonstrates:

(1) Substantial unmet need for formerly homeless veterans who have exited homeless transitional housing or residential services and are in need of time limited case management to maintain permanent housing. Demonstration of need must be based on reliable data from reports or other data gathering systems that directly support claims made; and

(2) An understanding of the formerly homeless population to be served and its supportive service needs.

(f) *Completion confidence.* VA will award up to 50 points based on the review panel's confidence that the applicant has effectively demonstrated the case management services project will be completed as described in the application. VA may use historical program documents demonstrating the applicant's past performance, including those from other Federal, state and local agencies, as well as audits by private or public entities in determining confidence scores.

(g) *Coordination with other programs.* VA will award up to 200 points based on the extent to which the applicant demonstrates that it has coordinated with Federal, state, local, private, and other entities serving homeless persons

or persons at risk for homelessness in the planning and operation of the case management services project. Such entities include, but are not limited to, shelters, transitional housing, Public Housing Authorities, health care or social service providers, providers funded through Federal initiatives, local planning coalitions or provider associations, or other program providers relevant to the needs of formerly homeless veterans in the local community. Applicants are required to demonstrate that they have coordinated with the VA medical facility of jurisdiction or VA regional office of jurisdiction in their area. VA will award up to 50 points of the 200 points based on the extent to which commitments to provide supportive services are documented at the time of application. Up to 150 points of the 200 points will be given to the extent applicants demonstrate that:

(1) They are part of an ongoing community-wide planning process within the framework described in this section, which is designed to share information on available resources and reduce duplication among programs that serve homeless veterans (*e.g.* Continuum of Care);

(2) They have consulted directly with the closest VA medical facility and other providers within the framework described in this section regarding coordination of services for project participants; and

(3) They have coordinated with the closest VA medical facility their plan to assure access to health care, case management, and other care services.

(Approved by the Office of Management and Budget under control number 2900–XXXX.)

§ 61.94 Grant for case management services—selection of grantees.

(a) *Award priority.* Grants for case management services will be awarded in order of priority as follows:

(1) VA will give extra priority to grants for case management services to applications from operational Grant and Per Diem funded organizations that have given up per diem or special need funding and converted their transitional housing to permanent housing. In order to obtain this extra priority, organizations must provide documentation showing that their permanent housing meets the quality housing standards established under section 8(o)(8)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(8)(B)).

(2) VA will give priority to applications from organizations that demonstrate a capability to provide case management services, particularly organizations that are successfully providing or have successfully provided transitional housing services using grants provided by VA under 38 U.S.C. 2012 and 2061.

(3) Applications from other organizations without a Grant and Per Diem grant that seek to provide time limited case management to formerly homeless veterans who have exited VA transitional housing or other VA homeless residential treatment services to permanent housing.

(b) *Higher award priority.* Within each of the three priorities in paragraph (a) of this section, an application with more points using the rating criteria in § 61.92(b) will be given a higher priority for a grant award.

§ 61.96 Grant for case management services—awards.

(a) *Funding.* Grants for case management services will be offered from the current Grant and Per Diem Program budget and will be limited annually by VA's funding availability and commitments to existing programs.

(b) *Use of grant funds for administrative costs.* Grant funds may be used for the following administrative purposes

(1) Case management staff;

(2) Transportation for the case manager;

(3) Cell phones and computers to facilitate home visits and other case management activities associated with the grant; and

(4) Office furniture for the use of the case management staff.

(c) *Awards.* VA will execute an agreement and make payments to the grantee in accordance with the award and funding actions applicable to the Grant and Per Diem Program as described in § 61.61.

§ 61.98 Grant for case management services—requirements and oversight.

VA will oversee grants for case management services to ensure that each grantee operates its program in accordance with §§ 61.90 through 61.98. VA's oversight responsibilities include reviewing and responding to requests from grantees for extensions to the otherwise applicable maximum 6-month time limit. Grantees must also comply with the requirements of 38 CFR 61.65; 61.67(d) and 61.67(e); and 61.80(c), (g), (h), (i), (n), (o), (p), and (q). VA may disapprove of case management services provided by the grantee if VA determines that they are of unacceptable quality in which case grant funds may not be used to pay for them.

[FR Doc. 2018–12048 Filed 6–4–18; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2015–0843; FRL–9978–48—Region 6]

Approval and Promulgation of Implementation Plans; Texas; Infrastructure and Interstate Transport for the 2012 Fine Particulate Matter Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving elements of the Texas Infrastructure State Implementation Plan (i-SIP) submittal addressing how the existing SIP provides for implementation, maintenance and enforcement of the 2012 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS).

DATES: This rule is effective on July 5, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2015–0843. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 either electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov*.

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

I. Background

The background for this action is discussed in detail in our March 22, 2018 proposal (83 FR 12522). In that document we proposed to approve the December 1, 2015 i-SIP submittal from Texas Commission on Environmental Quality (TCEQ) pertaining to the implementation, maintenance and enforcement of the 2012 $PM_{2.5}$ NAAQS in Texas and three of the four of the interstate transport requirements.

We received two comments in support of our proposal, one from the TCEQ and one that was anonymously submitted. We also received seventeen comments that are not relevant to the action we proposed. All comments can be found in the docket for this action.

II. Response to Comments

Comment: TCEQ commented that while they are in support of our proposed approval that Texas meets its infrastructure and transport obligation for the 2012 $PM_{2.5}$ NAAQS, they believe that Texas is meeting all four sub-element requirements of Section 110(a)(2)(D)(i). TCEQ noted that EPA did not provide an explanation as to why no action was taken on the interference with visibility provision for CAA Section 110(a)(2)(D)(i)(II).

Response: We acknowledge TCEQ's support of our proposed action. We note that we did not propose to take any action on the portion of the SIP submittal that was submitted to address the interference with visibility provision found in CAA Section 110(a)(2)(D)(i)(II), therefore the comment related to this provision is outside the scope of this action. EPA believes the visibility transport provision is closely related to the Act's Regional Haze requirements and therefore, intends to address this provision separately in a future action.

II. Final Action

We are finalizing this rule as proposed, therefore approving the portions of the December 1, 2015 2012 $PM_{2.5}$ NAAQS i-SIP submittal pertaining to implementation, maintenance and enforcement including transport except for sub-element four pertaining to interference with visibility protection in other states.

III. Statutory and Executive Order Reviews

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

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

In addition, 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 August 6, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: May 29, 2018.

Anne Idsal,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 2. In § 52.2270 the second table titled ''EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding an entry for ''Infrastructure and Interstate Transport for the 2012 $PM_{2.5}$ NAAQS'' at the end to read as follows:

§ 52.2270 Identification of plan

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
*	*	*	*	* * *
Infrastructure and Interstate Transport for the 2012 $PM_{2.5}$ NAAQS.	Statewide	12/01/2015	6/5/2018, [Insert **Federal Register** citation].	Approval for CAA elements 110(a)(2)(A), (B), (C), (D)(i)(I), (D)(i)(II) (portion pertaining to PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). 6/5/2018, [Insert **Federal Register** citation].

[FR Doc. 2018–11973 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0083; FRL–9978–27—Region 1]

Air Plan Approval; New Hampshire; Nonattainment Plan for the Central New Hampshire Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revision that the State of New Hampshire submitted to EPA on January 31, 2017, for attaining the 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) for the Central New Hampshire Nonattainment Area. This plan (herein called a ''nonattainment plan'') includes New Hampshire's attainment demonstration and other elements required under the Clean Air Act (CAA). In addition to an attainment demonstration, the nonattainment plan addresses the requirements for meeting reasonable further progress (RFP) toward attainment of the NAAQS, implementation of reasonably available control measures and reasonably available control technology (RACM/RACT), base-year and projection-year emission inventories, enforceable emissions limitations and control measures, and contingency measures. EPA concludes that New Hampshire has appropriately demonstrated that the nonattainment plan provisions provide for attainment of the 2010 1-hour primary SO_2 NAAQS in the Central New Hampshire Nonattainment Area by the applicable attainment date and that the nonattainment plan meets the other applicable requirements under the CAA. This action is being taken in accordance with the CAA.

DATES: This rule is effective on July 5, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2017–0083. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits Toxics and Indoor Programs Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Leiran Biton, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, tel. (617) 918–1267, email *biton.leiran@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose
II. Response to Comments
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background and Purpose

On June 22, 2010, EPA promulgated a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a) and (b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 SO_2 NAAQS, including the Central New Hampshire Nonattainment Area within the State of New Hampshire. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These ''round one'' area designations were effective October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the SO_2 NAAQS to EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015 in this case. These SIPs are required to demonstrate that their respective areas will attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, which is October 4, 2018, in accordance with CAA sections 191–192.

Section 192(a) requires that such plans shall provide for NAAQS attainment as expeditiously as practicable, but no later than 5 years from the effective date of the nonattainment designation. Section 172(c) of part D of the CAA lists the required components of a nonattainment plan submittal. The base year emissions inventory (section 172(c)(3)) is required to show a ''comprehensive, accurate, current inventory'' of all relevant pollutants in the nonattainment area. The nonattainment plan must identify and quantify any expected emissions from the construction of new sources to account for emissions in the area that might affect reasonable further progress (RFP) toward attainment, or that might interfere with attainment and

maintenance of the NAAQS, and it must provide for a nonattainment new source review (NNSR) program (section 172(c)(5)). The attainment demonstration must include a modeling analysis showing that the enforceable emissions limitations and other control measures taken by the state will provide for RFP and expeditious attainment of the NAAQS (section 172(c)(2), (4), (6), and (7)). The nonattainment plan must include an analysis and provide for implementation of the RACM considered, including RACT (section 172(c)(1)). Finally, the nonattainment plan must provide for contingency measures (section 172(c)(9)) to be implemented either in the case that RFP toward attainment is not made, or in the case that the area fails to attain the NAAQS by the attainment date.

On April 23, 2014, EPA issued a guidance document entitled, ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions.'' This guidance provides recommendations for the development of SO_2 nonattainment SIPs to satisfy CAA requirements (*see, e.g.,* sections 172, 191, and 192). An attainment demonstration must also meet the requirements of 40 CFR part 51, subparts F and G, and 40 CFR part 51, appendix W (the *Guideline on Air Quality Models;* ''the *Guideline*''), and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. The guidance also discusses criteria EPA expects to use in assessing whether emission limits with longer averaging times of up to 30 days ensure attainment of the SO_2 NAAQS.

For a number of areas, including the Central New Hampshire Nonattainment Area, EPA published a document on March 18, 2016, that pertinent states had failed to submit the required SO_2 nonattainment plan by the submittal deadline. *See* 81 FR 14736. This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source review and highway funding sanctions, and for EPA to promulgate a federal implementation plan (FIP) under section 110(c) of the CAA. In response to the requirement for SO_2 nonattainment plan submittals, New Hampshire submitted a nonattainment plan for the Central New Hampshire Nonattainment Area on January 31, 2017. Pursuant to New Hampshire's January 31, 2017 submittal and EPA's subsequent completeness determination letter dated March 20, 2017, these sanctions under section 179(a) will not be imposed as a result of New Hampshire's having missed the April 4, 2015 submission deadline. Furthermore, with this current action issuing final approval of New Hampshire's SIP submittal, EPA's FIP obligation no longer applies, and no FIP will be imposed as a result of New Hampshire's missing the deadline.

On November 29, 2017, EPA received a letter from New Hampshire correcting a misstatement in its January 2017 submittal to EPA. The State had earlier intended to modify its January 2017 submittal to EPA in response to a public comment on its draft nonattainment area plan, but inadvertently neglected to make the correction. Specifically, the State enclosed in its January 2017 submittal to EPA all comments and responses to comments relating to its draft nonattainment area plan, and among those was a set of comments submitted by Sierra Club to the State on January 5, 2017. Among other comments, Sierra Club asserted that the draft nonattainment area plan ''incorrectly suggests that an attainment demonstration can be made based on monitor readings alone,'' counter to EPA's April 2014 guidance, and stated that the plan should be revised to remove this inconsistency. In its response to that comment, New Hampshire indicated that it would remove the language per Sierra Club's comment, but inadvertently included the erroneous language nonetheless in its January 2017 submittal to EPA. New Hampshire's November 29, 2017 correction modifies the State's original submittal to exclude the erroneous language identified by Sierra Club, consistent with the State's response to comments. Hereafter, references to the State's January 31, 2017 SIP submittal are intended to include the November 29, 2017 correction.

On September 28, 2017 (82 FR 45242), EPA proposed to approve New Hampshire's January 31, 2017 nonattainment plan submittal and SO_2 attainment demonstration. The State's submittal and attainment demonstration included all the specific attainment elements mentioned above, including new SO_2 emission limits found to be comparably stringent to the 1-hour form of the primary SO_2 NAAQS and associated control technology efficiency requirements for the electric generating source Merrimack Station, currently owned and operated by GSP Merrimack LLC and formerly by Public Service of New Hampshire (PSNH) d/b/a Eversource Energy, impacting the Central New Hampshire Nonattainment Area. Merrimack Station's new SO_2 emission limits were developed in accordance with EPA's April 2014 guidance. Comments on EPA's proposed rulemaking were due on or before October 30, 2017. EPA received a single set of comments on the proposed approval of New Hampshire's nonattainment area plan for the Central New Hampshire Nonattainment Area. The comments are available in the docket for this final rulemaking action. EPA's summary of the comments and EPA's responses are provided below. For a comprehensive discussion of New Hampshire's SIP submittal and EPA's analysis and rationale for approval of the State's submittal and attainment demonstration for this area, please refer to EPA's September 28, 2017 notice of proposed rulemaking.

The remainder of this preamble summarizes EPA's final approval of New Hampshire's SIP submittal and attainment demonstration for the Central New Hampshire Nonattainment Area and contains EPA's response to public comments.

II. Response to Comments

The single set of comments addressing the proposed approval of the SIP revision for the Central New Hampshire Nonattainment Area was received from Sierra Club on October 30, 2017. The Sierra Club's October 30, 2017 comments explicitly incorporated a July 15, 2016 comment letter with supporting attachments submitted to New Hampshire by Sierra Club on behalf of both Sierra Club and Conservation Law Foundation (CLF) regarding the State's proposed permit for Merrimack Station. Because the October 30, 2017 Sierra Club comments on EPA's proposal are nearly identical to the prior July 15, 2016 comments, except where the October 30, 2017 comments provide updated information, EPA's responses to the October 30, 2017 Sierra Club comments also serve to respond to issues raised in the July 15, 2016 comments to the State, except where EPA identifies discussion as specifically applying only to comments from July 15, 2016. In the following discussion, EPA will refer to the Sierra Club or Sierra Club/CLF as ''the Commenter.'' To review the complete set of comments received, refer to the docket for this rulemaking as identified above. A summary of the comments received and EPA's responses are provided below.

Comment 1: The commenter asserted that the proposed 7-day average limit on emissions from Merrimack Station is insufficient to protect the 1-hour NAAQS. The commenter indicated that short-term exposure to SO_2 for as little as five minutes has significant health impacts and causes decrement in lung function, aggravation of asthma, chest tightness, and respiratory and

cardiovascular morbidity. The commenter stated that such short-term exposure is especially risky for children with asthma. To support these statements regarding health effects, the commenter cited several EPA documents related to the final SO_2 NAAQS and air quality trends. The commenter stated that EPA changed the NAAQS from 140 ppb averaged over 24 hours to 75 ppb averaged over one hour in order to address these health impacts. The commenter stated that as a result of the form of the standard, which is evaluated through reference to the fourth-highest daily maximum hourly-average concentrations in each year, emission limits with an averaging period longer than one hour are highly unlikely to be able to protect the 1-hour NAAQS. The commenter indicated that the form of the NAAQS means that ambient air quality can be evaluated as unsafe with as few as four hours of elevated emissions over the course of a year. The commenter stated that even if the 7-day limit is complied with, possible short-term emission ''spikes'' that may coincide with startup, shutdown, or control system malfunction events, for example, could nevertheless cause ambient 1-hour SO_2 concentrations sufficient to violate the NAAQS. In support of this point, the commenter provided language making similar points excerpted from two EPA letters that had been included in the attachments to the commenter's July 15, 2016 comments to New Hampshire, specifically an August 12, 2010 comment letter from EPA Region 7 to Kansas regarding the Sunflower Holcomb Station Expansion Project, and a February 1, 2012 comment letter from EPA Region 5 to Michigan regarding a draft construction permit for the Detroit Edison Monroe Power Plant. The commenter concluded that the 7-day limit proposed for inclusion in the State's SIP has an averaging period that is 168 times longer than that of the 1-hour NAAQS and should be revised to adequately protect the NAAQS. The commenter added that hourly emissions limits are not unreasonable, and cited several examples of permits that impose such limits. Therefore, the commenter concluded that a 1-hour emissions limit should be imposed.

Response 1: EPA appreciates the commenter's concerns about the appropriateness of approving nonattainment plans with emission limitations that apply over a longer time period than the 1-hour form of the 2010 SO_2 NAAQS. We discussed similar issues in EPA's April 2014 guidance. In this case, EPA has concluded that the approach employed by New Hampshire to develop the emission limitations for Merrimack Station and included in the State's SIP submittal is consistent with recommendations discussed in EPA's April 2014 guidance and adequately protects against violation of the 1-hour SO_2 NAAQS. EPA's rationale for this conclusion is explained in further detail below.

The health effects information provided by the commenter is not in dispute in this rulemaking. This rulemaking instead addresses whether New Hampshire's plan is adequate to meet the previously established NAAQS.

As mentioned above, CAA section 172(c) directs states with areas designated as nonattainment to demonstrate that the submitted nonattainment plan provides for attainment of the NAAQS. EPA's rules at 40 CFR part 51, subpart G further delineate the control strategy requirements that SIPs must meet, and EPA has long required that all control strategies in nonattainment plans reflect four fundamental principles of quantification, enforceability, replicability, and accountability. *See* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule,'' 57 FR 13498 (April 16, 1992) (General Preamble), at 13567–68. Additional guidance is provided in EPA's April 2014 guidance. For SO_2, there are generally two components needed to support an attainment demonstration submitted under section 172(c): (1) Emission limitations and other control measures that assure implementation of permanent, enforceable, and necessary emission controls; and (2) a modeling analysis that meets the requirements of 40 CFR part 51, appendix W and demonstrates that these emission limitations and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but by no later than the applicable attainment date for the affected area. In all cases, the emission limitations and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limitations and control measures. Furthermore, in all cases, the emission limitations and control measures must be: Quantifiable (*i.e.,* a specific amount of emission reduction can be ascribed to the measures), fully enforceable (specifying clear, unambiguous, and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are sufficiently specific and non-subjective such that two independent entities applying the procedures would obtain the same result), and accountable (source specific limitations must be permanent and must reflect the assumptions used in the SIP demonstrations).

In our April 2014 guidance, EPA notes that past Agency guidance has recommended that averaging times in SO_2 SIP emissions limitations should not exceed the averaging time of the applicable NAAQS that the limit is intended to help attain (*e.g.,* addressing emissions averaged over one or three hours). EPA's April 2014 guidance also discusses the possibility of utilizing emission limitations with longer averaging times of up to 30 days, so long as the state meets various suggested criteria to show that the longer-term limits are comparably stringent to the 1-hour critical emission value that is needed to meet the NAAQS. *See* EPA's April 2014 guidance, pp. 22 to 39. The guidance recommends that—should states elect to use longer averaging times—the longer-term average limit should be set at an adjusted level to reflect a stringency comparable to the 1-hour average critical emission value shown to provide for attainment through a modeling analysis that the plan otherwise would have set as an emission limit.

At the outset, EPA notes that the specific examples of earlier EPA statements cited by the commenter (*i.e.,* those contained in Exhibits 1, 2, 3, and 4 to Appendix A of the comment submission) all pre-date the release of EPA's April 2014 guidance. As such these examples only reflect the Agency's development of its policy for implementing the 2010 SO_2 NAAQS as of the dates of their own issuance. At the time of their issuance, EPA had not yet addressed the specific question of whether it might be possible to devise an emission limit with an averaging period longer than 1-hour, with appropriate adjustments that would make it comparably stringent to an emission limit shown to attain 1-hour emission level, that could adequately ensure attainment of the SO_2 NAAQS. None of the pre-2014 EPA documents cited by the commenter address this question; consequently, it is not reasonable to read any of them as rejecting that possibility. However, EPA's April 2014 guidance specifically addressed this issue as it pertains to requirements for SIPs for SO_2 nonattainment areas under the 2010 NAAQS, especially with regard to the use of appropriately set comparably stringent limitations based on averaging

times as long as 30 days (*see* p. 2). EPA developed this guidance pursuant to a lengthy stakeholder outreach process regarding implementation strategies for the 2010 NAAQS, which had not yet concluded (or in some cases even begun) when the documents cited by the commenter were issued. As such, EPA's April 2014 guidance was the first instance in which the Agency provided recommended guidance for that component of this action. Consequently, EPA does not view those prior EPA statements as conflicting with the Agency's guidance addressing this specific question of how to devise a longer-term limit that is comparably stringent to a 1-hour critical emission value that has been modeled to attain the NAAQS. Moreover, EPA notes that the commenter has not raised specific objections to the general policy and technical rationale EPA provided in its proposed approval or in EPA's April 2014 guidance for why such longer-term averaging-based limits may in specific cases be adequate to ensure NAAQS attainment, which we again summarize below.

EPA's April 2014 guidance provides an extensive discussion of EPA's rationale for positing that an appropriately-set, comparably stringent limitation based on an averaging time as long as 30 days can, based on a situation's specific facts, be found to provide for attainment of the 2010 primary SO_2 NAAQS, provided it is shown to be comparably stringent to a 1-hour critical emission value that is demonstrated through modeling to attain the NAAQS. Essentially, to achieve such comparable stringency, rather than simply convert an attaining 1-hour emission rate to a longer term limit at the same level, it is expected that an adjustment would be needed to lower the emission rate as the averaging time is increased. It is first necessary to identify a modeled 1-hour emission value that attains the NAAQS before deriving a comparably stringent longer-term emission limit, *i.e.,* an emission limit that has been appropriately adjusted downward. In evaluating this option, EPA considered in the April 2014 guidance the nature of the standard, conducted detailed analyses of the impact of the use of 30-day average limits on the prospects for attaining the standard, and carefully reviewed how best to achieve an appropriate balance among the various factors that warrant consideration in judging whether a state's nonattainment plan provides for attainment. *Id.* at pp. 22 to 39. *See* also *id.* at appendices B, C, and D.

As specified in 40 CFR 50.17(b), the 1-hour primary SO_2 NAAQS is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations is less than or equal to 75 ppb. In a year with 365 days of valid monitoring data, the 99th percentile would be the fourth highest daily maximum 1-hour value. The 2010 SO_2 NAAQS, including this form of determining compliance with the standard, was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *Nat'l Envt'l Dev. Ass'n's Clean Air Project* v. *EPA,* 686 F.3d 803 (D.C. Cir. 2012). Because the standard has this form, a single exceedance of the numerical limit of 75 ppb does not constitute a violation of the standard. Instead, at issue is whether a source operating in compliance with a properly set longer-term average could cause exceedances, and if so the resulting frequency and magnitude of such exceedances. In particular, what matters is whether EPA can have reasonable confidence that a properly set longer-term average limit will provide that the 3-year average of annual fourth highest daily maximum values will be at or below 75 ppb. A synopsis of EPA's review of how to judge whether such plans ''provide for attainment,'' based on modeling of projected allowable emissions and in light of the form for determining attainment of the NAAQS at monitoring sites, follows.

For SO_2 nonattainment plans based on 1-hour emission limits, the standard approach is to conduct modeling using fixed emission rates. The maximum emission rate that would be modeled to result in attainment (*i.e.,* in an ''average year'' [1] shows fewer than four days with maximum hourly levels exceeding 75 ppb) is labeled the ''critical emission value.'' The modeling process for identifying this critical emission value inherently considers the numerous variables that affect ambient concentrations of SO_2, such as meteorological data, background concentrations, and terrain. In the standard approach, the state would then provide for attainment by setting a continuously applicable 1-hour emission limitation at this critical emission value.

EPA recognizes that some sources may have highly variable emissions, for example due to variations in fuel sulfur content and operating rate, that can make it extremely difficult, even with a well-designed control strategy, to ensure in practice that emissions for any given hour do not exceed the critical emission value. EPA also acknowledges the concern that longer-term emission limits can allow short periods with emissions above the critical emission value, which, if coincident with meteorological conditions conducive to high SO_2 concentrations, could create the possibility of a NAAQS exceedance occurring on a day when an exceedance would not have occurred if emissions were continuously controlled at the level corresponding to the 1-hour critical emission value. However, for several reasons, EPA finds that the approach recommended in its April 2014 guidance document suitably addresses this concern, and that in this case, New Hampshire has devised a longer-term limit that is comparably stringent to the 1-hour critical emission value that suitably provides for meeting the NAAQS.

First, from a practical perspective, EPA expects the actual emission profile of a source subject to an appropriately set longer-term average limit to be similar to the emission profile of a source subject to an analogous 1-hour average limit. EPA expects this similarity because it has recommended that the longer-term average limit be set at a level that is comparably stringent to the otherwise applicable 1-hour limit (reflecting a downward adjustment from the critical emission value) and that takes the source's emissions profile into account. As a general matter, EPA would expect that any emission limit with an averaging time longer than 1 hour would need to reflect a downward adjustment to compensate for the loss of stringency inherent in applying a longer term average limit. This expectation is based on the idea that a limit based on the 30-day average of emissions, for example, at a particular level is likely to be a less stringent limit than a 1-hour limit at the same level, since the control level needed to meet a 1-hour limit every hour is likely to be greater than the control level needed to achieve the same limit on a 30-day average basis. EPA's approach for downward adjustment is to account for the expected variability in emissions over the time period up to 30 days to achieve comparable stringency to the emissions and expected air quality impacts for a 1-hour period. As a result, EPA expects

[1] An ''average year'' is used to mean a year with average air quality. While 40 CFR part 50, appendix T provides for averaging three years of 99th percentile daily maximum values (*e.g.,* the fourth highest maximum daily concentration in a year with 365 days with valid data), this discussion and an example used later in EPA's response to Comment 1 uses a single ''average year'' in order to simplify the illustration of relevant principles.

either form of emission limit to yield comparable air quality.

Second, from a more theoretical perspective, EPA has compared the likely air quality with a source having maximum allowable emissions under an appropriately set longer-term limit, as compared to the likely air quality with the source having maximum allowable emissions under the comparable 1-hour limit. In this comparison, in the 1-hour average limit scenario, the source is presumed at all times to emit at the critical emission value, and in the longer-term average limit scenario, the source is presumed occasionally to emit more than the critical emission value but on average, and presumably at most times, to emit well below the critical emission value. In an ''average year,'' compliance with the 1-hour limit is expected to result in three exceedance days (*i.e.,* three days with maximum hourly values above 75 ppb) and a fourth day with a maximum hourly value at 75 ppb. By comparison, with the source complying with a longer-term limit, it is possible that additional exceedances would occur that would not occur in the 1-hour limit scenario (if emissions exceed the critical emission value at times when meteorology is conducive to poor air quality). However, this comparison must also factor in the likelihood that exceedances that would be expected in the 1-hour limit scenario would not occur in the longer-term limit scenario. This result arises because the longer-term limit requires lower emissions most of the time (because the limit is set below the critical emission value), so a source complying with an appropriately set longer-term limit is likely to have lower emissions at critical times than would be the case if the source were emitting as allowed with a 1-hour limit.

As a hypothetical example to illustrate these points, suppose a source that always emits 1,000 pounds of SO_2 per hour, which results in air quality exactly at the level of the NAAQS (*i.e.,* results in a design value of 75 ppb). Suppose further that in an ''average year,'' these emissions cause the five highest maximum daily average 1-hour concentrations to be 100 ppb, 90 ppb, 80 ppb, 75 ppb, and 70 ppb. Then suppose that the source becomes subject to a 30-day average emission limit of 700 pounds per hour, *i.e.,* at a level adjusted downward from 1,000 pounds per hour by 30%. It is theoretically possible for a source meeting this limit to have emissions that occasionally exceed 1,000 pounds per hour, but with a typical emissions profile emissions would much more commonly be between 600 and 800 pounds per hour. In this simplified example, assume a zero background concentration, which allows one to assume a linear relationship between emissions and air quality. (A nonzero background concentration would make the mathematics more difficult but would give similar results.) Air quality will depend on how much emissions occur on which critical hours, but suppose that emissions at the relevant times on these five days are 800 pounds per hour, 1,100 pounds per hour, 500 pounds per hour, 900 pounds per hour, and 1,200 pounds per hour, respectively. (This is a conservative example because the average of these emissions, 900 pounds per hour, is well over the 30-day average emission limit of 700 pounds per hour.) These emissions would result in daily maximum 1-hour concentrations of 80 ppb, 99 ppb, 40 ppb, 67.5 ppb, and 84 ppb. In this example, the fifth day would have an exceedance that would not otherwise have occurred, but the third and fourth days would not have exceedances that otherwise would have occurred. In this example, the fourth highest maximum daily concentration under the 30-day average would be 67.5 ppb.

This simplified example illustrates the findings of a more complicated statistical analysis that EPA conducted using a range of scenarios using actual plant data. As described in appendix B of EPA's April 2014 guidance, EPA found that the requirement for lower average emissions is highly likely to yield better air quality than is required with a comparably stringent 1-hour limit. Based on analyses described in appendix B, EPA expects that an emission profile with maximum allowable emissions under an appropriately set comparably stringent 30-day average limit is likely to have the net effect of having a *lower* number of exceedances and better air quality than an emission profile with maximum allowable emissions under a 1-hour emission limit at the critical emission value. This result provides a compelling rationale for allowing the use of a longer averaging period, in appropriate circumstances where the facts indicate that this result can be expected to occur.

The question then becomes whether this approach—which is likely to produce a lower number of overall exceedances even though it may produce some unexpected exceedances above the 1-hour critical emission value—meets the requirement in sections 110(a) and 172(c) for state implementation plans to ''provide for attainment'' of the NAAQS. For SO_2, as for other pollutants, it is generally impossible to design a nonattainment plan in the present that will guarantee that attainment will occur in the future. A variety of factors can cause a well-designed nonattainment plan to fail and unexpectedly not result in attainment, for example if meteorology occurs that is more conducive to poor air quality than was anticipated in the plan. Therefore, in determining whether a plan meets the requirement to provide for attainment, EPA's task is commonly to judge not whether the plan provides absolute certainty that attainment will in fact occur, but rather whether the plan provides an adequate level of confidence of prospective NAAQS attainment. From this perspective, in evaluating use of a longer-term limit up to 30-days, EPA must weigh the likely net effect on air quality. Such an evaluation must consider the risk that occasions with meteorology conducive to high concentrations will have elevated emissions leading to exceedances that would not otherwise have occurred, and must also weigh the likelihood that the requirement for lower emissions on average will result in days not having exceedances that would have been expected with emissions at the critical emission value. Additional policy considerations, such as in this case the desirability of accommodating real world emissions variability without significant risk of violations, are also appropriate factors for EPA to weigh in judging whether a plan provides a reasonable degree of confidence that the plan will lead to attainment. Based on these considerations, especially given the high likelihood that a continuously enforceable limit, averaged over as long as 30 days, determined in accordance with EPA's April 2014 guidance, will result in attainment, EPA posits as a general matter that such limits, if appropriately determined, can reasonably be considered to provide for attainment of the 2010 SO_2 NAAQS. Furthermore, as discussed below, EPA concludes that in this case, New Hampshire has demonstrated that its longer-term limit was appropriately determined and provides for NAAQS attainment.

As stated by the commenter, the limit included in the State's SIP submittal is for a period of 7 days, or 168 hours. As stated above, EPA posits that limits based on periods of as long as 30 days (720 hours), determined in accordance with our April 2014 guidance, can, in many cases, be reasonably considered to provide for attainment of the 2010 SO_2 NAAQS. In EPA's April 2014 guidance, EPA supplied an analysis of the impact of emissions variability on air quality

and explained that it may be possible in some specific cases to develop control strategies that account for variability in 1-hour emissions rates through emissions limits with averaging times as long as 30 days and still provide for attainment of the 2010 SO_2 NAAQS. Since seven days (168 hours) are well within the period of 30 days (720 hours), EPA has concluded that a limit for Merrimack Station based on a period of 7 days and determined in accordance with EPA's April 2014 guidance can be reasonably considered to provide for attainment.

EPA's April 2014 guidance offers specific recommendations for determining an appropriate longer-term average limit. The recommended method starts with determination of the 1-hour emission limit that would provide for attainment (*i.e.,* the 1-hour critical emission value), and applies an adjustment factor to determine the (lower) level of the longer term average emission limit that would be estimated to have a stringency comparable to the otherwise necessary 1-hour emission limit. This method uses a database of continuous emission data reflecting the type of control that the source will be using to comply with the SIP emission limits, which (if compliance requires new controls) may require use of a different emission database, *e.g.,* from a different but comparable facility using similar emissions control equipment. The recommended method involves using these data to compute a complete set of emission averages, computed according to the averaging time and averaging procedures of the prospective emission limitation. In this recommended method, the ratio of the 99th percentile among these longer-term averages to the 99th percentile of the 1-hour values represents an adjustment factor that may be multiplied by the candidate 1-hour emission limit (*i.e.,* the critical emission value) to determine a longer-term average emission limit that may be considered comparably stringent.[2] The guidance also addresses a variety of related topics, such as the potential utility of setting supplemental emission limits, such as mass-based limits, to reduce the likelihood and/or magnitude of elevated emission levels that might occur under the longer-term emission rate limit.

Preferred air quality models for use in regulatory applications are described in appendix A of the *Guideline* (40 CFR part 51, appendix W).[3] In 2005, EPA promulgated AERMOD as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO_2 concentrations) in all types of terrain based on extensive developmental and performance evaluation. Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 standard is provided in appendix A to EPA's April 2014 guidance. Appendix A provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations. Consistency with the recommendations in this guidance is generally necessary for the attainment demonstration to offer adequately reliable assurance that the plan provides for attainment.

As stated previously, attainment demonstrations for the 2010 1-hour primary SO_2 NAAQS must demonstrate future attainment and maintenance of the NAAQS in the entire area designated as nonattainment (*i.e.,* not just at the violating monitor) by using air quality dispersion modeling (*see* appendix W to 40 CFR part 51) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO_2 NAAQS. For a short-term (*i.e.,* 1-hour) standard, EPA asserts that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and in some cases those sources located outside the nonattainment area which may affect attainment in the area) is technically appropriate, efficient, and effective in demonstrating attainment in nonattainment areas because it takes into consideration combinations of meteorological and emission source operating conditions that may contribute to peak ground-level concentrations of SO_2.

Regarding the commenter's position that only hourly SO_2 emissions limits are reasonable, citing the examples supplied in the commenter's submission, EPA agrees that 1-hour limits can be reasonable and protective so long as they are adequately supported by an attainment demonstration establishing those limits as meeting the NAAQS. In this action, EPA is not changing its position regarding the sufficiency in meeting the NAAQS with 1-hour emissions limitations to which other facilities, as cited by the commenter, are subject. The fact that New Hampshire could reasonably have chosen to establish 1-hour limits does not mean that EPA should disapprove limits with comparable stringency using longer averaging times. In this instance, the State's emission limit for Merrimack Station utilizes a 7-day average, and New Hampshire has shown it to be comparably stringent to a 1-hour limit at the critical emission level, which the State demonstrated to suitably provide for attainment of the NAAQS.

Based on EPA's review of the State's submittal, EPA finds that the 7-day average limit of 0.39 pounds (lb) per million British thermal units (MMBtu) established for Merrimack Station provides for a suitable alternative to establishing a 1-hour average emission limit for this source. New Hampshire used a suitable data profile in an appropriate manner and has thereby applied an appropriate adjustment, yielding emission limits that have comparable stringency to the 1-hour average limit that the State determined would otherwise have been necessary to provide for attainment. While the longer-term averaging limit allows occasions in which emissions may be higher than the level that would be allowed with the 1-hour limit, the State's limits compensate by requiring average emissions to be adequately lower than the level that would otherwise have been required by a 1-hour average limit. The September 28, 2017 notice of proposed rulemaking provided a detailed description of EPA's rationale for the proposed finding that the 7-day average limit for Merrimack Station is adequate to provide for attainment, and the commenter has not raised any concerns about this approach that we have not already addressed.

Comment 2: The commenter states that the 7-day average approach would mask significant hours in which emissions are above safe levels. The commenter then presents information regarding historic hourly emissions from Merrimack Station after the flue gas desulfurization (FGD) scrubber system was installed. Specifically, using data from EPA's Air Markets Program Data (AMPD), the commenter identified over 224 individual hours on 62 separate days in the period between January 1, 2012, through September 30, 2017, during which emissions were above the 1-hour critical emission rate of 0.54 lb/MMBtu,[4] *i.e.,* the maximum

[2] For example, if the critical emission value is 1,000 pounds of SO_2 per hour, and a suitable adjustment factor is determined to be 0.70 (*i.e.,* 70%), the recommended longer term average limit would be 700 pounds per hour.

[3] The most recent version of the *Guideline* was published on January 17, 2017 (*see* 82 FR 5182) and became effective on May 22, 2017.

[4] In multiple instances, the Commenter appears to inaccurately assume the critical emission rate is 0.53 lb/MMBtu. The mass-based critical emission value, as calculated by the State's modeling, is 2,544 lb/hour, which is equivalent to the critical emission rate of 0.54 lb/MMBtu at the maximum

Continued

hourly emission rate determined to be protective of the NAAQS. The commenter indicated that during the same period, there do not appear to have been any 7-day periods in which average emissions exceeded the 0.39 lb/MMBtu limit in the SIP revision. The commenter asserts that this disparity, *i.e.,* the fact that emissions during over 224 hours on 62 separate days exceeded the 1-hour critical emission rate of 0.54 lb/MMBtu while the 7-day limit was not exceeded during the time period from January 2012 through September 2017, indicates that the downwardly adjusted 0.39 lb/MMBtu 7-day limit is inadequate to protect the NAAQS.

Response 2: The commenter implies that occasions of emissions above the 1-hour critical emission rate, notwithstanding compliance with a 7-day limit, create an unacceptable risk of additional exceedances that would result in violation of the standard. EPA does not agree with this notion, and the commenter has not supplied evidence to support it. Furthermore, in making this claim, the commenter is relying on an emissions dataset that, for the reasons enumerated below, is not appropriate for assessing the prospective likelihood of Merrimack Station emitting more than the critical emission value, which may result in unsafe air quality. First, the dataset includes emissions from periods during which Merrimack Station was not subject to State permit conditions on the operation of its FGD scrubber system, and is therefore not representative of current and expected future emissions. Second, the dataset includes some emission values that are unrealistically high because they are calculated or substitute data used for purposes of determining compliance with EPA's Acid Rain Program rather than measured data used for determining emissions for compliance with the 7-day limit. Third, emission data for Merrimack Station show that the facility has rarely emitted above the critical emission rate of 0.54 lb/MMBtu since September 1, 2016, when the State's permit TP–0189 became applicable and enforceable. Fourth, the State's rate-based emission limit is designed to ensure consistent control at all load levels during operation, so an exceedance of the critical emission *rate* (in lb/MMBtu) does not necessarily mean that emissions are higher than the critical emission *value* (in lb/hour). Fifth and finally, if actual measured emissions from Merrimack Station had occurred at the levels indicated by the commenter, the facility would have violated the current 7-day emission limit, had it been in place at the time, and therefore these data are not evidence that compliance with the 7-day limit would result in a higher risk of NAAQS violations. Each of these points is discussed in greater detail below.

By reviewing the AMPD emissions data using EPA's Field Audit Checklist Tool (FACT) [5] for the period between January 1, 2012, and March 31, 2018, EPA found 227 hours with emissions above 0.54 lb/MMBtu, a number that is consistent with the ''over 224 hours'' identified by the commenter. In the following discussion, EPA identifies the number of hours of those 227 hours that are not appropriate to use in the analysis of the adequacy of the 7-day emission limit. EPA has included a spreadsheet in the docket of this action which contains the relevant data used in EPA's analysis.

(1) The FGD at Merrimack Station first became operational on September 28, 2011. Under the conditions established in the State's permit TP–0008, Merrimack Station was not permitted to operate MK2, one of its two utility boilers, unless the FGD was in operation. Merrimack Station's other utility boiler, MK1, was permitted to bypass the FGD system for no more than 840 hours per consecutive 12-month period. Both of these permit conditions became applicable and enforceable as of July 1, 2013. (This emission bypass provision is no longer permitted under the September 1, 2016 TP–0189 permit.) Prior to July 1, 2013, the facility was not subject to enforceable permit conditions requiring operation of the FGD. During 2012, Merrimack Station bypassed the FGD for emissions from MK1 on several occasions, the last of which occurred on November 7, 2012. As such, EPA does not view emissions occurring at Merrimack Station prior to July 1, 2013 as being representative of current or expected future emissions because prior to this date the relevant, enforceable permit provisions that required operation of the emission control system at Merrimack Station, as contained in permit number TP–0008, were not effective. Of the 227 hours with emissions above 0.54 lb/MMBtu, there were 188 hours that occurred prior to July 1, 2013, leaving 39 hours for further analysis.

(2) Merrimack Station is subject to emission monitoring and reporting requirements under the Acid Rain Program (40 CFR part 75). Under the Acid Rain Program, Merrimack Station must hold sufficient emission allowances to account for its SO_2 emissions. For hours in which direct, quality-assured measurements from the continuous monitoring systems (CEMS) are not available, EPA's Acid Rain Program regulations require that high emission values are calculated or substituted for the emissions that are not monitored in order to ensure that the source holds sufficient allowances to account conservatively for its emissions. *See* 40 CFR part 75 subpart D. As described in New Hampshire's response to comments for its nonattainment area plan, the CEMS at Merrimack Station was certified on November 21, 2011 using only the low range of a dual range analyzer to measure from 0 to 300 parts per million (ppm) SO_2 of in-stack exhaust gas. When the low range was exceeded, *i.e.,* in-stack exhaust gas exceeded 300 ppm SO_2, a calculated value of 200% of the maximum potential or uncontrolled concentration was reported to ensure that under reporting did not occur for purposes of the Acid Rain Program. As part of a periodic reassessment of the appropriate analyzer ranges, Merrimack Station retained a low range configuration and adjusted it to measure from 0 to 150 ppm on January 28, 2013. *See* section 2.1.1.5 of appendix A to 40 CFR part 75. On February 4, 2015, Merrimack Station began calibrating and quality-assuring the high range of the dual range analyzer from 150 to 2,600 ppm, while the lower range continued to be quality assured to measure between 0 and 150 ppm. In accordance with Acid Rain Program requirements, Merrimack Station was required to report calculated emissions at 200% of the maximum potential or uncontrolled concentration during the period from November 21, 2013 to February 4, 2015 when concentrations exceeded the lower range, *i.e.,* in-stack exhaust gas exceeded 300 ppm. *See* section 2.1.1.4(f) of Appendix A to 40 CFR part 75. These hours are marked as SO_2 Method Of Determination Code (MODC) 19 in the FACT database and were reported as such in the hourly electronic emissions records. Additional CEMS outage hours that used substitute data calculated as the average of the hour before and after, reported as SO_2 MODC 06, are not measured emissions data but rather are substitute data hours. EPA concludes from the CEMS data that data points flagged as calculated or substitute data

rated capacity of Merrimack's two coal-fired electric generating units, MK1 and MK2.

[5] Field Audit Checklist Tool (FACT) version 1.2.0.1, available for download at: *www.epa.gov/airmarkets/field-audit-checklist-tool-fact.* FACT provides users with metadata, including ''method of determination codes'' (MODC), beyond the information available using the AMPD website referenced by the Commenter.

with SO_2 MODC 06 or 19 are not appropriate for use in assessing NAAQS compliance in this case because these values do not represent actual measured emissions during those hours.

Data points flagged as SO_2 MODC 06 or 19 account for 32 hours of the remaining 39 emissions data points over 0.54 lb/MMBtu, leaving seven hours for further analysis.

(3) The emission profile for Merrimack Station, since the issuance of the September 2016 permit containing the 7-day average SO_2 emissions limit, shows that exceedances of the critical emission rate, *i.e.,* 0.54 lb/MMBtu, are infrequent. In the period from September 1, 2016, when the State's permit TP–0189 became applicable and enforceable, to March 31, 2018, Merrimack Station has emitted at a level higher than the 0.54 lb/MMBtu on three hours out of 3,109 operating hours with measured emissions data, or less than 0.1%. In addition to the SO_2 emission limit, the September 1, 2016 permit TP–0189 included a more stringent limit for the SO_2 removal efficiency of the scrubber than was included in the TP–0008 permit. In addition, TP–0189 prohibits the use of the emergency stack to bypass emissions controls except as necessary to prevent severe damage to equipment or potential injury to facility personnel. The infrequency of emissions above 0.54 lb/MMBtu since September 1, 2016 indicates that the multiple SO_2 emission control provisions contained in TP–0189, as described above, have been successful in consistently reducing emissions from Merrimack Station. Based on this evidence, EPA expects that future instances of emissions from Merrimack Station above 0.54 lb/MMBtu will continue to be extremely rare.

(4) While emissions exceeded 0.54 lb/MMBtu during each of the seven hours since July 1, 2013 (of which only three hours exceeded 0.54 lb/MMBtu since September 1, 2016, as described above), for six of these hours the total mass-based emission rate, measured in lb/hour, did not exceed the critical emission value of 2,544 lb/hour. Of those six hours, the highest emission level was 1,386.6 pounds of SO_2, well below the critical emission value, and the other emission values range from 1.1 to 843.5 pounds SO_2. Based on the State's attainment modeling demonstration, these lower emission values would not be expected to result in exceedances of the NAAQS. That is, New Hampshire's modeling indicates that Merrimack Station could emit constantly at the mass-based emission value for each of those six hours and the area would attain the standard.

Only one hour had emissions above the critical emission value of 2,544 lb/hour. Specifically, Merrimack emitted 2,578.6 pounds of SO_2 on December 1, 2015 during the 7 a.m. hour.

EPA does not regard the single hour on December 1, 2015 at 7 a.m., during which Merrimack Station had emissions over the critical emission value, by itself as representing a serious risk for causing a violation of the NAAQS. EPA has previously acknowledged that there could possibly be hourly emission levels above the critical emission value from a source complying with a longer-term average emission limit, *e.g.,* a 7-day limit. As stated in the proposal, an hour where emissions are above the critical emission value does not necessarily mean that a NAAQS exceedance is occurring in that hour. Similarly, an individual hour where emissions are above the level of the comparably stringent 7-day limit (0.39 lb/MMBtu in this instance) does not mean that an exceedance of the NAAQS is occurring in that hour, especially if the level of emissions is below the critical emission value. This notion also does not take into account the possible exceedances that would be expected with emissions always at the critical emission value that would otherwise be avoided because emissions are generally required to be lower (in this case, on average 27% lower). Based on this reasoning, EPA concludes that the risk of an exceedance for the one hour with emissions above the critical emission value of 2,544 lb/hour during 4.75 years of emissions from Merrimack Station (from July 1, 2013 to March 31, 2018) does not suggest that a violation of the NAAQS is likely to have occurred.

(5) Notwithstanding the explanations above regarding the appropriateness of omitting certain data points from considering NAAQS compliance, such emissions data, if they had actually been representative of real emissions, would have caused a violation of the permit conditions for Merrimack Station, if the 7-day permit limit had been in place at the time. EPA has evaluated the Merrimack Station emissions data for the period January 1, 2012 through March 31, 2017 in accordance with the 7-day average emission rate limit, both with and without the omission of data points flagged as calculated or substitute data.

This evaluation found 27 periods during which the associated 7-day emission average would have violated the terms of the permit conditions, had those terms been in place at the time and assuming that all data points flagged as calculated or substitute data are actual emissions. Of the 27 7-day periods, 26 occurred in 2012, while the facility was still permitted to bypass the FGD system, a practice that is not permitted under the conditions of the September 2016 permit TP–0189. Even by omitting data points flagged as calculated or substitute data, none of the 7-day emission averages associated with these 26 7-day periods in 2012 would have met the 7-day emission limit, had it been in place at the time.

The one remaining 7-day period ended on December 11, 2014, and the associated 7-day emission average of 0.419 lb/MMBtu would have exceeded the emission limit of 0.39 lb/MMBtu, if data points flagged as calculated or substitute data were treated as actual emissions. By omitting the calculated or substitute data from this time period, the 7-day emission average ending on December 11, 2014 would have been 0.20 lb/MMBtu, which would comply with the 7-day limit of 0.39 lb/MMBtu, had it been in place at the time.

This finding contradicts the commenter's assertion that the ''over 224'' individual hours with emissions purportedly higher than the critical emission rate would not have resulted in an exceedance of the 7-day average limit. On the contrary, even if the emissions with reported emissions above the critical emission value did represent actual emissions, which EPA argues in the previous sections is incorrect, Merrimack Station would have been out of compliance with the 7-day limit permit had it been in effect at the time.

Therefore, based on the reasoning supplied in the sections above, EPA disagrees with the commenter that emissions data from Merrimack Station demonstrate the inadequacy of the 7-day emission limit imposed by the State. Rather, the data most representative of Merrimack Station's current and expected future emissions indicate that the facility, when complying with the applicable permit restrictions, is extremely unlikely to cause a violation of the SO_2 NAAQS. The emissions data presented by the commenter are not representative of Merrimack Station's current and expected future emissions, and are therefore not appropriate for use in assessing NAAQS compliance in this case.

EPA offers the following additional discussion to further respond directly regarding the sufficiency of an appropriately-calculated, longer-term average limit, up to 30-days, with comparable stringency to a 1-hour critical emission value, to provide for attainment of the 1-hour NAAQS. EPA has conducted analyses to evaluate the extent to which longer-term average

limits that have been adjusted to have comparable stringency to 1-hour limits at the critical emission value provide for attainment. In brief, while a longer-term average limit as approved in this action will allow occasions when emissions exceed the critical emission value, the use of a lower limit (*i.e.,* as adjusted downward) compensates by requiring most values to be lower than they are required to be with a 1-hour limit at the critical emission value. EPA expects that the net result for this action will be that the comparably stringent limit will provide a sufficient constraint on the frequency and magnitude of occurrences of elevated emissions such that this control strategy based on the comparably stringent limit will reasonably provide for attainment.

As stated in appendix B of EPA's April 2014 guidance, the Agency acknowledges that even with an adjustment to provide comparable stringency, a source complying with a longer term average emission limit could possibly have hourly emissions which occasionally exceed the critical emission value. It is important to recognize that an hour where emissions are above the critical value does not necessarily mean that a NAAQS exceedance is occurring in that hour. EPA's April 2014 guidance states that ''if periods of hourly emissions above the critical emission value are a rare occurrence at a source, these periods would be unlikely to have a significant impact on air quality, insofar as they would be very unlikely to occur repeatedly at the times when the meteorology is conducive for high ambient concentrations of SO_2'' (p. 24).

Exceedances of the SO_2 NAAQS occur when emissions from relevant sources are sufficiently high on occasions when the meteorology is conducive for those emissions to cause elevated SO_2 concentrations. An illustrative example would be a case in which a single source has a dominant impact on area concentrations, and the source only causes an exceedance at a particular location with light southwest winds with limited dispersion. In this example, the likelihood of an exceedance at that location will be a function of the likelihood of elevated emissions occurring during times of light southwest winds with limited dispersion. Stated more generally, the likelihood of an exceedance is a function of the likelihood of emissions being high when the meteorology is conducive for the source to cause an exceedance. By extension, the likelihood of a violation is a function of the likelihood of emissions being high on a sufficient number of times with meteorology conducive to having exceedances to have the average of the 99th percentile daily maximum values exceed the NAAQS. Viewed another way, the occasions when the meteorology is conducive for the source to cause an exceedance at a particular location are likely to be infrequent, and high concentrations are contingent on both emissions being sufficiently high and the meteorology being sufficiently conducive. The NAAQS itself is based on relatively rare occurrences, being based on the 99th percentile of daily maximum concentrations. Nevertheless, the point here is that the occurrence of high emissions will not cause an exceedance if it does not occur when meteorology is conducive to having an exceedance. Furthermore, a source with rare occurrences of high emissions and with much more frequent occurrences of moderate emissions is more likely to have moderate emissions on those occasions with meteorology conducive for exceedances, and the design value for the source may be more prone to reflect the moderate emissions than the high emissions.

Thus, for a source complying with a limit using an averaging period of up to 30 days reflecting the downward adjustment generally recommended in EPA's April 2014 guidance, at issue is the likelihood that the source would have sufficiently high emissions on a sufficient fraction of the potential exceedance days to cause an SO_2 NAAQS violation. Although results will differ according to individual circumstances, EPA has presented illustrative analyses (see appendix B of EPA's April 2014 guidance) that indicate that suitably adjusted longer-term average limits can generally be expected to provide adequate confidence that the attainment plan will provide for attainment.

Therefore, based on the reasoning presented above, EPA disagrees with the commenter about the over 224 hours with emissions purported to be higher than the critical emission rate, and concludes that the longer-term limit for Merrimack Station is not expected to lead to a greater risk of a future violation of the NAAQS.

Comment 3: The commenter stated that New Hampshire's approach to develop a longer-term averaging period using an ''adjustment ratio'' is problematic.[6] Specifically, the commenter posits that the period of time selected by the State (*i.e.,* July 4, 2013 through March 30, 2015) is not representative of current or expected future operations at Merrimack Station. The commenter stated that the State did not disclose the nature of data corrections provided by the Merrimack Station's owner at the time PSNH in documentation accompanying the proposed permit for the facility. The commenter indicated that the nondisclosure regarding the nature of the corrections raises concerns about the accuracy of the State's analysis. For future operations, the commenter points to New Hampshire's projection of Merrimack Station's annual emissions for 2018 of 1,907 tons SO_2, which is nearly double the annual emissions total of 1,044 tons SO_2 for the facility in 2014. The commenter asserts that the time period selected for developing the adjustment factor is arbitrary and not representative of expected future operations, and that therefore the State should have selected a different time period. The commenter identified ''significant spikes'' in hourly emissions in the months before or after the time period selected by the State that are not included in the State's emissions database. The commenter suggested that these emission ''spikes'' are inappropriately excluded, and as a result the State's results are likely to be skewed. The commenter provides several alternative adjustment factors based on different time periods that include periods with emission ''spikes,'' including an adjustment factor for each year from 2012 through 2015; the period of July 4, 2013 through March 30, 2015, used by the State in its analysis; and the 25-month period from March 1, 2013 through March 30, 2015. The alternative adjustment factors for these periods vary from 0.34 to 0.90, which would result in associated 7-day limits of between 0.19 to 0.48 lb/MMBtu. The commenter states that selecting the wrong time period for analysis can result in a more than doubling of the resulting emission rate. The commenter concludes that the methodology New Hampshire used for developing a 7-day emission rate is inadequate because the adjustment factor depends greatly on which temporal series of emissions data is examined.

Response 3: EPA analyzed the commenter's assertion regarding variability in adjustment factors based on the time period selected. An adjustment factor is a value multiplied by the 1-hour critical emission value (*i.e.,* the maximum 1-hour emission value established to be protective of the NAAQS) to determine a downwardly adjusted longer-term average limit for an emission unit at a level that EPA would expect to be comparably stringent to a

[6] EPA terms these ratio values ''adjustment factors.''

1-hour limit set at the critical emission value.

As stated in EPA's April 2014 guidance, we expect that establishing an appropriate longer-term average limit will involve assessing a downward adjustment in the level of the limit that would provide for comparable stringency. This assessment should generally be conducted using data obtained by CEMS, in order to have sufficient data to obtain a robust and reliable assessment of the anticipated relationship between longer-term average emissions and 1-hour emission values. This is necessary to have a suitable assessment of the warranted degree of adjustment of the longer-term average limit in order to provide comparable stringency to the 1-hour emission rate that is determined to provide for attainment. EPA generally expects that datasets reflecting hourly data for at least 3 to 5 years of stable operation (*i.e.,* without changes that significantly alter emissions variability) would be needed to conduct a suitably reliable analysis.

For Merrimack Station, at the time that New Hampshire had conducted its analysis, only approximately 21 months of emissions data were available that were consistent with anticipated current and future operations. Specifically, the emissions units at Merrimack Station became subject to certain enforceable conditions contained in permit number TP–0008 beginning on July 1, 2013. Thus, emissions from Merrimack Station prior to July 1, 2013 are not expected to have an emissions profile consistent with the current and anticipated future emissions profile for those units. March 2015 was selected by the State as the end point of the emissions dataset because it was the last month in which data were available through AMPD at the time it conducted the analysis. During the period assessed by the State, the combined emissions from Merrimack Station's units MK1 and MK2 were always controlled by FGD and the dataset includes emissions representative of current and expected future typical operations, including startup and shutdown events. Because the dataset includes only data from Merrimack Station while using the control technology, it is appropriate for use in developing adjustment factors for emission limits at this facility. EPA has concluded that New Hampshire used data from an appropriate time period.

Prior to deriving the adjustment factor, the State removed several data points from the AMPD dataset based on information provided by the facility. A justification for removal of these data points was included in the State's response to comments document to permit TP–0189 (included in New Hampshire's Finding of Fact document), which was also included in the State's SIP submittal. Specifically, New Hampshire justified the removal of several data points because of quality assurance issues. The State indicated in its response to comments document that substitute data was included within the AMPD dataset for hours with emissions at levels the CEMS had not been appropriately maintained and quality assured to measure. The State indicated and EPA agrees that these substitute emission data are not representative of actual emissions. According to the State's SIP submittal, the SO_2 dual span analyzer in the CEMS was adjusted as of February 4, 2015, to better characterize both lower- and higher-end emissions. In its response to comments, the State provided an hour-by-hour listing of the omitted data points, and a detailed discussion of the reasoning for these omissions. The State's Findings of Fact document is included in the docket for this action. As such, EPA notes that New Hampshire sufficiently provided its rationale and approach for removing certain data points from the AMPD dataset in the State's response to comments document. Therefore, EPA concludes that the State has appropriately disclosed the nature of the data corrections in the State's SIP submittal, and that the public has had adequate notice and opportunity to comment on the State's justification for data removal in the current rulemaking process. EPA has placed the raw data that New Hampshire used in the docket for this action, but EPA asserts that the information provided by the State and by EPA in its proposal was adequate to clarify EPA's rationale for concurring with the State's analysis of the data.

Regarding the omission of calculated or substitute data, the calculated or substitute data points are not reliable indicators of emissions during those hours and are not appropriate for inclusion in the calculation of the adjustment factor. Based on this reasoning, EPA considers the State's omission of these values in the calculation of the adjustment factor to be appropriate.

The adjustment factor was calculated as the ratio of the 99th percentile of mass emissions for the 7-day average period to the 99th percentile of 1-hour mass emissions. For the rolling 7-day averaging period, the adjustment factor was 0.73. That is, using EPA's recommended approach for determining comparably stringent limits, the 7-day mass emission rate limit would need to be 0.73 times (or 27% lower than) the critical emission value to have stringency comparable to a 1-hour limit at the critical emission value. The State multiplied its adjustment factor of 0.73 to the critical emission rate of 0.54 lb/MMBtu to derive a comparably stringent emission rate of 0.39 lb/MMBtu. EPA has confirmed that the State appropriately implemented the recommended methodology for developing an adjustment factor based on the State's supplied dataset. EPA notes that this emission database does include hours representative of startup and shutdown conditions, as well as hours with elevated emissions or ''spikes.''

There were five individual alternative adjustment factors for Merrimack Station presented by the commenter as evidence that EPA's methodology (including adjustment factors) is not appropriate for developing emissions limitations based on averaging times for periods up to 30 days. Four of the five alternative adjustment factors presented by the commenter are based upon only one year of emissions data for each of the annual periods of 2012 through 2015. One of the periods presented includes emissions over a period of 25 months, specifically for the period from March 2013 through March 2015 resulting in an alternative adjustment factor of 0.47, compared to the State's adjustment factor of 0.73 based on the 21-month time period of July 2013 through March 2015. None of the alternative adjustment factors provided by the commenter were calculated in accordance with the recommendations contained in EPA's April 2014 guidance. Specifically, EPA stated in its April 2014 guidance ''that data sets reflecting hourly data for at least 3 to 5 years of stable operation (*i.e.,* without changes that significantly alter emissions variability) would be needed to obtain a suitably reliable analysis'' (p. 30). Furthermore, the alternative adjustment factors for March 2013 through March 2015 and the annual periods for 2012 and 2013 as presented by the commenter include periods of time (*i.e.,* those prior to July 1, 2013 when FGD use was not an enforceable State permit condition) during which operations are not representative of current and expected future operations at Merrimack Station, as discussed in greater detail in our response to Comment 2 of the notice. The remaining alternative adjustment factors that do not contain periods of time prior to July 1, 2013, *i.e.,* the annual periods for 2014 and 2015, are 0.90 and 0.70, respectively, which are reasonably consistent with the State's finding based

on a larger dataset. However, the commenter's results illustrate a point that EPA considered in formulating its guidance, which is that using insufficient data, *e.g.,* using only one year's data, is prone to yield results that vary unduly by data period and may not be a sufficiently robust basis for determining a reliable adjustment factor. The variability of these annual values demonstrates the insufficiency of the annual time period for use in development of such an adjustment factor, but does not demonstrate the insufficiency of the method contained within EPA's April 2014 guidance had it been appropriately applied, nor does it demonstrate that New Hampshire's adjustment factor is inappropriate.

EPA recognizes that the State used 21 months in its emissions variability analysis instead of the 3 to 5 years recommended for use in EPA's April 2014 guidance. As such, EPA has evaluated whether the period used by the State results in an appropriate adjustment factor. Specifically, EPA compared the State's adjustment factor to EPA's average 30-day adjustment factor for comparable sources. Merrimack Station's FGD system employs a wet scrubber, and so EPA compared New Hampshire's adjustment factor to the average adjustment factors listed in appendix D of the April 2014 guidance for sources with wet scrubbers (derived from a database of 210 sources). For this set of sources, EPA calculated an average adjustment factor for 30-day average limits of 0.71 and an average adjustment factor for 24-hour limits of 0.89. The comparison of New Hampshire's adjustment factor of 0.73 for a 7-day limit for Merrimack Station suggests that the 21 months of data at Merrimack Station have variability that is quite similar to that of other similar facilities in the United States. Based on this comparison, EPA concludes that the State's adjustment factor is reasonable and will result in an appropriate downward adjustment from the critical emission value.

Based on the State's SIP submittal, New Hampshire's future projection of SO_2 emissions at Merrimack Station to 2018 indicates an increase of nearly 85% compared to 2014 emissions for the facility. Specifically, Tables 5–1B and 5–2B of the State's SIP submittal indicate that Merrimack Station's SO_2 emissions were 1,044 tons in 2014 and are projected to be 1,927 tons in 2018. The emission projection for 2018 includes the caveat from the State that it relies on an assumed control efficiency for the FGD of 90%, which is less efficient than the updated control efficiency of 94% for the FGD included in the State's SIP submittal. Nevertheless, this projected increase in annual emissions does not, however, indicate a different emissions profile. That is, based on available information, EPA does not expect an increase in the variability of hourly emissions due to an increase in annual emissions. In fact, the attainment demonstration included in New Hampshire's SIP submittal indicates that annual SO_2 emissions at the critical emission value, equivalent to annual emissions of 11,144 tons, is anticipated to be protective of the 2010 SO_2 NAAQS. The State's comparably stringent 7-day average limit of 0.39 lb/MMBtu equates to total annual SO_2 emissions of 8,047 tons. Both values are above the State's 2018 projected emissions of 1,927 tons. Because New Hampshire's attainment demonstration shows that the critical emission value is protective of the NAAQS, and the State's 7-day limit is comparably stringent to the 1-hour critical emission value, EPA concludes that the State's projected 85% increase in annual SO_2 emissions from 2014 to 2018 would not result in a violation of the NAAQS.

Therefore, based on the reasoning presented above, EPA has concluded that the commenter has not demonstrated that the State developed its adjustment factor for Merrimack Station inappropriately, or that the State's 7-day limit for Merrimack Station derived using the adjustment factor is inadequate.

Comment 4: The commenter indicates that the polar receptor grid used by the State in its modeling analysis is inadequate because of the small overall number of receptors and lack of coverage over large areas of land. The commenter states that the polar grid ensures that the model will underpredict concentrations due to these ''blind spots,'' areas where there are no receptors and which the model will overlook when the wind is blowing in their direction across the sources. Because the model is ultimately the basis for the development of the emissions limit for Merrimack Station, the commenter posits that the polar receptor grid with contiguous radial coverage gaps is improper.

Response 4: EPA agrees with the commenter that simple polar grids alone may not be appropriate for use without refinement in refined modeling analyses, though inclusion of a polar receptor grid does not in and of itself disqualify an attainment demonstration.

Receptors are points that represent physical locations at which the air dispersion models will predict ambient pollutant concentrations. Groups of Cartesian or polar receptors usually are defined as a receptor grid network or grid. The primary purpose of this network or grid is to locate the maximum impact of concern per pollutant and averaging period. Deciding which type to use is largely a function of the type of modeling being performed (screening or refined), the size and number of emission sources, or the site location (including topography), and should be selected to provide the best ''coverage'' for the facility being modeled. Two types of receptors are generally employed: (1) A Cartesian receptor grid, which consists of receptors identified by their *x* (east-west) and *y* (north-south) coordinates; and (2) a polar receptor grid that consists of receptors identified by their distance and direction (angle) from a user defined origin (*e.g.,* main boiler stack). Discrete receptors are used to identify specific locations of interest (*e.g.,* school, community building). A modeling receptor grid may consist of any combination of discrete, polar, or Cartesian receptors, but must provide sufficient detail and resolution to identify the maximum impact.

On October 30, 2015, the State submitted preliminary modeling to EPA for the attainment demonstration for the Central New Hampshire Nonattainment Area. EPA responded on January 6, 2016, to the State's preliminary modeling submittal. In EPA's response, the Agency indicated that section 4.2.1.2(b) of the *Guideline*[7] describes the process for performing screening modeling in areas with complex terrain. As stated in our letter, in areas with complex terrain, ''even relatively small changes in a receptor's location may substantially affect the predicted concentration.'' The *Guideline* recommended a dense array of receptors in those situations, and suggests two modeling runs: the first with ''a moderate number of receptors carefully located over the area of interest,'' and a second with ''a more dense array of receptors in areas showing potential for high concentrations, as indicated by the results of the first model run.'' This process is also consistent with section 7.2.2 (Critical Receptor Sites) of the *Guideline,* which states that ''selection of receptor sites should be a case-by-case determination taking into consideration the topography, the climatology, monitor sites, and the results of the initial screening procedure.'' In our letter to New

[7] At the time of EPA's January 6, 2016 letter to New Hampshire, the update to the *Guideline* had not yet been finalized and was not in effect. Therefore, the applicable *Guideline* was the version published on November 9, 2005 (*see* 70 FR 68218).

Hampshire, EPA noted that the preliminary modeling results (*i.e.,* those presented to the Agency on October 30, 2015) showed maximum concentrations resulting from Merrimack Station's SO_2 emissions in areas of complex terrain between 9 to 13 kilometers from Merrimack Station. EPA stated that the polar receptor grid at those distances from the source were insufficiently dense to properly characterize the extent of the impacts at locations with complex terrain. For example, at 13 kilometers from the source, the lateral distance between receptors is greater than 2 kilometers. EPA also indicated that other locations with similar terrain characteristics in the same general distance (*i.e.,* 9–13 kilometers) from Merrimack Station did not have adequate receptor coverage. To address this issue, EPA suggested in its January 6, 2016 letter, that New Hampshire perform refined modeling consistent with its existing protocol, but with a denser array of receptors in the areas shown in the preliminary modeling to have the potential for high concentrations. Specifically, areas of complex terrain at distances within 15 kilometers of Merrimack Station, and particularly such areas to the northeast, were suggested by EPA to be modeled with high resolution receptor grids. EPA listed these areas and provided a map of these areas to the State. EPA indicated that these terrain features have the potential to be highly impacted by Merrimack Station because of their geographic characteristics and locations, but were not well characterized by the preliminary modeling due to the sparseness of the polar grid at distances beyond around 5 kilometers.

In response to EPA's January 2016, letter, the State included additional receptors in these areas for its refined modeling conducted in February 2016. Specifically, New Hampshire included 2,308 additional receptors in dense Cartesian arrays with 100-meter spatial resolution over the areas of expected maximum predicted concentrations based on preliminary modeling, including over the areas suggested by EPA within 5–15 kilometers from Merrimack Station. After reviewing the receptor grid included by the State in its refined modeling, EPA concludes that areas of complex terrain within 15 kilometers have adequate coverage to identify potential impacts in those areas. This conclusion is consistent with the statement in section 4 (Models for Carbon Monoxide, Lead, Sulfur Dioxide, Nitrogen Dioxide and Primary Particulate Matter) of the *Guideline* (specifically section 4.2(a)) that ''[i]n most cases, maximum source impacts of inert pollutants will occur within the first 10 to 20 km from the source.'' Furthermore, EPA's review of both the preliminary and refined modeling indicate that these areas of complex terrain are likely to include the highest impact area. Therefore, EPA finds that the modeling domain and receptor network are sufficient to identify maximum impacts from Merrimack Station, and are therefore adequate for characterizing the nonattainment area.

Comment 5: The commenter pointed out an error in Table 3–1 of the State's draft SIP submittal. Specifically, the commenter indicated that Table 3–1 incorrectly showed areas that are undesignated in New Hampshire as being designated Unclassifiable. The commenter indicated that those areas should instead be identified as undesignated.

Response 5: EPA agrees with the commenter that all areas in New Hampshire other than the Central New Hampshire Nonattainment Area were undesignated as of the date of New Hampshire's submittal (*i.e.,* January 31, 2017). In its response to this identical comment on its proposed SIP submittal, the State indicated that Table 3–1 had been corrected. EPA has verified that the State did indeed correct the table. EPA notes that revised recommendations from New Hampshire other than those listed in Table 3–1 were received by EPA in December 2016, specifically for attainment at the New Hampshire Seacoast area and attainment/unclassifiable for all other previously undesignated areas. Furthermore, on January 9, 2018, EPA published a document of a final rule that designated all areas in New Hampshire other than the Central New Hampshire Nonattainment Area as attainment/unclassifiable (*see* 83 FR 1098, 1143, to be codified at 40 CFR 81.330). These inconsistencies in Table 3–1 with subsequent occurrences have to do with the timing of the SIP submittal along with the December 2016 update to the State's recommendations and EPA's January 9, 2018 final designations. These inconsistencies do not affect EPA's view of whether New Hampshire has satisfied applicable nonattainment planning requirements.

Comment 6: The commenter states that the State's SIP submittal incorrectly indicates that an attainment demonstration can be made based on monitor readings alone. This idea is contrary to other statements in the State's SIP submittal, and also to EPA's April 2014 guidance, which states that monitor data alone is insufficient for an attainment demonstration, and that modeling analyses are also required. The commenter asserts that the statement should be removed from the State's SIP submittal.

Response 6: The State indicated in its response to an identical comment on its draft SIP submittal that it planned to remove the phrase ''and thus may be able to demonstrate attainment for the SO_2 NAAQS'' from Section 3.1.1 on page 9 of its SIP submittal. In doing so, the State would be satisfying the request made by the commenter. However, the erroneous phrase still appeared in the State's January 31, 2017 SIP submittal to EPA. EPA agrees with the commenter that the phrase is incorrect and ought not to be in the plan. EPA communicated with the State to confirm that it had intended to remove the phrase as indicated by the State's response to comments on its draft SIP submittal, and to suggest a clarification. On November 29, 2017, New Hampshire sent EPA a letter indicating that the language had been erroneously included in its January 31, 2017 submittal, and providing a corrected page 9 of the State's SIP submittal. EPA considers this amended version (*i.e.,* the January 31, 2017, submittal as amended by the November 29, 2017, correction on page 9) to be consistent with the State's record, as included in its response to comments.

Comment 7: The commenter identifies an error in Table 5–1B of the State's draft SIP submittal. Specifically, the commenter indicates that the table erroneously states that the total estimated emissions for the Central New Hampshire Nonattainment Area for 2014 was 22,947 tons of SO_2. The commenter further states that the proper total for 2014 emissions should be 1,480 tons of SO_2. The commenter indicates that the figure is assumed to be an error that should be corrected.

Response 7: EPA agrees with the commenter that the total 2014 emissions within the Central New Hampshire Nonattainment Area should be 1,480 tons SO_2. The commenter had supplied an identical comment on New Hampshire's draft SIP submittal, and the State's response to comment document included in its final SIP submittal stated that the error would be corrected. As indicated by the State in its response to comments, Table 5–1B shows the corrected value. As such, EPA considers this comment to have been already addressed by the State.

Comment 8: In the incorporated comments dated July 15, 2016, the commenter states that New Hampshire is long overdue for finalizing a plan to ensure attainment and maintenance of the SO_2 NAAQS. The commenter goes

on to state that the (then) proposed permit is apparently only a step towards developing such a SIP. The commenter concludes by urging the State to swiftly address the issues identified in its comments on the proposed permit for Merrimack Station.

Response 8: There are two plausible interpretations of this comment. The first interpretation is procedural. Interpreted in this fashion, the commenter would be requesting that the permitting authority expedite the permitting for Merrimack Station, which would be a critical component of the anticipated attainment plan for the area around Merrimack Station. Interpreted this first way, the comment is addressed through the current action, which is the final step in the procedure for approving an attainment plan for the area. A second interpretation implies technical insufficiency. Interpreted in this fashion, the commenter would be indicating that the proposed permit, when finalized, would be just one of multiple required actions necessary to ensure attainment in the nonattainment area. Interpreted this second way, the comment rests on the previous arguments provided by the commenter suggesting that the State's proposed plan does not ensure attainment of the NAAQS. On these grounds, EPA disagrees with the commenter that the proposed nonattainment area plan may be insufficient to ensure attainment. EPA has provided ample discussion and evidence, in both the current response to comments and the September 28, 2017 proposal, for why the State's nonattainment plan and SO_2 attainment demonstration are sufficient.

III. Final Action

EPA has determined that New Hampshire's SO_2 nonattainment plan meets the applicable requirements of sections 110, 172, 191, and 192 of the CAA. EPA is approving New Hampshire's January 31, 2017 SIP submission, as amended by the State on November 29, 2017, for attaining the 2010 primary 1-hour SO_2 NAAQS for the Central New Hampshire Nonattainment Area and for meeting other nonattainment area planning requirements. This SO_2 nonattainment plan includes New Hampshire's attainment demonstration for the SO_2 nonattainment area. The nonattainment area plan also addresses requirements for RFP, RACT/RACM, enforceable emission limits and control measures, base-year and projection-year emission inventories, and contingency measures.

In New Hampshire's SIP submittal to EPA, New Hampshire included the applicable monitoring, testing, recordkeeping, and reporting requirements contained in Merrimack Station's permit, TP–0189, to demonstrate how compliance with Merrimack Station's SO_2 emission limit will be achieved and determined. EPA is approving into the New Hampshire SIP the provisions of Merrimack Station's permit, TP–0189, that constitute the SO_2 operating and emission limits and their associated monitoring, testing, recordkeeping, and reporting requirements. EPA is approving these provisions into the State's SIP through incorporation by reference, as described in section IV., below.

EPA is not removing the portion of the New Hampshire SIP entitled ''EPA-approved State Source specific requirements'' as it pertains to Merrimack Station's July 2011 permit, TP–0008, because EPA did not receive a request from the State to do so. *See* 40 CFR 52.1520(d). However, EPA considers those provisions to be superseded by the conditions of TP–0189, which are more stringent, and which are being incorporated into the SIP in this final action. Specifically, two of the provisions, items 6 and 8 from Table 4, relate to SO_2 emissions limits that have been superseded by Merrimack Station's September 2016 permit, TP–0189. Item 10 from Table 4 has also been superseded by Merrimack Station's September 2016 permit, TP–0189, in that the existing SIP provision allowed operation of one of Merrimack Station's two boilers, MK1, for up to 840 hours in any consecutive 12-month period through the emergency bypass stack, *i.e.,* not through the FGD system. Each of the corresponding provisions of Merrimack Station's September 2016 permit, TP–0189, are more stringent than those existing SIP provisions. The limits EPA is approving into New Hampshire's SIP in this action do not exempt any hours from being subject to the limit.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of certain federally enforceable provisions of Merrimack Station's permit, TP–0189, effective on September 1, 2016, described in the amendments to 40 CFR part 52 set forth below. Specifically, the following provisions of that permit are incorporated by reference: Items 1, 2, and 3 in Table 4 (''Operating and Emission Limits''); items 1 and 2 in Table 5 (''Monitoring and Testing Requirements''); items 1 and 2 in Table 6 (''Recordkeeping Requirements''); and items 1 and 2 in Table 7 (''Reporting Requirements''). EPA has made, and will continue to make, relevant documents, including the portions of TP–0189 being incorporated by reference, generally available through *www.regulations.gov.*

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 *August 6, 2018.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 23, 2018.

Alexandra Dunn,

Regional Administrator, EPA New England.

Part 52 of 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 EE—New Hampshire

■ 2. Section 52.1520 is amended:

■ a. In the table in paragraph (d) by:

■ i. Revising the entry for ''PSNH Merrimack Station''; and

■ ii. Adding the entry for ''PSNH d/b/a Eversource Energy Merrimack Station,'' at the end of the table; and

■ b. In the table in paragraph (e), by adding an entry for ''Central New Hampshire Nonattainment Area Plan for the 2010 Primary 1-Hour Sulfur Dioxide NAAQS'' at the end of the table.

The revision and additions read as follows:

§ 52.1520 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date [2]	Additional explanations/§ 52.1535 citation
*	*	*	*	* * *
PSNH Merrimack Station	TP–0008 ..	7/8/2011	8/22/2012, 77 FR 50602	Flue Gas Desulfurization System. Portions of this permit have been superseded by TP–0189 for PSNH d/b/a Eversource Energy Merrimack Station.
*	*	*	*	* * *
PSNH d/b/a Eversource Energy Merrimack Station.	TP–0189 ..	9/1/2016	6/5/2018, [Insert **Federal Register** citation].	Items 1, 2, and 3 in Table 4 ''Operating and Emission Limits''; items 1 and 2 in Table 5 ''Monitoring and Testing Requirements''; items 1 and 2 in Table 6 ''Recordkeeping Requirements''; items 1 and 2 in Table 7 ''Reporting Requirements''.

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) * * *

NEW HAMPSHIRE NONREGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date [3]	Explanations
*	*	*	*	* * *
Central New Hampshire Nonattainment Area Plan for the 2010 Primary 1-Hour Sulfur Dioxide NAAQS.	Central New Hampshire SO_2 Nonattainment Area.	1/31/2017	6/5/2018 [Insert **Federal Register** citation].	

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2018–11597 Filed 6–4–18; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[EPA–R06–OAR–2016–0091; FRL–9978–89–Region 6]

New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On April 13, 2018, the Environmental Protection Agency (EPA) published a direct final rule approving the updated delegation of EPA authority for implementation and enforcement of certain New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources) to the New Mexico Environmental Department (NMED). EPA stated in the direct final rule that if EPA received relevant adverse comments by May 14, 2018, EPA would publish a timely withdrawal in the **Federal Register**. EPA received an adverse comment on May 14, 2018, and accordingly is withdrawing the direct final rule.

DATES: The direct final rule published on April 13, 2018 (83 FR 15964), is withdrawn effective June 5, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett, (214) 665–7227, *barrett.richard@epa.gov*.

SUPPLEMENTARY INFORMATION: On April 13, 2018, EPA published a direct final rule approving the updated delegation of authority for implementation and enforcement of NSPS and NESHAPs for all sources (both part 70 and non-part 70 sources) to the NMED. The direct final rule was published without prior proposal because EPA anticipated no relevant adverse comments. EPA stated in the direct final rule that if relevant adverse comments were received by May 14, 2018, EPA would publish a timely withdrawal in the **Federal Register**. EPA received an adverse comment on May 14, 2018. Accordingly, EPA is withdrawing the direct final rule. In a separate subsequent final action EPA will address the comment received. The withdrawal is being taken pursuant to sections 111 and112 of the CAA.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 61

Environmental protection, Administrative practice and procedure, Air pollution control, Arsenic, Benzene, Beryllium, Hazardous substances, Intergovernmental relations, Mercury, Reporting and recordkeeping requirements, Vinyl chloride.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 30, 2018.

Wren Stenger,

Director, Multimedia Division, Region 6.

■ Accordingly, the direct final rule published in the **Federal Register** on April 13, 2018 (83 FR 15964), amending 40 CFR 60.4, 40 CFR 61.04, and 40 CFR 63.99, which was to become effective on June 12, 2018, is withdrawn.

[FR Doc. 2018–12013 Filed 6–4–18; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0666; FRL–9976–39]

Ethoxylated Fatty Acid Methyl Esters; 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 poly(oxy-1,2-ethanediyl), α-(1-oxoalkyl)-ω-methoxy-, where the alkyl chain contains a minimum of 6 and a maximum of 18 carbons and the oxyethylene content is 3–13 moles, when used as an inert ingredient (stabilizer and solubilizing agent) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest at a concentration not to exceed 25% by weight in the formulation. This related group of compounds are collectively known as the ethoxylated fatty acid methyl esters (EFAMEs). BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of ethoxylated fatty acid methyl esters when used in accordance with the terms of the exemption.

DATES: This regulation is effective June 5, 2018. Objections and requests for hearings must be received on or before August 6, 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–2017–0666, 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: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@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).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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*.

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–2017–0666 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 August 6, 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–2017–0666, 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.
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Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Petition for Exemption

In the **Federal Register** of February 27, 2018 (83 FR 8408) (FRL–9972–17), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11023) by BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of poly(oxy-1,2-ethanediyl), α-(1-oxoalkyl)-ω-methoxy-, where the alkyl chain contains a minimum of 6 and a maximum of 18 carbons and the oxyethylene content is 3–13 moles (CAS Reg. Nos. 53100–65–5, 194289–64–0, 34398–00–0, 9006–27–3, 32761–35–6, 53467–81–5, 518299–31–5, 34397–99–4) when used as an inert ingredient (stabilizer and solubilizing agent) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest at a concentration not to exceed 25% by weight in the formulation. That document referenced a summary of the petition prepared by BASF Corporation, the petitioner, which is available in the docket, *http://www.regulations.gov.* No comments were received in response to the notice of filing that are relevant to establishment of this exemption.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. 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 tolerance is ''safe.'' Section 408(b)(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. Section 408(b)(2)(C) of FFDCA 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. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

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 ethoxylated fatty acid methyl esters including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with ethoxylated fatty acid methyl esters follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their 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. A series of acute toxicology studies have been conducted with representative EFAMEs. The acute

toxicity study test substance was C6–10 ethoxylated fatty acid methyl ester (degree of ethoxylation is 10.6 EO). The studies show that the EFAMEs are practically non-toxic when ingested or inhaled via acute exposure. Skin and eye irritation studies indicate that the EFAMEs are slight skin and eye irritants. The skin sensitization potential of the EFAMEs could not be determined based on the ambiguous result in the Buehler assay.

The genotoxicity studies conducted with representative EFAMEs including bacterial reverse mutation (Ames) test, mouse micronucleus assay and an *in vitro* mouse lymphoma assay were negative.

Repeat dose data are not available for the EFAMEs; however, several repeat dose studies have been conducted with fatty acid methyl/alkyl esters and alcohol ethoxylates and these studies can be bridged to the EFAMEs based upon the structural similarities between EFAMEs and alcohol ethoxylates which are both nonionic surfactants in which the surfactant properties of each generally result in similar toxicological effects, at comparable dose levels) and the structural similarities of EFAMEs with fatty acid methyl/alkyl esters (both having terminal methoxy or alkoxy groups bound to a fatty acid or fatty acid derivative). The NOAEL of 50 mg/kg/day from a chronic rat oral feeding study is the lowest NOAEL observed and is equal to the lowest NOAEL seen in the subchronic feeding studies. The lowest LOAEL in the subchronic studies, as well as the LOAEL in the chronic rat oral feeding study was established at 250 mg/kg/day based on reduced food consumption and body weight gain. In a dermal toxicity study no signs of tumors were observed and the dermal NOAEL was reported to be 300 mg/kg/day. Most of the 90-day studies reported NOAELs ranging from 50–200 mg/kg/day.

The NOAELs for reproductive performance of males and females, as well as offspring toxicity are considered to range from >250 mg/kg/day to 1,000 mg/kg/day. None of the studies reported adverse reproductive, developmental, neurotoxic, or immunotoxic effects at dose levels below the range of >250 mg/kg/day to 1,000 mg/kg/day.

Specific information on the studies received and the nature of the adverse effects caused by ethoxylated fatty acid methyl esters as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document Ethoxylated Fatty Acid Methyl Esters (CAS Reg. Nos. 53100–65–5, 194289–64–0, 34398–00–0, 9006–27–3, 32761–35–6, 53467–81–5, 518299–31–5, 34397–99–4); ''Human Health Risk Assessment and Ecological Effects Assessment to Support Proposed Exemption from the Requirement of a Tolerance When Used as an Inert Ingredient'' in docket ID number EPA–HQ–OPP–2017–0666.

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 expected 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*.

An effect attributed to a single dose was not identified in the toxicology database. The point of departure for chronic dietary exposures as well as dermal and inhalation exposures is based on a NOAEL of 50 mg/kg/day from a chronic oral feeding study in rats with the EFAMEs surrogate chemical, alcohol ethoxylate. In this study, the LOAEL was 250 mg/kg/day based upon reduced food consumption and body weight gain and elevated organ-to-body weight ratios. This represents the lowest NOAEL in the most sensitive species in the toxicity database. The standard uncertainty factors were applied to account for interspecies (10X) and intraspecies (10X) variations. The FQPA safety factor was reduced to 1X to account for completeness of the toxicity and exposure database and lack of increased prenatal or postnatal sensitivity as well as a lack of concern for neurotoxicity. A dermal absorption factor of 100% was used and a default value of 100% absorption was used for the inhalation absorption factor. The resultant chronic population adjusted dose (cPAD) is 0.5 mg/kg/day and acceptable MOEs for residential exposures are ≥100.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to ethoxylated fatty acid methyl esters, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from ethoxylated fatty acid methyl esters in food as follows.

Dietary exposure (food and drinking water) to ethoxylated fatty acid methyl esters can occur following ingestion of foods with residues from treated crops. Because no adverse effects attributable to a single exposure of ethoxylated fatty acid methyl esters are seen in the toxicity databases, an acute dietary risk assessment is not necessary. For the chronic dietary risk assessment, EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID™, Version 3.16, and food consumption information from the U.S. Department of Agriculture's (USDA's) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, no residue data were submitted for ethoxylated fatty acid methyl esters. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high use insecticides, herbicides, and fungicides. One hundred percent crop treated was assumed, default processing factors, and tolerance-level residues for all foods and use limitations of not more than 25% in pesticide formulations. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts,'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

2. *Dietary exposure from drinking water.* For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for ethoxylated fatty acid methyl esters, a conservative drinking water concentration value of 100 ppb based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *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). Ethoxylated fatty acid methyl esters may be used as inert ingredients in products that are registered for specific uses that may result in residential exposure, such as pesticides used in and around the home. The Agency conducted a conservative assessment of potential residential exposure by assessing ethoxylated fatty acid methyl esters in pesticide formulations (outdoor scenarios) and in disinfectant-type uses (indoor scenarios). The Agency's assessment of adult residential exposure combines high-end dermal and inhalation handler exposure from liquids/trigger sprayer/home garden and indoor hard surface, wiping with a high-end post application dermal exposure from contact with treated lawns. The Agency's assessment of children's residential exposure includes total post-application exposures associated with total exposures associated with contact with treated lawns and surfaces (dermal and hand-to-mouth exposures).

4. *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 ethoxylated fatty acid methyl esters to share a common mechanism of toxicity with any other substances, and ethoxylated fatty acid methyl esters does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that ethoxylated fatty acid methyl esters 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 chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general.* 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 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.

2. *Prenatal and postnatal sensitivity.* The toxicity database for ethoxylated fatty acid methyl esters contains subchronic and developmental toxicity studies conducted with surrogate chemicals. The NOAELs for reproductive performance of males and females, as well as offspring toxicity are considered to range from >250 mg/kg/day to 1,000 mg/kg/day. None of the studies reported effects on the reproductive system or effects indicative of neurotoxicity.

The established cRfD will be protective of the observed adverse effect, decreased body weight gain and food consumption, which was observed at dose levels much lower than potential adverse effects to infants or children. In addition, the Agency used conservative exposure estimates, with 100 percent crop treated, tolerance-level residues, conservative drinking water modeling numbers, and a conservative assessment of potential residential exposure for infants and children. Based on the adequacy of the toxicity database, the conservative nature of the exposure assessment, and the lack of concern for prenatal and postnatal sensitivity as well as neurotoxicity, the Agency has concluded that there is reliable data to determine that infants and children will be safe if the FQPA SF of 10X is reduced to 1X.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate safety factors (SFs). EPA calculates the aPAD and cPAD by dividing the POD (*i.e.* toxicological endpoint) by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short, intermediate, and long term aggregate risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

Although there are no known current residential uses associated with EFAMEs, a residential exposure assessment was conducted. The level of concern for residential uses (*i.e.* non-occupational, non-dietary exposure) associated with the EFAMEs is low. The level of MOEs for combined residential exposure is above 100.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, the EFAMEs are not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to EFAMEs from food and water will utilize 70% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Generally, a dietary risk estimate that is less than 100% of the cPAD does not exceed the Agency's risk concerns.

3. *Short- intermediate- and long-term risk.* Short- intermediate- and long-term aggregate exposure takes into account short-, intermediate- and long- term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). The Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-, intermediate- and water with sort-, intermediate- and long-term residential exposures to EFAMEs. Using the exposure assumptions describe in this unit for short-term exposures, EPA has concluded the combined respective short-, intermediate- and long- term food water, and residential exposures resulted in aggregate margin of exposures (MOE) of 335 for adults and 122 for children. Because EPA's level of

concern for EFAMEs is a MOE of 100 or below, these MOEs are not of concern.

4. *Aggregate cancer risk for U.S. population.* Based on the discussion in Unit IV. A., EFAMEs is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to ethoxylated fatty acid methyl esters residues.

V. 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. EPA is establishing limitations on the amount of EFAMEs that may be used in pesticide formulations applied to growing crops. These limitations will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for use on growing crops or raw agricultural commodities after harvest for sale or distribution that exceeds 25% by weight of EFAMEs.

VI. Conclusion

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 for poly(oxy-1,2-ethanediyl), α-(1-oxoalkyl)-ω-methoxy-, where the alkyl chain contains a minimum of 6 and a maximum of 18 carbons and the oxyethylene content is 3–13 moles (CAS Reg. No. 53100–65–5, 194289–64–0, 4398–00–0, 9006–27–3, 32761–35–6, 53467–81–5, 518299–31–5, and 34397–99–4) when used as an inert ingredient (stabilizer and solubilizing agent) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest at a concentration not to exceed 25% by weight in the formulation.

VII. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a 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); Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). 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).

VIII. 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: May 11, 2018.

Donna Davis,

Acting Director, Registration Division, Office of Pesticide Program.

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 § 180.910, add alphabetically the inert ingredient to the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Poly(oxy-1,2-ethanediyl), α-(1-oxoalkyl)-ω-methoxy-, where the alkyl chain contains a minimum of 6 and a maximum of 18 carbons and the oxyethylene content is 3–13 moles (CAS Reg. No. 53100–65–5, 194289–64–0, 34398–00–0, 9006–27–3, 32761–35–6, 53467–81–5, 518299–31–5, and 34397–99–4).	Not to exceed 25% by weight in pesticide formulation.	Stabilizer, solubilizing agent.
* * *	* * *	* * *

[FR Doc. 2018–12060 Filed 6–4–18; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0234; FRL–9976–73]

Alpha-cypermethrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends existing tolerances for residues of alpha-cypermethrin in or on fruit, citrus group 10–10 and hog fat. EPA is modifying these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA) to correct an error in a previous rulemaking that established these tolerances at an unintended level.

DATES: This regulation is effective June 5, 2018. Objections and requests for hearings must be received on or before August 6, 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–2010–0234, 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: Michael L. Goodis, Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@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).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 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.*

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–2010–0234 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 August 6, 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–2010–0234, 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. Proposed Rule

In the **Federal Register** of December 26, 2017 (82 FR 60940) (FRL–9969–97), EPA, pursuant to FFDCA section 408(e), 21 U.S.C. 346a(e), proposed revisions to existing tolerances for the insecticide alpha-cypermethrin to reduce the allowable levels of the pesticide in or on fruit, citrus, group 10–10 from 10 parts per million (ppm) to 0.35 ppm and in

or on hog, fat from 1.0 ppm to 0.10 ppm. EPA proposed this action in order to correct a typographical error that occurred in the final rule establishing these tolerances on February 1, 2013 (78 FR 7266) (FRL–9376–1). In support of the 2013 final rule, EPA reviewed residue field trial data and determined that the appropriate tolerance levels for fruit, citrus, group 10–10 and hog, fat were 0.35ppm and 0.10 ppm, respectively. Unfortunately, the instruction to the **Federal Register** contained incorrect tolerance values for these commodities, resulting in incorrect tolerance levels being finalized in that rule. The proposal would correct that error.

In the proposal, EPA discussed the Agency's assessment of risk and proposed determination of safety for aggregate exposures to alpha-cypermethrin. In summary, the Agency concluded that the proposed tolerances for fruit, citrus, group 10–10 and hog, fat would be safe.

Two comments were received on the proposal. One simply read ''Good'' and the other was related to the impact of wind-power facilities on bat populations and is therefore not relevant to this action.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(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. Section 408(b)(2)(C) of FFDCA 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(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), 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 alpha-cypermethrin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with alpha-cypermethrin can be found in the proposed rule published December 26, 2017, and EPA is incorporating its findings in that preamble into this final rule. For the reasons stated in the proposal, EPA concludes that there is a reasonable certainty that no harm will result to the general population, including infants and children, from aggregate exposure to alpha-cypermethrin.

IV. International Trade Considerations

A. International Residue Limits

As noted in the proposal, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

There is a Codex MRL established for citrus fruits at 0.3 ppm but not one for hog fat. Because the U.S. use patterns differ from those upon which the Codex MRLs are based, EPA is not harmonizing the U.S. tolerance for citrus fruit.

B. World Trade Organization Sanitary and Phytosanitary Measures Agreement

In this Final Rule, EPA is reducing the existing tolerances for commodities in crop group 10–10 from 10 ppm to 0.35 ppm and on hog, fat from 1.0 ppm to 0.1 ppm. The Agency is reducing these tolerances to correct the tolerance levels that EPA intended to establish in a previous rulemaking based on available residue data.

In accordance with the World Trade Organization's (WTO) Sanitary and Phytosanitary Measures (SPS) Agreement, EPA notified the WTO of its proposed tolerance revision on January 10, 2018. *See http://spsims.wto.org/en/Notifications/Search,* U.S. Notification (G/SPS/N/USA/2976). EPA also intends to submit another notification to the WTO in order to satisfy its obligation to promptly publish this rule in such a manner as to enable interested WTO members to become acquainted with this rule. In addition, the SPS Agreement requires that Members provide a ''reasonable interval'' between the publication of a regulation subject to the Agreement and its entry into force to allow time for producers in exporting Member countries to adapt to the new requirement. At this time, EPA is establishing an expiration date for the existing tolerances to allow those tolerances to remain in effect for a period of six months after the effective date of this final rule, in order to address this requirement.

This reduction in tolerance levels is not discriminatory; the same food safety standard contained in the FFDCA applies equally to domestically produced and imported foods. The new tolerance levels are supported by available residue data.

V. Conclusion

Therefore, tolerances are established for residues of alpha-cypermethrin, alpha-cypermethrin, in or on fruit, citrus group 10–10 and hog fat at 0.35 and 0.10 ppm.

VI. Statutory and Executive Order Reviews

This action amends existing tolerances under FFDCA section 408(e) in an action taken on the Agency's own initiative. 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 due to its lack of significance, 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), nor is it subject to Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' ((82 FR 9339, February 3, 2017). 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.*), or 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.*). 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); or OMB review or any Agency action under Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published in the **Federal Register** of May 4, 1981 (46 FR 24950) and December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. Furthermore, for alpha-cypermethrin, the Agency knows of no extraordinary circumstances that exist as to the present rule that would change EPA's previous analysis. Taking into account this analysis, and available information concerning the pesticides listed in this rule, EPA hereby certifies that this rule will not have a significant negative economic impact on a substantial number of small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This action directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this action does not have any ''tribal implications'' as described in Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This action will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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: April 30, 2018.

Richard P. Keigwin, Jr.,

Director, 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 § 180.418, in the table in paragraph (a)(3):

■ i. Amend the existing entries for ''Fruit, citrus, group 10–10''; and ''Hog, fat'' by adding footnote references and add footnote 1 to the end of the table; and

■ ii. Add alphabetically new entries for ''Fruit, citrus, group 10–10''; and ''Hog, fat''.

The additions to the table in paragraph (a)(3) read as follows:

§ 180.418 Cypermethrin and isomers alpha-cypermethrin and zeta-cypermethrin; tolerances for residues.

(a)(3) * * *

Commodity	Parts per million
* * * * *	
Fruit, citrus, group 10–10 [1]	10
Fruit, citrus, group 10–10	0.35
* * * * *	
Hog, fat [1]	1.0
Hog, fat	0.10
* * * * *	

[1] This tolerance expires on December 5, 2018.

* * * * *

[FR Doc. 2018–12066 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 10

RIN 0906–AB18

340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule; further delay of effective date.

SUMMARY: The Health Resources and Services Administration (HRSA) administers section 340B of the Public Health Service Act (PHSA), known as the ''340B Drug Pricing Program'' or the ''340B Program.'' HRSA published a final rule on January 5, 2017, that set forth the calculation of the ceiling price and application of civil monetary penalties. The final rule applied to all drug manufacturers that are required to make their drugs available to covered entities under the 340B Program. On

May 7, 2018, HHS solicited comments on further delaying the effective date of the January 5, 2017, final rule to July 1, 2019. HHS proposed this action to allow a more deliberate process of considering alternative and supplemental regulatory provisions and to allow for sufficient time for any additional rulemaking. After consideration of the comments received on the proposed rule, HHS is delaying the effective date of the January 5, 2017, final rule, to July 1, 2019.

DATES: As of July 1, 2018, the effective date of the final rule published in the **Federal Register** on January 5, 2017 at 82 FR 1210, delayed March 6, 2017 at 82 FR 12508, March 20, 2017 at 82 FR 14332, May 19, 2017 at 82 FR 22893, and September 29, 2017 at 82 FR 45511, is further delayed until July 1, 2019.

FOR FURTHER INFORMATION CONTACT: CAPT Krista Pedley, Director, Office of Pharmacy Affairs, Healthcare Systems Bureau, HRSA, 5600 Fishers Lane, Mail Stop 08W05A, Rockville, MD 20857, or by telephone at 301–594–4353.

SUPPLEMENTARY INFORMATION:

I. Background

HHS published a notice of proposed rulemaking (NPRM) on June 17, 2015, to implement civil monetary penalties (CMPs) for manufacturers that knowingly and intentionally charge a covered entity more than the ceiling price for a covered outpatient drug; to provide clarity regarding the requirement that manufacturers calculate the 340B ceiling price on a quarterly basis; and to establish the requirement that a manufacturer charge $0.01 (penny pricing) for each unit of a drug when the ceiling price calculation equals zero (80 FR 34583, June 17, 2015). After review of the comments, HHS reopened the comment period (81 FR 22960, April 19, 2016) to invite additional comments on the following areas of the NPRM: 340B ceiling price calculations that result in a ceiling price that equals zero (penny pricing); the methodology that manufacturers use when estimating the ceiling price for a new covered outpatient drug; and the definition of the ''knowing and intentional'' standard to be applied when assessing a CMP for manufacturers that overcharge a covered entity.

On January 5, 2017, HHS published a final rule in the **Federal Register** (82 FR 1210, January 5, 2017); comments from both the original comment period established in the NPRM and the reopened comment period announced in the April 19, 2016, notice were considered in the development of the final rule. The provisions of that final rule were to be effective March 6, 2017; however, HHS issued a subsequent final rule (82 FR 12508, March 6, 2017) delaying the effective date to March 21, 2017, in accordance with a January 20, 2017, memorandum from the Assistant to the President and Chief of Staff, titled ''Regulatory Freeze Pending Review.'' [1]

To provide affected parties sufficient time to make needed changes to facilitate compliance, and because questions were raised, HHS issued an interim final rule (82 FR 14332, March 20, 2017) to delay the effective date of the final rule to May 22, 2017. HHS solicited additional comments on whether that date should be further extended to October 1, 2017. After careful consideration of the comments received, HHS delayed the effective date of the January 5, 2017, final rule to October 1, 2017 (82 FR 22893, May 19, 2017). HHS later solicited comments on delaying the effective date to July 1, 2018 (82 FR 39553, August 21, 2017) and subsequently delayed the January 5, 2017, final rule to July 1, 2018 (82 FR 45511, September 29, 2017).

HHS issued a proposed rule and solicited additional comments to further delay the effective date to July 1, 2019, and received a number of comments both supporting and opposing the delay (83 FR 20008, May 7, 2018). After consideration of the comments received, HHS has decided to delay the effective date of the January 5, 2017, final rule to July 1, 2019. As HHS changed the effective date of the final rule to July 1, 2019, enforcement will be delayed to July 1, 2019. HHS continues to believe that the delay of the effective date will provide regulated entities with needed time to implement the requirements of the rule, as well as allowing a more deliberate process of considering alternative and supplemental regulatory provisions, and to allow for sufficient time for any additional rulemaking. HHS intends to engage in additional or alternative rulemaking on these issues, and believes it would be counterproductive to effectuate the final rule prior to issuance of additional or alternative rulemaking on these issues. HHS is developing new comprehensive policies to address the rising costs of prescription drugs. These policies will address drug pricing in government programs, such as Medicare Parts B & D, Medicaid, and the 340B Program. Due to the development of these comprehensive policies, we are delaying the effective date of the January 5, 2017, final rule to July 1, 2019.

HHS does not believe this delay will adversely affect any of the stakeholders in a meaningful way.

Section 553(d) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) requires that Federal agencies provide at least 30 days after publication of a final rule in the **Federal Register** before making it effective, unless good cause can be found not to do so or for rules that grant or recognize an exemption or relieve a restriction. HHS finds good cause for making this final rule effective less than 30 days after publication in the **Federal Register** given that failure to do so would result in the final rule published on January 5, 2017, going into effect on July 1, 2018, several weeks before the final rule delaying the effective date until July 1, 2019, would go into effect. To preclude this uncertainty in the marketplace and to ease the burdens of stakeholders, HHS believes that a clear effective date is an important goal and one that becomes particularly important when it is paired with potential civil monetary penalties. The additional time provided to the public before the rule takes effect will assist stakeholders to prepare for compliance with these new program requirements.

II. Analysis and Responses to Public Comments

In the proposed rule, HHS solicited comments regarding the impact of delaying the effective date of the final rule, published January 5, 2017, to July 1, 2019, while a more deliberate rulemaking process is undertaken. HHS received 29 comments containing a number of issues from covered entities, manufacturers, and groups representing these stakeholders. In this final rule, we will only respond to comments related to whether HHS should delay the January 5, 2017, final rule to July 1, 2019. We did not consider and do not address comments that raised issues beyond the narrow scope of the proposed rule, including comments related to broader policy matters. However, HHS is considering further rulemaking on issues covered in the January 5, 2017, final rule. We have summarized the relevant comments received and provided our responses below.

Comment: Commenters disagree with HHS that delaying implementation of the rule has no adverse effect given that other more significant remedies are available to entities who believe that they have been overcharged by manufacturers. Commenters request that HHS explain what these ''significant

[1] See: *https://www.whitehouse.gov/the-press-office/2017/01/20/memorandum-heads-executive-departments-and-agencies.*

remedies'' are, as they believe that remedies do not exist. Commenters state they cannot audit manufacturers or sue companies in court. In addition, manufacturers can decide not to participate in the 340B program's current voluntary dispute resolution process, and a proposal to make the process mandatory has been withdrawn. Currently, covered entities cannot check if they are being charged the right price. Any further postponement would prevent Congress' intent that HHS has meaningful oversight and enforcement authority.

Response: HRSA's website describes how it carefully reviews pricing discrepancies brought to its attention. In cases in which the 340B Program's ceiling price appears to have been violated, covered entities are provided the details necessary to settle any discrepancy with the manufacturer directly. It is in the manufacturer's best interest to ensure that they are appropriately reporting AMP and URA to CMS, as well as providing the 340B Program ceiling price to 340B Program covered entities. Inaccuracies in any of this pricing information will negatively impact other drug pricing programs, such as Medicaid or Veterans Affairs programs. Further, misreporting pricing data to CMS could lead to State and Federal False Claims Act liability, which has the potential to carry triple damages and other significant monetary penalties.

Comment: Some commenters stated that HHS alleges in the proposed rule that the delay will not adversely affect stakeholders, which ignores the extent of overcharges as documented in OIG reports. HHS also stated that ''a small number of manufacturers have informed HHS over the last several years that they charge more than $0.01 for a drug with a ceiling price below $0.01'' and that it ''believes'' a majority of manufacturers follow the ''long-standing HHS policy'' on penny pricing. HHS's statement that it merely ''believes'' most manufacturers are following the policy demonstrates that HHS has not attempted to investigate the extent of noncompliance. The penny pricing policy serves as a disincentive for manufacturers to raise drug prices much quicker than the rate of inflation and the rule should be implemented immediately in order to meet the Administration's goal of lowering drug prices. Until penny pricing is codified in a regulation, there is less incentive for manufacturers to comply and the final rule should be effective immediately.

Response: HHS has consistently stated that ''A small number of manufacturers have informed HRSA over the last several years that they charge more than $0.01 for a drug with a ceiling price below $0.01. However, this is a long-standing HRSA policy and HRSA believes the majority of manufacturers currently follow the practice of charging a $0.01. Therefore, this portion of the regulation will not result in a significant impact.'' (*e.g.,* 80 FR 34586, June 17, 2015; 82 FR 1227, January 5, 2017). The commenter does not provide evidence that a majority of manufacturers are not following the practice of charging $0.01 for a drug with a ceiling price below $0.01. HRSA's website describes how it carefully reviews pricing discrepancies brought to its attention. Through these and other mechanisms, HRSA monitors the program for noncompliance and maintains its belief that a majority of manufacturers follow the long-standing practice of charging $0.01 for a drug with a ceiling price below $0.01.

Comment: Many commenters oppose delaying the effective date to July 1, 2019. Commenters express concern that until the January 5, 2017, final rule is implemented, covered entities remain unprotected from overcharges that can further exacerbate the negative effects of high-cost drugs. They contend that all accountability in the Program is placed on covered entities, and manufacturers are not being held accountable. They contend that the January 5, 2017, final regulation would have provided covered entities with access to a secure database to confirm ceiling prices. These commenters explain that without access to ceiling price information, covered entities have to rely on HRSA to confirm any instances in which the covered entity suspects that it was overcharged by a manufacturer, thereby hampering any meaningful enforcement against manufacturers. They conclude that continued delay of the final rule inhibits the ability of covered entities to verify whether or not manufacturers' calculations of ceiling prices are correct. The commenters request that HHS should implement the January 5, 2017, rule immediately.

Response: HHS does not agree that that we should enforce the final rule immediately. We are delaying the effective date of the January 5, 2017, final rule to July 1, 2019, because the delay will allow HHS to consider additional rulemaking. The final rule does not represent the only method for HHS to address manufacturer overcharges. In addition to the final rule, HHS performs audits of manufacturers, investigates all allegations of overcharging, and participates in settlements that have returned millions of dollars to covered entities. HHS believes that it would be disruptive to require stakeholders to make potentially costly changes to pricing systems and business procedures to comply with a rule that is under further consideration and for which substantive questions have been raised.

While stakeholders had the opportunity to provide comments on the final rule, the 340B Program is a complex program that is affected by changes in other areas of health care. HHS has determined that this complexity and changing environment warrants further review of the final rule and delaying the final rule affords HHS the opportunity to consider alternative and supplemental regulatory provisions and to allow for sufficient time for any additional rulemaking.

Comment: The commenters also disagreed that ''a more deliberative process is needed'' as HHS has already spent 8 years considering and responding to multiple delays and stakeholders were given various opportunities to comment. HHS has not complied with the statutory deadline to promulgate the regulation and any further delay is unreasonable and violates the Administrative Procedure Act. Rather than implement the CMP Rule, HHS would reward those manufacturers that are flouting ceiling price requirements. Comments assert that the final rule would give HHS an effective penalty to impose on manufacturers that overcharge covered entities and to deter other manufacturers from doing so. In addition, commenters contend that HHS does not have authority to replace Congress' judgment with its own and ignore the requirements of the law. They urge HHS to immediately implement the January 5, 2017, final rule.

Response: HHS believes it would be counterproductive to effectuate the final rule prior to consideration of additional or alternative rulemaking as HHS is in the process of developing new comprehensive policies to address the rising costs of prescription drugs not limited to the 340B Program. As such, HHS is delaying the effective date of the January 5, 2017, final rule until July 1, 2019. In addition, HHS believes this delay will not adversely impact covered entities and will instead save the healthcare sector compliance costs, as discussed in the January 5, 2017, final rule. Therefore, the rule is being delayed to July 1, 2019.

Comment: Some commenters supported HHS's proposed delay of the effective date of the final rule until not only July 1, 2019, but until HHS fulfills its commitment to engage in additional

rulemaking that cures the substantive legal and practical concerns with the final rule. These commenters recommend that HRSA tie the further delay of the effective date of the final rule to the completion of such rulemaking, as opposed to a certain date.

Response: HHS decided to delay the effective date to July 1, 2019, to provide affected parties sufficient time to make needed changes to facilitate compliance and because HHS continues to examine important substantive issues arising from the January 5, 2017, final rule. After reviewing the comments received from stakeholders regarding objections on the timing of the effective date and challenges associated with complying with the final rule, HHS has determined that delaying the effective date to July 1, 2019, is necessary to consider some of the issues raised. HHS believes that delaying the effective date to July 1, 2019, provides sufficient time to address these issues in junction with HHS's stated intention to consider undertaking additional or alternative rulemaking on these issues.

Comment: Some commenters stated that the January 5, 2017, final rule contains several policies that are inconsistent with the 340B statute and imposes unnecessary costs and needless administrative burdens on manufacturers. They believe that manufacturers should not be required to make updates to their systems, policies, and business practices to comply with the January 5, 2017, final rule if further changes or additional rulemaking will be forthcoming. These commenters urge HHS to delay the effective date to July 1, 2019, and use the additional time to reconsider the policies included in the final rule.

Responses: HHS intends to engage in further rulemaking and believes that this delay will provide HHS with time to consider the public comments received. Requiring manufacturers to make targeted and potentially costly changes to pricing systems and business procedures to comply with a rule that is under further consideration would be disruptive. Therefore, HHS is delaying the January 5, 2017, final rule to July 1, 2019.

Comment: Several commenters explained that a delay in the effective date of the final rule is also necessary to align with the Administration's priorities of analyzing final, but not yet effective regulations, and removing or minimizing unwarranted economic and regulatory burdens related to the Affordable Care Act, the law that added the provisions of the 340B statute that are the subject of the final rule.

Response: HHS agrees with the commenters. Executive Order 13765 instructs agencies to use discretion to delay the implementation of certain provisions of the Patient Protection and Affordable Care Act. As previously mentioned, HHS based the January 5, 2017, final rule on changes made to the 340B Program by the Patient Protection and Affordable Care Act. As such, HHS is complying with Executive Order 13765 to delay implementation on provisions of the law that ''. . . impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.'' The policies finalized in the January 5, 2017, final rule will require targeted and potentially costly changes to pricing systems and business procedures for manufacturers affected by the rule. Thus, HHS is delaying the effective date to July 1, 2019.

Comment: Some commenters recommend that HHS delay the effective date of the final rule until HHS concurrently addresses 340B covered entity compliance obligations and penalties under the 340B statute, which is necessary to strengthen the integrity of the 340B Program.

Response: HHS plans to issue separate policy documents related to drug pricing in government programs, including the 340B Program, and disagrees with the commenters advising HHS to address these issues concurrently.

Comment: Many commenters supported further delaying the effective date to July 1, 2019, at a minimum, and urged HHS to take the opportunity to refocus the 340B Program on its mission, and issue new reforms and new ceiling price and CMP rule as expeditiously as possible.

Response: HHS agrees with the commenters and will delay the effective date of the January 5, 2017, final rule to July 1, 2019.

III. Regulatory Impact Analysis

HHS examined the effects of this final rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 8, 2011), the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act, and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866, emphasizing the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the Office of Management and Budget (OMB).

This final rule will not have economic impacts of $100 million or more in any 1 year, and, therefore, has not been designated an ''economically significant'' rule under section 3(f)(1) of Executive Order 12866. The 340B Program as a whole creates significant savings for entities purchasing drugs through the program; however, this final rule would not have an economically significant impact on the Program.

When the 2017 Rule was finalized, it was described as not economically significant. Therefore, delay of the effective date of the 2017 Rule is also

not likely to have an economically significant impact.

Specifically, the RIA for the 2017 Rule stated that, ''[. . .] manufacturers are required to ensure they do not overcharge covered entities, and a civil monetary penalty could result from overcharging if it met the standards in this final rule. HHS envisions using these penalties in rare situations. Since the Program's inception, issues related to overcharges have been resolved between a manufacturer and a covered entity and any issues have generally been due to technical errors in the calculation. For the penalties to be used as defined in the statute and in this [2017] rule, the manufacturer overcharge would have to be the result of a knowing and intentional act. Based on anecdotal information received from covered entities, HHS anticipates that this would occur very rarely if at all.'' Since the civil penalties envisioned in the 2017 Rule were expected to be rare, delay of these civil penalties is unlikely to have an economically significant impact.

Additionally, the 2017 Rule codified the practice of manufacturers charging $0.01 for drugs with a ceiling price below $0.01, which the 2017 Rule RIA described as ''[. . .] a long-standing HRSA policy, and HRSA believes the majority of manufacturers currently follow the practice of charging $0.01.'' Delay of this rule will delay the codification of this practice, but since it is already a longstanding policy and widespread practice, the impact of delay is not likely to be economically significant.

Executive Order 13771, titled ''Reducing Regulation and Controlling Regulatory Costs,'' was issued on January 30, 2017. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than *de minimis* costs.

The Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) and the Small Business Regulatory Enforcement and Fairness Act of 1996, which amended the RFA, require HHS to analyze options for regulatory relief of small businesses. If a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of the rule on small entities and analyze regulatory options that could lessen the impact of the rule. HHS will use an RFA threshold of at least a 3 percent impact on at least 5 percent of small entities.

For purposes of the RFA, HHS considers all health care providers to be small entities either by meeting the Small Business Administration (SBA) size standard for a small business, or by being a nonprofit organization that is not dominant in its market. The current SBA size standard for health care providers ranges from annual receipts of $7 million to $35.5 million. As of January 1, 2018, over 12,800 covered entities participate in the 340B Program, which represent safety-net health care providers across the country.

In addition, the rule would affect drug manufacturers (North American Industry Classification System code 325412: Pharmaceutical Preparation Manufacturing). The small business size standard for drug manufacturers is 750 employees. Approximately 600 drug manufacturers participate in the 340B Program. While it is possible to estimate the impact of the rule on the industry as a whole, the data necessary to project changes for specific or groups of manufacturers is not available, as HRSA does not collect the information necessary to assess the size of an individual manufacturer that participates in the 340B Program. HHS has determined, and the Secretary certifies that this final rule will not have a significant impact on the operations of a substantial number of small manufacturers; therefore, we are not preparing an analysis of impact for this RFA. HHS estimates that the economic impact on small entities and small manufacturers will be minimal.

Unfunded Mandates Reform Act

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.'' In 2017, that threshold is approximately $148 million. HHS does not expect this rule to exceed the threshold.

Executive Order 13132—Federalism

HHS has reviewed this final rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' This final rule would not ''have substantial direct effects on the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that OMB approve all collections of information by a federal agency from the public before they can be implemented. This final rule is projected to have no impact on current reporting and recordkeeping burden for manufacturers under the 340B Program. This final rule would result in no new reporting burdens.

Dated: May 30, 2018.

George Sigounas

Administrator, Health Resources and Services Administration.

Approved: May 31, 2018.

Alex M. Azar II

Secretary, Department of Health and Human Services.

[FR Doc. 2018–12103 Filed 6–1–18; 11:15 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS–6080–N]

Medicare Program; Update to the Required Prior Authorization List of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Items That Require Prior Authorization as a Condition of Payment

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

ACTION: Update to list.

SUMMARY: This document announces the addition of 31 Healthcare Common Procedure Coding System (HCPCS) codes to the Required Prior Authorization List of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Items that require prior authorization as a condition of payment. Prior authorization for these codes will be implemented nationwide.

DATES: Implementation is effective on September 1, 2018.

FOR FURTHER INFORMATION CONTACT: Emily Calvert, (410) 786–4277.
Andre Damonze, (410) 786–1795.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1832, 1834, and 1861 of the Social Security Act (the Act) establish that the provision of durable medical equipment, prosthetic, orthotics, and supplies (DMEPOS) is a covered benefit under Part B of the Medicare program.

Section 1834(a)(15) of the Act authorizes the Secretary to develop and periodically update a list of DMEPOS items that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization and to develop a prior authorization process for these items.

In the December 30, 2015 final rule (80 FR 81674) titled ''Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies,'' we implemented section 1834(a)(15) of the Act by establishing an initial Master List (called the Master List of Items Frequently Subject to Unnecessary Utilization) of certain DMEPOS that the Secretary determined, on the basis of prior payment experience, are frequently subject to unnecessary utilization and by establishing a prior authorization process for these items. In the same final rule, we also stated that we would inform the public of those DMEPOS items on the Required Prior Authorization List in the **Federal Register** with 60-day notice before implementation. The Required Prior Authorization List specified in § 414.234(c)(1) is selected from the Master List of Items Frequently Subject to Unnecessary Utilization (as described in § 414.234(b)(1)), and items on the Required Prior Authorization List require prior authorization as a condition of payment.

In addition to the prior authorization process for certain DMEPOS items that we established under section 1834(a)(15) of the Act, on September 1, 2012, we implemented the Medicare Prior Authorization for Power Mobility Devices (PMDs) Demonstration that would operate for a period of 3 years (September 1, 2012 through August 31, 2015). This demonstration was established under section 402(a)(1)(J) of the Social Security Amendments of 1967 (42 U.S.C. 1395b–1(a)(1)(J)), which authorizes the Secretary to conduct demonstrations designed to develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services provided under the Medicare program. The demonstration was initially implemented in California, Florida, Illinois, Michigan, New York, North Carolina, and Texas. These states were selected for the demonstration based upon their history of having high levels of improper payments and incidents of fraud related to PMDs. On October 1, 2014, we expanded the demonstration to 12 additional states (Pennsylvania, Ohio, Louisiana, Missouri, Washington, New Jersey, Maryland, Indiana, Kentucky, Georgia, Tennessee, and Arizona) that have high expenditures and improper payments for PMDs based on 2012 billing data. On July 15, 2015, we announced we were extending the demonstration for 3 years, through August 31, 2018.

II. Provisions of the Document

The purpose of this document is to inform the public that we are updating the Required Prior Authorization List of DMEPOS items that require prior authorization as a condition of payment to include all of the power mobility devices that are part of the PMD demonstration, which are also included on the Master List of Items Frequently Subject to Unnecessary Utilization. To assist stakeholders in preparing for implementation of the prior authorization program, CMS is providing 90 days' notice.

The following 31 DMEPOS items are being added to the Required Prior Authorization List:

HCPCS code	Description
K0813	Power wheelchair, group 1 standard, portable, sling/solid seat and back, patient weight capacity up to and including 300 pounds.
K0814	Power wheelchair, group 1 standard, portable, captains chair, patient weight capacity up to and including 300 pounds.
K0815	Power wheelchair, group 1 standard, sling/solid seat and back, patient weight capacity up to and including 300 pounds.
K0816	Power wheelchair, group 1 standard, captains chair, patient weight capacity up to and including 300 pounds.
K0820	Power wheelchair, group 2 standard, portable, sling/solid seat/back, patient weight capacity up to and including 300 pounds.
K0821	Power wheelchair, group 2 standard, portable, captains chair, patient weight capacity up to and including 300 pounds.
K0822	Power wheelchair, group 2 standard, sling/solid seat/back, patient weight capacity up to and including 300 pounds.
K0823	Power wheelchair, group 2 standard, captains chair, patient weight capacity up to and including 300 pounds.
K0824	Power wheelchair, group 2 heavy duty, sling/solid seat/back, patient weight capacity 301 to 450 pounds.
K0825	Power wheelchair, group 2 heavy duty, captains chair, patient weight capacity 301 to 450 pounds.
K0826	Power wheelchair, group 2 very heavy duty, sling/solid seat/back, patient weight capacity 451 to 600 pounds.
K0827	Power wheelchair, group 2 very heavy duty, captains chair, patient weight capacity 451 to 600 pounds.
K0828	Power wheelchair, group 2 extra heavy duty, sling/solid seat/back, patient weight capacity 601 pounds or more.
K0829	Power wheelchair, group 2 extra heavy duty, captains chair, patient weight 601 pounds or more.
K0835	Power wheelchair, group 2 standard, single power option, sling/solid seat/back, patient weight capacity up to and including 300 pounds.
K0836	Power wheelchair, group 2 standard, single power option, captains chair, patient weight capacity up to and including 300 pounds.
K0837	Power wheelchair, group 2 heavy duty, single power option, sling/solid seat/back, patient weight capacity 301 to 450 pounds.
K0838	Power wheelchair, group 2 heavy duty, single power option, captains chair, patient weight capacity 301 to 450 pounds.
K0839	Power wheelchair, group 2 very heavy duty, single power option, sling/solid seat/back, patient weight capacity 451 to 600 pounds.
K0840	Power wheelchair, group 2 extra heavy duty, single power option, sling/solid seat/back, patient weight capacity 601 pounds or more.
K0841	Power wheelchair, group 2 standard, multiple power option, sling/solid seat/back, patient weight capacity up to and including 300 pounds.
K0842	Power wheelchair, group 2 standard, multiple power option, captains chair, patient weight capacity up to and including 300 pounds.
K0843	Power wheelchair, group 2 heavy duty, multiple power option, sling/solid seat/back, patient weight capacity 301 to 450 pounds.
K0848	Power wheelchair, group 3 standard, sling/solid seat/back, patient weight capacity up to and including 300 pounds.
K0849	Power wheelchair, group 3 standard, captains chair, patient weight capacity up to and including 300 pounds.
K0850	Power wheelchair, group 3 heavy duty, sling/solid seat/back, patient weight capacity 301 to 450 pounds.
K0851	Power wheelchair, group 3 heavy duty, captains chair, patient weight capacity 301 to 450 pounds.
K0852	Power wheelchair, group 3 very heavy duty, sling/solid seat/back, patient weight capacity 451 to 600 pounds.
K0853	Power wheelchair, group 3 very heavy duty, captains chair, patient weight capacity 451 to 600 pounds.
K0854	Power wheelchair, group 3 extra heavy duty, sling/solid seat/back, patient weight capacity 601 pounds or more.
K0855	Power wheelchair, group 3 extra heavy duty, captains chair, patient weight capacity 601 pounds or more.

These codes will be subject to the requirements of the prior authorization program for certain DMEPOS items as outlined in § 414.234. We believe continued prior authorization of these codes will help further our program integrity goals of reducing fraud, waste, and abuse, while protecting access to care. We will implement a prior authorization program for these codes nationwide, for dates of service beginning September 1, 2018. This approach will allow continuity for those suppliers in the 19 states familiar with prior authorization of PMDs under the demonstration, and allows sufficient time for education and outreach to suppliers in the remaining states.

HCPCS codes K0856 and K0861, which we placed on the Required Prior Authorization List in a December 21, 2016 notice (81 FR 93636), will continue to be subject to the requirements of prior authorization as well.

Although the PMD demonstration's prior authorization process is similar to the process used for those items on the Required Prior Authorization List, some differences do exist. In particular, items on the Required Prior Authorization List require prior authorization as a condition of payment. As such, lack of a provisionally affirmed prior authorization request will result in a claim denial. Under the PMD demonstration, requesting prior authorization is optional, and claims submitted for payment without an associated prior authorization decision are subject to prepayment review and assessed a 25-percent reduction in Medicare payment if found payable. Additionally, under the PMD demonstration, physicians/treating practitioners may submit prior authorization requests and are eligible to bill HCPCS code G9156 for an incentive payment. This process is not available for items on the Required Prior Authorization List.

Prior to furnishing the item to the beneficiary and prior to submitting the claim for processing, a requester must submit a prior authorization request that includes evidence that the item complies with all applicable Medicare coverage, coding, and payment rules. Consistent with § 414.234(d), such evidence must include the order, relevant information from the beneficiary's medical record, and relevant supplier-produced documentation. After receipt of all applicable required Medicare documentation, CMS or one of its review contractors will conduct a medical review and communicate a decision that provisionally affirms or non-affirms the request.

We will issue specific prior authorization guidance in subregulatory communications, including final timelines, which are customized for the DMEPOS items subject to prior authorization, for communicating a provisionally affirmed or non-affirmed decision to the requester. In the December 30, 2015 final rule, to allow us to safeguard beneficiary access to care, we stated that this approach to final timelines provides the flexibility to develop a process that involves fewer days, as may be appropriate. If at any time we become aware that the prior authorization process is creating barriers to care, we can suspend the program.

The updated Required Prior Authorization list is available in the download section of the following CMS website: *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/DMEPOS/Prior-Authorization-Process-for-Certain-Durable-Medical-Equipment-Prosthetic-Orthotics-Supplies-Items.html.* We will post additional educational resources to the website.

III. Collection of Information Requirements

This notice announces the addition of DMEPOS items on the Required Prior Authorization List and does not impose any new information collection burden under the Paperwork Reduction Act of 1995. However, there is an information collection burden associated with this program that is currently approved under OMB control number 0938–1293 which expires February 28, 2019.

Dated: May 14, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–11953 Filed 6–1–18; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–249; FCC 18–64]

Revitalization of the AM Radio Service

AGENCY: Federal Communications Commission.

ACTION: Denial of petition for reconsideration; dismissal of petition for emergency partial stay and processing freeze pending review of petition for reconsideration and motion for extension of time.

SUMMARY: This document denies the Petition for Reconsideration of the Second Report and Order in this proceeding, filed by Prometheus Radio Project (Prometheus) on April 10, 2017. This document dismisses as moot the Petition for Emergency Partial Stay and Processing Freeze Pending Review of Petition for Reconsideration filed by Prometheus April 3, 2017, and the Motion for Extension of Time filed by Prometheus May 11, 2017.

DATES: June 5, 2018.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Albert Shuldiner, Chief, Media Bureau, Audio Division, (202) 418–2700 or *Albert.Shuldiner@fcc.gov;* Thomas Nessinger, Senior Counsel, Media Bureau, Audio Division, (202) 418–2700 or *Thomas.Nessinger@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, MB Docket No. 13–249, FCC 18–64, adopted on May 21, 2018, and released on May 22, 2018. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554. This document will also be available via ECFS at *https://www.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Copies of the materials can be obtained from the FCC's Reference Information Center at (202) 418–0270. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document is not subject to the Congressional Review Act. The Commission is, therefore, not required to submit a copy of this Order on Reconsideration to the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the Petition for Reconsideration was denied and the Petition for Emergency Stay and Motion for Extension of Time were dismissed as moot.

The Commission rejected Prometheus's contentions that the Commission's decision not to adopt a proposed distance limit for siting cross-service FM translator stations (translators re-broadcasting AM station signals) was not a logical outgrowth of the proposed rule and was arbitrary and capricious. It found that the decision not to adopt the proposed 40-mile limit was reasonably foreseeable, especially given that commenters had proposed omitting the 40-mile limit and that Prometheus had access to those comments. The Commission further found that its actions were not arbitrary and capricious, finding that Prometheus's contentions do not raise legitimate concerns and are at best speculative. Prometheus did not provide evidence that omission of a distance limit encourages translators to ''box in'' incumbent low-power FM (LPFM) stations, restricting their ability to change sites. Additionally, the

Commission rejected Prometheus's argument that its final rule violated the Local Community Radio Act of 2010 (LCRA), in part because the LCRA does not mandate that the Commission prefer LPFM stations over FM translators. To the extent the LCRA obliges the Commission to consider local community needs, the Commission has stated that FM translators and LPFM stations both serve community needs in different ways, and that giving AM stations more flexibility in siting fill-in cross-service translators, without a set distance limit, was in the public interest, as it allows an AM station to improve its program service to listeners in the local communities within its primary service contour. The Commission finally rejected Prometheus's argument that the Commission falsely equated the LPFM service with local commercial AM broadcasters, because the amended rule benefits both commercial and noncommercial AM stations.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–11965 Filed 6–4–18; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 83, No. 108
Tuesday, June 5, 2018

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

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

8 CFR Part 103

[DHS Docket No. ICEB–2017–0001]

RIN 1653–AA67

Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The U.S. Department of Homeland Security (DHS) proposes two changes that would apply to surety companies certified by the Department of the Treasury (Treasury) to underwrite bonds on behalf of the Federal Government. First, the proposed rule would require Treasury-certified sureties seeking to overturn a surety immigration bond breach determination to exhaust administrative remedies by filing an administrative appeal raising all legal and factual defenses. This requirement to exhaust administrative remedies and present all issues to the administrative tribunal would allow Federal district courts to review a written decision addressing all of the surety's defenses, thereby streamlining litigation over the breach determination's validity. Second, this proposed rule would set forth ''for cause'' standards and due process protections so that U.S. Immigration and Customs Enforcement (ICE), a component of DHS, may decline bonds from companies that do not cure their deficient performance. Treasury administers the Federal corporate surety program and, in its current regulations, allows agencies to prescribe in their regulations for cause standards and procedures for declining to accept bonds from a Treasury-certified surety company. DHS proposes the for cause standards contained in this rule because certain surety companies have failed to pay amounts due on administratively final bond breach determinations or have had in the past unacceptably high breach rates.

DATES: Comments must be submitted electronically or postmarked no later than August 6, 2018.

ADDRESSES: You may submit comments, identified by the DHS docket number to this rulemaking, Docket No. ICEB–2017–0001, to the Federal Docket Management System (FDMS), a government-wide, electronic docket management system, by one of the following methods:

- *Electronically:* Submit comments to the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Address your written comments to the individual in the **FOR FURTHER INFORMATION CONTACT** section below. DHS docket staff, which maintains and processes ICE's official regulatory dockets, will scan the submission and post it to FDMS.

See the Public Participation portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Melinda A. Jones, Management and Program Analyst, MS 5207, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536; telephone (202) 732–5919; email *BLM-Treas@ice.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Public Participation
A. Submitting Comments
B. Viewing Comments and Documents
C. Privacy Act
D. Public Meeting
II. Abbreviations
III. Background
A. Immigration Bonds Generally
B. Need for Exhaustion Requirement
C. Need for Ability To Decline Bonds From Non-Performing Surety Companies
D. Treasury Regulation Allows Federal Agencies To Decline Bonds From Certified Sureties for Cause
IV. Discussion of Proposed Rule
A. Exhaustion of Administrative Remedies
B. Issue Exhaustion
C. Standards and Process for Declining Bonds From a Treasury-Certified Surety
D. Technical Changes
V. Statutory and Regulatory Requirements
A. Executive Orders 12866 and 13563: Regulatory Planning and Review
B. Initial Regulatory Flexibility Analysis
C. Unfunded Mandates Reform Act
D. Small Business Regulatory Enforcement Fairness Act of 1996
E. Collection of Information
F. Federalism
G. Civil Justice Reform
H. Energy Effects
I. Environment
The Proposed Amendments

I. Public Participation

We encourage you to participate in this rulemaking by submitting comments and related materials. Comments received will be posted, without change, to *http://www.regulations.gov* as part of the public record and will include any personal information you have provided. Should you wish your personally identifiable information redacted prior to filing in the docket, please so state. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from this rulemaking action. See **ADDRESSES**, above, for methods to submit comments. Mailed submissions may be paper or CD–ROM.

A. Submitting Comments

If you submit comments, 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. You may submit your comments and materials online or by mail, but please use only one of these means. ICE will file all comments sent to our docket address, as well as items sent to the address or email under **FOR FURTHER INFORMATION CONTACT**, in the public docket, except for comments containing confidential information. If you submit a comment, it will be considered received by ICE when it is received at the Docket Management Facility.

To submit your comments online, go to *http://www.regulations.gov*, and insert the complete Docket number starting with ''ICEB'' in the ''Search'' box. Click on the ''Comment Now!'' box and input your comment in the text box provided. Click the ''Continue'' box, and if you are satisfied with your comment, follow the prompts to submit it. If you submit your comments by mail, submit

them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you would like us to acknowledge receipt of comments submitted by mail, include with your comments a self-addressed, stamped postcard or envelope on which the docket number appears. We will stamp the date on the postcard and mail it to you.

We will consider all comments and materials submitted during the comment period and may change this rule based on your comments. The docket is available for public inspection before and after the comment closing date.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the complete Docket number starting with ''ICEB'' in the ''Search'' box. Click on the ''Open Docket Folder,'' and you can click on ''View Comment'' or ''View All'' under the ''Comments'' section of the page. Individuals without internet access can make alternate arrangements for viewing comments and documents related to this rulemaking by contacting ICE through the **FOR FURTHER INFORMATION CONTACT** section above.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Commenters may wish to read the Privacy and Security Notice that is available via a link on the homepage of *http://www.regulations.gov.*

D. Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one using one of the methods specified under **ADDRESSES** above. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Abbreviations

AAO Administrative Appeals Office
APA Administrative Procedure Act
BFS Bureau of the Fiscal Service, Department of the Treasury
CFR Code of Federal Regulations
DHS Department of Homeland Security
DOJ Department of Justice
FY Fiscal Year
ICE U.S. Immigration and Customs Enforcement
INA Immigration and Nationality Act
INS Immigration and Naturalization Service
OMB Office of Management and Budget
USCIS U.S. Citizenship and Immigration Services

III. Background

A. Immigration Bonds Generally

ICE may release certain aliens from detention during removal proceedings after a custody determination has been made pursuant to 8 CFR 236.1(c). ICE may require an alien to post an immigration bond as a condition of his or her release from custody. *See* Immigration and Nationality Act (INA) sec. 236(a)(2)(A), 8 U.S.C. 1226(a)(2)(A); 8 CFR 236.1(c)(10). A delivery bond is posted to guarantee the appearance of the bonded alien for removal, an interview, or at immigration court hearings. Immigration bonds also may be posted to, for instance, secure the timely voluntary departure of an alien from the United States, 8 CFR 1240.26(b)(3)(i), (c)(3)(1), or to secure compliance with an order of supervision, 8 CFR 241.5(b). *See also* INA sec. 103(a)(3), 8 U.S.C. 1103(a)(3) (authorizing Secretary of Homeland Security to ''prescribe such forms of bond'' as the Secretary deems necessary to carry out his immigration authorities).

Immigration bonds may be secured by a cash deposit (''cash bonds'') or may be underwritten by a surety company certified by Treasury pursuant to 31 U.S.C. 9304–9308 to issue bonds on behalf of the Federal government (''surety bonds''). 8 CFR 103.6(b). Treasury publishes the list of certified sureties in Department Circular 570, available at *http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm.* For cash bonds, ICE requires a deposit for the face amount of the bond and, if the bond is breached, ICE transfers that deposit into the Breached Bond/Detention Fund as compensation for the breach of the bond agreement. 8 U.S.C. 1356(r); 8 CFR 103.6(b), (e). In contrast, when a surety bond is breached, ICE must issue an invoice to collect the amount due from the surety company or its agent. ICE Form I–352 (Rev. 03/08). This proposed rule would apply only to surety bonds.

Pursuant to the terms of the bond, surety companies and their agents serve as co-obligors on the bond and are jointly and severally liable for payment of the face amount of the bond when ICE issues an administratively final breach determination. In this proposed rule, the singular term ''bond obligor'' refers to either the surety company or the bonding agent. The plural term ''bond obligors'' refers to both entities.

ICE officials may declare a bond breached when there has been a ''substantial violation of the stipulated conditions.'' 8 CFR 103.6(e). Bond breach determinations are issued on ICE Form I–323, Notice—Immigration Bond Breached. ICE makes such a determination when a bond obligor fails to deliver the alien into ICE custody when requested, when an obligor fails to ensure that the alien timely voluntarily departs the United States, or when an obligor fails to ensure that the alien complies with an order of supervision, as required by the terms of the bond.

Bond obligors have a right to appeal the breach determination by completing Form I–290B, Notice of Appeal or Motion, and submitting the form together with the appropriate filing fee and a brief written statement setting forth the reasons and evidence supporting the appeal within 30 days of the date of the determination. 8 CFR 103.3. If a bond obligor does not timely appeal the breach determination to the U.S. Citizenship and Immigration Services (USCIS) Administrative Appeals Office (AAO), or if the appeal is denied, the breach determination becomes an administratively final agency action. *See* 8 CFR 103.6(e); *see generally United States* v. *Gonzales & Gonzales Bonds & Ins. Agency, Inc.,* 728 F. Supp. 2d 1077, 1086–91 (N.D. Cal. 2010); *Safety Nat'l Cas. Corp.* v. *DHS,* 711 F. Supp. 2d 697, 703–04 (S.D. Tex. 2008).[1]

For surety bonds, if a bond obligor does not timely appeal to the AAO or if the appeal is dismissed, ICE will issue a demand for payment on an administratively final breach determination in the form of an invoice to the bond obligors. 31 CFR 901.2(a). The bond obligors have 30 days to pay the invoice or submit a written dispute; otherwise, the debt is past due. 31 CFR 901.2(b)(3). During this 30-day period, the bond obligors may seek agency review of the debt. *See* 6 CFR 11.1(a); 31 CFR 901.2. If the bond obligors ask to review documents related to the debt, ICE will provide documents supporting the existence of the debt. If the bond obligors dispute the debt, ICE will review the breach determination and issue a written response to any issues raised by the bond obligors. Under the terms set forth in ICE's invoice, if a debtor, such as a bond obligor, does not

[1] Courts have also held that certain AAO decisions are final agency actions when the AAO issues opinions on non-bond appeals within its jurisdiction in other contexts. *See, e.g., Herrera* v. *U.S. Citizenship & Imm. Servs.,* 571 F.3d 881, 885 (9th Cir. 2009).

pay the invoice within 30 days of issuance of the written response to the dispute, the invoice is past due. *See* 31 CFR 901.2(b)(3).

B. Need for Exhaustion Requirement

Treasury-certified surety companies that receive a breach determination need to know when that decision is final to plan their next steps. When a decision is final, the bond obligor can seek further review of the decision in the Federal courts. 5 U.S.C. 704. An initial agency action, such as a bond breach determination is considered final and subject to judicial review unless exhaustion of administrative remedies is required, *i.e.,* unless (1) a statute expressly requires an appeal to a higher agency authority, or (2) the agency's regulations require (a) an appeal to a higher agency authority as a prerequisite to judicial review, and (b) the administrative action is made inoperative during such appeal. *Darby* v. *Cisneros,* 509 U.S. 137, 154 (1993).[2] An agency may also by regulation require issue exhaustion. *Sims* v. *Apfel,* 530 U.S. 103, 108 (2000). Issue exhaustion means that a litigant cannot raise an issue in federal court without first raising the issue in the litigant's administrative appeal.

In this rule, DHS proposes to require *Darby* exhaustion by revising DHS regulations such that before a surety can sue on DHS's bond breach determination in federal court, the surety must appeal such determination to the AAO. Consistent with *Darby,* the rule would also provide that the agency's breach determination remains inoperative during the pendency of such appeal. In addition, DHS proposes to require issue exhaustion by requiring sureties to raise all factual and legal issues in an administrative appeal or waive those issues in federal court.

The need for exhaustion of administrative remedies and issue exhaustion requirements for bond breach determinations is evidenced by two cases where district court judges required ICE to issue written decisions addressing defenses raised by surety companies and their agents for the first time in federal district court litigation. In these cases filed by the United States in federal district court to collect amounts due from surety companies and their agents for breached bonds, the courts issued remand orders requiring ICE to prepare written decisions addressing whether over 100 breach determinations were valid after evaluating the defenses raised by the bond obligors. *United States* v. *Int'l Fidelity Ins. Co.,* No. 2:11–cv–396–FSH–PS, ECF No. 86 at 8 (D.N.J. July 30, 2012); *United States* v. *Gonzales & Gonzales Bonds & Ins. Agency, Inc.,* 2012 WL 4462915, at *9 (N.D. Cal. Sept. 25, 2012).

Requiring exhaustion of administrative remedies and issue exhaustion would streamline this type of litigation and conserve judicial resources because the bond obligors would be required to raise all factual and legal issues in an administrative appeal, and the AAO would issue a written decision addressing all defenses. The administrative appeal process would allow errors to be corrected without resort to federal court litigation and would avoid the delay associated with remanding breach determinations to the agency to issue written administrative decisions addressing defenses. As noted by a district court judge, appropriate review of an agency determination under the APA would be simplified if DHS amended its current regulations to require exhaustion of administrative remedies. *See Int'l Fidelity Ins. Co.,* ECF No. 86, at 9. This proposed regulation would promote judicial economy by allowing federal courts to review breach determinations under the APA's arbitrary and capricious standard of review since remanding breach determinations to ICE would no longer be necessary.

C. Need for Ability To Decline Bonds From Non-Performing Surety Companies

For decades, certain surety companies and their agents have failed to pay invoices for breached bonds timely (within 30 days) or to present specific reasons to the agency why, in their view, the breach determinations are invalid. This non-performance has compelled litigation in federal court to resolve thousands of unpaid breached-bond debts valued in the millions of dollars and has also resulted in ICE filing claims in state receivership proceedings when sureties cannot pay past-due invoices. ICE needs to be able to decline new bonds from non-performing surety companies, after providing the due process specified in the proposed rule, to give them an incentive to take appropriate action when a bond is breached.

The need for the ability to decline bonds derives from the lack of an effective existing mechanism to address non-performing surety companies. Specifically, certain surety companies' failure to pay amounts due on breached bonds has been ongoing for years, and the agency has considered different approaches to recovering payments. In 1982, Regional Counsel for the former Immigration and Naturalization Service (INS) recommended that the INS amend 8 CFR 103.6 to implement a procedure, similar to that established by the U.S. Customs Service in July 1981, to stop accepting bonds from surety companies with poor payment records until their payment performance improved, but this proposal was never implemented.

In 2005, ICE notified a surety with substantial delinquent debt that it would no longer accept immigration bonds underwritten by that company and separately asked Treasury to revoke the surety's certification to post bonds on behalf of the United States. A district court enjoined ICE's action not to accept additional bonds, ruling that ICE could not decline immigration bonds from this surety without first affording the company procedural due process rights. *Safety Nat'l Cas. Corp.* v. *DHS,* No. 4:05–cv–2159, slip op. at 8 (S.D. Tex. Dec. 9, 2005).

Treasury, after conducting an informal hearing, issued a determination concluding that the surety company exhibited a course and pattern of doing business that was incompatible with its authority to underwrite bonds on behalf of the United States and directed the surety to make full payment of all amounts due and owing on over 900 breached bonds (over $7 million at the time). *See* ''Notice to Safety National Casualty Corp. from FMS Commissioner'' (Jan. 23, 2007) (withdrawn and vacated, with prejudice, on July 19, 2013). The surety then filed suit in Federal district court on February 21, 2007, seeking to enjoin Treasury from enforcing its final decision and to vacate Treasury's ruling that the surety should be decertified. *Safety Nat'l Cas. Corp.* v. *U.S. Dep't of the Treasury,* No. 4:07–cv–00643 (S.D. Tex. Feb. 21, 2007), ECF No. 1. On August 27, 2008, the court stayed the case pending the resolution of 1,421 bond disputes, *id.* (Minute Entry), raised in an earlier case filed by Safety National Casualty Corp. and its agent against DHS, *Safety Nat'l Cas. Corp.* v. *DHS,* No. 4:05–cv–2159 (S.D. Tex. filed June 23, 2005), ECF No. 1. On July 30, 2013, the Treasury case was dismissed based on a settlement agreement reached by the parties in the earlier case involving the 1,421 bond disputes. No. 4:07–cv–00643, ECF. No. 67. This example illustrates the difficulty ICE has encountered in precluding surety

[2] *See also Air Espana* v. *Brien,* 165 F.3d 148, 151 (2d Cir. 1999) (noting that the Immigration and Nationality Act does not impose an exhaustion requirement); *DSE, Inc.* v. *United States,* 169 F.3d 21, 26–27 (D.C. Cir. 1999) (filing of appeal did not make agency decision inoperative); *Young* v. *Reno,* 114 F.3d 879, 881–82 (9th Cir. 1997) (by regulation, appeal was not required).

companies that have not paid invoices issued on administratively final breach determinations from issuing new immigration bonds.

The repeated failures of certain surety companies to respond appropriately to breached-bond invoices, either by disputing the validity of the breach determination or paying the invoice, shows the need for this proposed rule that would allow ICE to decline bonds from non-performing surety companies.

D. Treasury Regulation Allows Federal Agencies To Decline Bonds From Certified Sureties for Cause

Treasury's Bureau of the Fiscal Service (BFS) is responsible for administering the corporate Federal surety bond program pursuant to 31 U.S.C. 9304–9308 and 31 CFR part 223. Treasury evaluates the qualifications of sureties to underwrite Federal bonds and issues certificates of authority to those sureties that meet the specified corporate and financial standards. Under 31 U.S.C. 9305(b)(3), a surety must ''carry out its contracts'' to comply with statutory requirements. To ''carry out its contracts'' and be in compliance with section 9305, a surety must, on a continuing basis, make prompt payment on invoices issued to collect amounts arising from administratively final determinations.

On October 16, 2014, Treasury published a final rule entitled, ''Surety Companies Doing Business with the United States.'' 79 FR 61992. The rule became effective on December 15, 2014. This Treasury regulation clarifies that: (1) Treasury certification does not insulate a surety from the requirement to satisfy administratively final bond obligations; and (2) an agency bond-approving official has the discretion to decline to accept additional bonds on behalf of his or her agency that would be underwritten by a Treasury-certified surety for cause provided that certain due process standards are satisfied.

Through this proposed rule, DHS proposes to specify the circumstances under which ICE would decline to accept new immigration bonds from Treasury-certified sureties. This proposed rule would also set forth the procedures that ICE would follow before it declines bonds from a surety. This proposed rule would facilitate the prompt resolution of bond obligation disputes between ICE and sureties and would minimize the number of situations where the surety routinely fails to pay administratively final bond obligations or fails to promptly seek administrative review of bond breach determinations.

IV. Discussion of Proposed Rule

A. Exhaustion of Administrative Remedies

Exhaustion of administrative remedies serves many purposes. *Bastek* v. *Fed. Crop Ins. Corp.,* 145 F.3d 90, 93 (2d Cir. 1998). First, exhausting administrative remedies ensures that persons do not flout established administrative processes by ignoring agency procedures. *See McKart* v. *United States,* 395 U.S. 185, 195 (1969); *Pub. Citizen Health Research Group* v. *Comm'r, Food & Drug Admin.,* 740 F.2d 21, 29 (D.C. Cir. 1984). Second, it protects the autonomy of agency decision making by allowing the agency the opportunity to apply its expertise in the first instance, exercise discretion it may have been granted, and correct its own errors. *Woodford* v. *Ngo,* 548 U.S. 81, 89 (2006). Third, the doctrine aids judicial review by permitting the full factual development of issues relevant to the dispute. *James* v. *HHS,* 824 F.2d 1132, 1137–38 (D.C. Cir. 1987). Finally, the doctrine of exhaustion promotes judicial and administrative economy by resolving some claims without judicial intervention. *Woodford,* 548 U.S. at 89. For all of these reasons, DHS considers it to be both necessary and appropriate to mandate the exhaustion of administrative remedies for bond breach determinations on bonds issued by Treasury-certified surety companies.

DHS proposes, therefore, that a Treasury-certified surety or its agent that receives a breach notification from ICE must seek administrative review of that breach determination by filing an appeal with the AAO before the agency's action becomes final and subject to judicial review. The initial breach determination would not be enforced while any administrative appeal is pending. ICE would not issue an invoice to collect the amount due from the bond obligors on a breached bond until the agency action becomes final. If the bond obligor failed to file an administrative appeal during the filing period (currently 30 days) or filed an appeal that is summarily dismissed or rejected due to failure to comply with the agency's deadlines or other procedural rules, then the bond obligor would have waived all issues and would not be able to seek review of the breach determination in Federal court.[3] ICE would then issue an invoice to collect the amount due.[4]

B. Issue Exhaustion

The proposed regulation would also require Treasury-certified surety companies and their agents to raise all defenses or other objections to a bond breach determination in their appeal to the AAO; otherwise, these defenses and objections would be deemed waived. The Supreme Court has observed that administrative issue exhaustion requirements may be created by agency regulations:

> [I]t is common for an agency's regulations to require issue exhaustion in administrative appeals. *See, e.g.,* 20 CFR 802.211(a) (1999) (petition for review to Benefits Review Board must ''lis[t] the specific issues to be considered on appeal''). And when regulations do so, courts reviewing agency action regularly ensure against the bypassing of that requirement by refusing to consider unexhausted issues.

Sims v. *Apfel,* 530 U.S. 103, 107–08 (2000).

DHS believes that issue exhaustion is appropriate and necessary when a Treasury-certified surety company or its agent appeals a breach determination to the AAO. Some of these companies have engaged in protracted litigation over the validity of bond breach determinations; some of this litigation could have been streamlined if the bond obligors had been required to present all of their issues and disputes to the agency for adjudication on appeal before suit was filed in Federal court instead of raising new issues for the first time in federal court. Under this proposed rule, DHS would consider issue exhaustion to be mandatory in that a commercial surety or its agent would be required to raise all issues before the AAO and would waive and forfeit any issues not presented.

C. Standards and Process for Declining Bonds From a Treasury-Certified Surety

As required by the Treasury regulation, DHS, through this proposed rule, would establish the standards ICE would use to decline surety immigration bonds for cause (the ''for cause'' standards) and the procedures that ICE would follow before declining bonds from a Treasury-certified surety. The

[3] *See, e.g., Woodford,* 548 U.S. at 90 (''Proper exhaustion demands compliance with an agency's deadlines and other critical procedural rules''); *Silverton Snowmobile Club* v. *U.S. Forest Serv.,* 433 F.3d 772, 787 (10th Cir. 2006) (upholding district court's dismissal of complaint due to failure to exhaust administrative remedies); *Galvez Pineda* v. *Gonzales,* 427 F.3d 833, 838 (10th Cir. 2005) (''[U]ntimely filings with administrative agencies do not constitute exhaustion of administrative remedies.''); *Glisson* v. *U.S. Forest Serv.,* 55 F.3d 1325 (7th Cir. 1995) (suit barred for failure to appeal from the decision of the supervisor of a national forest to authorize the sale of timber).

[4] Because a motion to reconsider or reopen a bond breach determination does not stay the final decision, a bond obligor's failure to file such a motion would not constitute failure to exhaust administrative remedies.

standards proposed by ICE are informed by the important function that surety immigration bonds serve in the orderly administration of the immigration laws. Because insufficient resources exist to hold in custody all of the individuals whose statuses are being determined through removal proceedings, delivery bonds perform the vital function of allowing eligible individuals to be released from custody while the bond obligors accept the responsibility for ensuring their future appearance when required. If the bond obligor fails to satisfy its obligations under the terms of the bond, a claim is created in favor of the United States for the face amount of the bond. 8 CFR 103.6(e); Immigration Bond, ICE Form I–352, G.1 (Rev. 03/08). Enforcing collection of a breached immigration bond is important to motivate bond obligors to comply with the obligations they agreed to when they executed the bond and upon which ICE relied in permitting the alien to remain at liberty while removal proceedings are pending. When an alien does not appear as required, agency resources must be expended to locate the alien and take him or her back into custody.

In short, the standards DHS proposes for ICE to exercise its discretion to decline bonds from sureties arise from the need to maintain the integrity of the bond program. The bond program does not operate as intended when sureties (1) fail to timely pay invoices based on administratively final breach determinations, or (2) have unacceptably high breach rates. The incentive to deliver aliens in response to demand notices is reduced when sureties do not timely forfeit the amount of the bond as a consequence of their failure to perform. Moreover, if sureties do not submit payment for the Government's claim created as a result of the breach, they may receive an undeserved windfall if they retain any premiums or collateral paid by the person who contracted with them to obtain the bond on behalf of the alien (the indemnitor).

1. For Cause Standards

The rule proposes three circumstances, or for cause standards, when ICE may notify a surety of its intention to decline any new bonds underwritten by the surety.[5] ICE's decision about whether to decline new bonds would be discretionary; ICE would not be required to stop accepting new bonds every time one of the for cause standards has been violated, and ICE would retain discretion to work with surety companies on an individual basis to ensure compliance.

First For Cause Standard: Ten or More Past Due Invoices

Under the first for cause standard, ICE would be authorized to issue a notice of its intention to decline new bonds when the surety has ten or more past due invoices issued after the final rule's effective date. The terms ''invoice,'' ''administratively final,'' and ''past due'' are each terms of art which require further explanation.

In this context, an ''invoice'' is a demand notice that ICE sends to a surety company seeking payment on an administratively final breach determination. A breach determination is ''administratively final'' either when the time to file an appeal with the AAO has expired without an appeal having been filed or when the appeal is denied. *See* 8 CFR 103.6(e); *see also Gonzales & Gonzales Bonds,* 728 F. Supp. 2d at 1086, 1091; *Safety Nat'l Cas. Corp.,* 711 F. Supp. 2d at 703–04.

Finally, an invoice is ''past due'' when the bond obligor does not pay the invoice within 30 days of ICE's issuance of the invoice. 31 CFR 901.2(b)(3). This 30-day period can be tolled if the obligor disputes the debt during the 30-day period.[6] If the obligor disputes the debt, ICE will review the underlying breach determination and issue a written response to any issues raised by the surety or bonding agent. If ICE, in its written response to the obligor's dispute, concludes that the debt is invalid, ICE will cancel the invoice. If, however, ICE concludes that the debt is valid, the obligor has 30 days from issuance of the written decision to pay the debt. If a disputed invoice is valid, or if the obligor has declined to timely dispute the invoice at all, such an invoice, when it becomes past due, would be included as one of the ten past due invoices that may trigger the issuance of a notice that ICE intends to decline new bonds underwritten by the surety.[7]

Again, the first for cause standard would be triggered when at least 10 invoices issued after the final rule's effective date are past due. DHS proposes this standard because, when a surety company has 10 past-due invoices, such a company is not fulfilling its obligation to diligently and promptly act on demands for payment. DHS considered using a smaller number of past due invoices as the trigger for this standard, but concluded that some leeway should be given for missed payments. However, DHS believes that a reasonably attentive surety company should be able to avoid having 10 past due invoices at the same time. For example, in FY 2015, the only surety companies that exceeded 10 unpaid invoices were four companies that either were in liquidation or exhibited a practice of repeatedly not paying invoices. In other words, nonpayment of 10 invoices did not occur through mistake or inadvertence. During this same period, multiple surety companies had timely paid all of their invoices or were late in submitting payments on fewer than ten. DHS requests comment on this proposed standard, including whether the number of past due invoices should be higher or lower, and if so, on what basis.

Second For Cause Standard: Cumulative Debt of $50,000 or More on Past Due Invoices

Under the second for cause standard, ICE would be authorized to issue a notice of its intention to decline new bonds when the surety owes a cumulative total of $50,000 or more on past due invoices issued after the effective date of the final rule, including interest and other fees assessed by law on delinquent debt. This proposed rule includes a for cause standard based on cumulative debt because bond amounts differ based on custody determinations and a surety could have a fairly large cumulative debt (over $50,000) when fewer than 10 invoices are unpaid. As of September 27, 2016, the lowest surety bond value was $500 and the highest surety bond value was $340,000, the

[5] Treasury's regulation permitting agencies to promulgate ''for cause'' standards to decline administratively bond obligations is ''prospective and is not intended to require a principal to obtain replacement bonds that have already been accepted.'' 79 FR 61992, 61995. Accordingly, DHS does not anticipate that ICE's notification would have any effect on a surety's open bonds.

[6] Treasury has issued guidance to federal agencies instructing them to ''develop clear policies and procedures on how to respond to a debtor's request for copies of records related to the debt, consideration for a voluntary repayment agreement, or a review or hearing on the debt.'' Department of the Treasury, *Managing Federal Receivables,* at 6–16 (Mar. 2015). When it issues an invoice, ICE includes information about its collection policies, including a statement that: ''If a timely written request disputing the debt is received, the debt will be reviewed and collection will cease on the debt or disputed portion until verification or correction of the debt is made and a written summary of the review is provided.'' ICE Form Invoice, ''Important Information Regarding This Invoice,'' maintained by ICE's Financial Service Center Burlington.

[7] There is no further administrative review of ICE's determination that a disputed invoice is valid. This is because the administratively final breach determination underlying each invoice has already been subject to appellate review. In other words, because ICE does not issue an invoice until after the related breach has become administratively final, ICE's issuance of an invoice, and its review of a disputed invoice, would not occur until *after* the AAO had already resolved the obligor's appeal, if any, of the underlying breach determination.

average value of the over 23,000 open surety bonds (those that have not yet been breached or canceled) was about $10,200, the median value was $8,000, and almost 11,000 of the open surety bonds had a face value of $10,000 or more.[8] As of September 27, 2016, seven surety companies (some of which, of their own volition, no longer post new bonds) owed past due invoices. Five of the sureties owed cumulative debts above $50,000, and the median amount of cumulative debt owed by these companies was substantial—$450,500. Two companies that regularly pay invoices promptly had less than $50,000 of past due debts and six other sureties' payments were current.

Likewise, data from FY 2015 confirm that surety companies that regularly pay invoices on time do not generally exceed a cumulative total of $50,000 in past due debt. In FY 2015, there were four companies that generally paid their debts in a timely manner but had late payments. One of those companies accumulated a total amount of $22,000 in past due debt during FY 2015. Two other companies had no past due debts during FY 2015. In comparison, five non-performing sureties accumulated past due debts greater than $50,000 during FY 2015, and the median amount of past due debt accumulated among those companies was $194,000.

These numbers suggest that the $50,000 threshold represents a reasonable trigger because, based on an average bond amount of $10,200, a surety can quickly accumulate a substantial debt if it is not committed to fulfilling its obligations by paying invoices timely. Continuing to accept bonds from such an entity places an unacceptable risk on the agency. If a surety company is approaching $50,000 in unpaid obligations and cannot pay such obligations, it should stop attempting to post new bonds.

This standard also gives ICE the flexibility to take action when a surety's non-performance is problematic even though fewer than ten invoices may be past due. Because almost half of the open surety bonds are in the amount of $10,000 or more, a surety could incur a cumulative debt of $50,000 or more with relatively few unpaid invoices. This second for cause standard recognizes that possibility and gives ICE the option of taking action when the surety has failed to timely pay invoices, while still giving the surety some latitude in making late payments. Having separate standards based either on a designated number of unpaid invoices or the dollar value of past due debt would allow ICE to take appropriate action when a surety company is not current on payments of administratively final breach determinations. DHS requests comment on this proposed standard, including whether the cumulative total debt should be higher or lower, and if so, on what basis.

Third For Cause Standard: Bond Breach Rate of 35 Percent or Greater

Finally, under the third for cause standard, ICE would be authorized to issue a notice of its intention to decline new bonds when the surety's breach rate for bonds is 35 percent or greater during a fiscal year. The breach rate is important because it measures the surety's compliance with its obligations under the terms of the immigration bond. The breach rate is calculated by dividing the number of administratively final breach determinations during a fiscal year for a surety company by the sum of the number of bonds breached and the number of bonds cancelled for that surety company during the same fiscal year. For example, if 50 bonds posted by a surety company were declared breached from October 1 to September 30, and 50 bonds posted by that same surety were cancelled during the same fiscal year (for a total of 100 bond dispositions), that surety would have a breach rate of 50 percent for that fiscal year.

ICE issues notices of breach determinations on Form I–323, Notice—Immigration Bond Breached. As noted above, if the surety does not appeal ICE's breach determination to the AAO, ICE's breach determination becomes administratively final after the appeal period has expired and would be used in the breach rate calculation. If the surety files an appeal with AAO, only those breach determinations upheld by the AAO would be included in the breach rate calculation. In addition, for immigration delivery bonds, ICE would include in the breach rate calculation instances when ICE's mitigation policy applies because these bonds have been breached. As set forth in prior ICE policy statements and as recognized by courts, *see Gonzales & Gonzales Bonds,* 103 F. Supp. 3d at 1150, the mitigation policy applies to delivery bond breaches when the surety company or its agent has delivered the alien within 90 days of the surrender date set forth on the Form I–340, Notice to Obligor to Deliver Alien (demand notice). Currently, the amount forfeited is reduced when the surety or its agent surrenders the alien within 90 days of the surrender date. The mitigation policy does not apply when the alien appears on his or her own at an ICE office or when the alien appears with the indemnitor. *Gonzales & Gonzales Bonds,* 103 F. Supp. 3d at 1150. Because breaches to which the mitigation policy applies are still breached bonds, ICE would include these breach determinations in its calculation of a surety's breach rate.

This rule proposes to calculate breach rates on a Federal fiscal year basis (October 1–September 30) to generate a meaningful sample size for each company. ICE will perform the breach rate calculation in the month of January after the end of the relevant fiscal year so that ICE can work with ''closed out'' data. The breach rate calculations used in the standard would be calculated for the first full fiscal year beginning after the effective date of any final rule, and each fiscal year thereafter. If an appeal filed with the AAO is still pending while the breach rate calculation is being performed, ICE will not include that breach in its calculations until the AAO has issued a decision dismissing the appeal. This proposed rule uses 35 percent as the trigger because past performance shows that sureties can meet this standard by exercising reasonable diligence. Higher breach rates signal that obligors are not taking adequate actions to fulfill their responsibility to surrender aliens. During FY 2016, all surety companies currently posting immigration bonds had a breach rate, calculated using this approach, that was less than 35 percent. Surety companies have demonstrated their ability to comply with a 35 percent breach rate; a higher breach rate would demonstrate a departure from their own and their peers' past performance. Moreover, as set forth in the bond agreement's terms and conditions, bonds are automatically cancelled when certain events occur before the bond has been breached, such as the death of the alien or the alien's departure from the United States. These types of bond cancellations would assist the surety companies in maintaining a relatively low breach rate. Using 35 percent as a threshold for taking action is reasonable because surety companies would be given some latitude when they are, on occasion, unable to produce the alien, but they would still be accountable for surrendering aliens for almost two-thirds of the demands issued. DHS requests comment on this proposed standard, including whether the breach rate should be higher or lower, and if so, on what basis.

2. Procedures

Under the proposed rule, ICE would implement the following procedures to

[8] Immigration Bond Statistics maintained by ICE's Financial Service Center Burlington.

afford the surety company procedural due process protections consistent with 31 CFR 223.17: (1) Provide advance written notice to the surety stating the agency's intention to decline future bonds underwritten by the surety; (2) set forth the reasons for the proposed non-acceptance of such bonds; (3) provide an opportunity for the surety to rebut the stated reasons for non-acceptance of the bonds; and (4) provide an opportunity to cure the stated reasons, *i.e.,* deficiencies, causing ICE's proposed non-acceptance of the bonds. ICE will consider any written submission presented by the surety in response to the agency's notice provided that the response is received by ICE on or before the 30th calendar day following the date ICE issued the notice. ICE may decline bonds underwritten by the surety only after issuing a written determination that the bonds should be declined when at least one of the for cause standards set forth in this rule has been triggered.

D. Technical Changes

The proposed rule also includes technical changes. DHS proposes to update the reference to Treasury's authority to certify surety companies to underwrite bonds on behalf of the Federal Government in 8 CFR 103.6(b) from ''6 U.S.C. 6–13'' to ''31 U.S.C. 9304–9308'' to reflect Public Law 97–258 (96 Stat. 877, Sept. 13, 1982), an Act that codified without substantive change certain laws related to money and finance as title 31, United States Code, ''Money and Finance.''

V. Statutory and Regulatory Requirements

DHS developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. The following sections summarize our analyses based on a number of these statutes or executive orders.

A. Executive Orders 12866 and 13563: Regulatory Planning and Review

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

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

This proposed rule would require Treasury-certified sureties seeking to overturn an ICE breach determination to file an administrative appeal raising all legal and factual defenses in their appeal. DHS anticipates that more appeals would be filed with the AAO as a result of this proposed requirement. The costs to sureties to comply with this proposed requirement include the transactional costs associated with filing an appeal with the AAO. Sureties that do not appeal a breach determination could incur the cost of foregoing the opportunity to obtain judicial review of a breach determination. Surety companies would also incur familiarization costs in learning about the proposed requirements.

The proposed rule would also establish ICE standards for declining surety immigration bonds for cause and the procedures that ICE would follow before making a determination that it will no longer accept new bonds from a Treasury-certified surety. If a surety fulfills its obligations and is not subject to these for cause standards, this proposed provision would impose no additional costs on that surety. Surety companies that fail to fulfill their obligations and are subject to the for cause standards may incur minimal costs in responding to ICE's notification. If they fail to cure any deficiencies in their performance, they may also lose business when ICE declines to accept new bonds submitted by the surety.

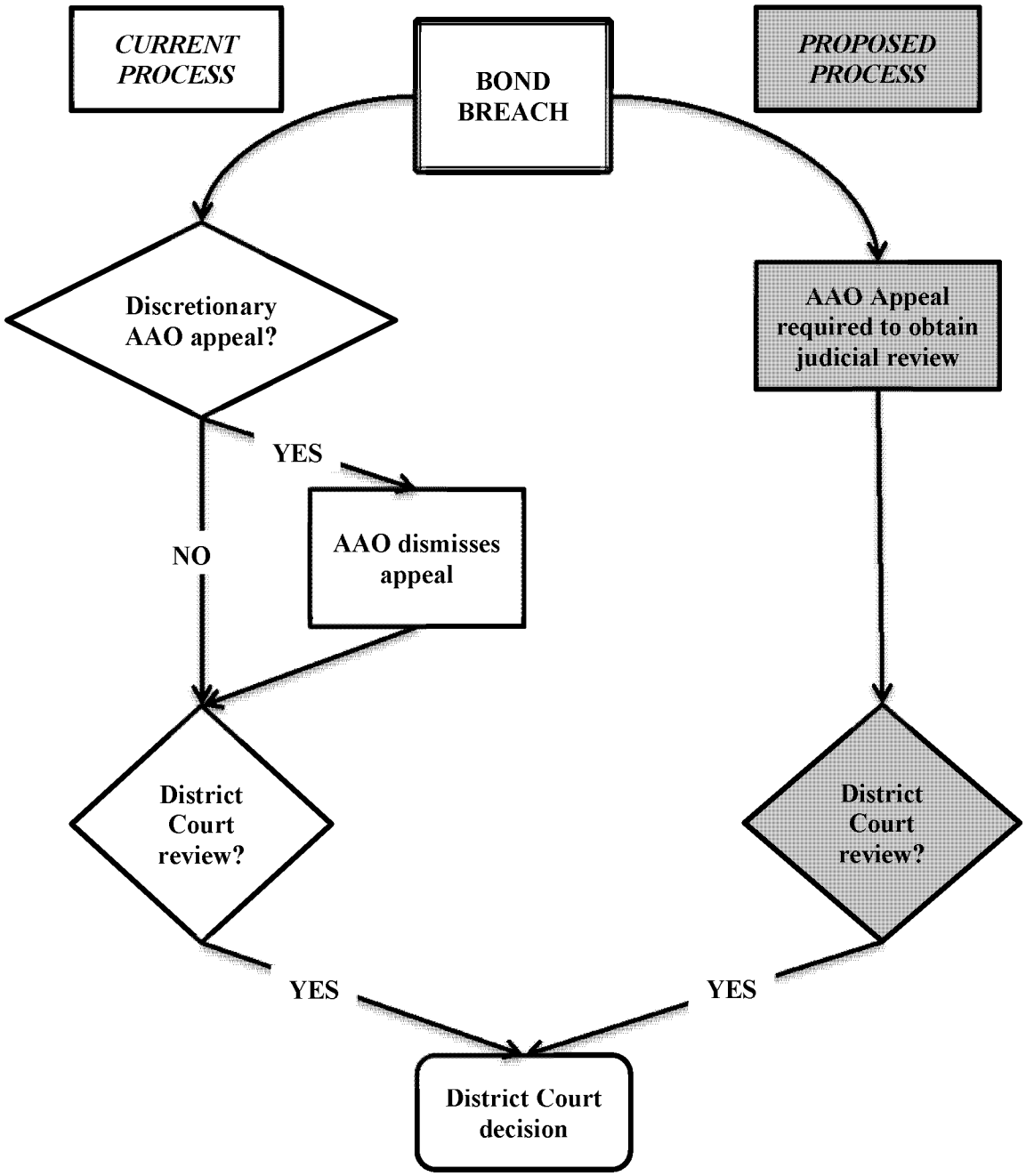
DHS estimates the most likely total 10-year discounted cost of the proposed rule to be approximately $1.1 million at a seven percent discount rate and approximately $1.3 million at a three percent discount rate. The benefits of the proposed rule include improved efficiency and lower costs in litigating unresolved breach determinations. In addition, the rule would increase incentives for surety companies to timely perform obligations, provide ICE with a mechanism to stop accepting new bonds from non-performing sureties after due process has been provided, and reduce adverse consequences both of sureties' failures to pay invoices timely on administratively final breach determinations and unacceptably high breach rates. When a surety fails to perform its obligation to deliver an alien and the bond is breached, ICE's resources are expended in locating aliens who have not been surrendered in response to ICE's demands. Finally, the proposed rule would allow ICE to resolve or avoid certain disputes, thereby decreasing the debt referred to Treasury for further collection efforts or the cases referred to DOJ for litigation.

1. Exhaustion of Administrative Remedies

i. Costs

To comply with the exhaustion of administrative remedies requirement, sureties would be required to appeal a breach determination to the AAO and to raise all issues or defenses during the appeal or waive them in future court proceedings. Currently, if a surety company decides to appeal a breach determination, the surety company can choose to appeal the breach determination to the AAO or undergo a federal district court review. The current and proposed appeal processes, beginning at the stage of an ICE bond breach determination, are represented in Figure 1.

Figure 1: Current and Proposed Process



Anticipated costs for sureties to comply with this proposed requirement are costs associated with filing an appeal with the AAO. Sureties filing an appeal must complete Form I–290B, Notice of Appeal or Motion, and submit the form together with the $675 filing fee set by USCIS [9] along with a brief written statement setting forth the reasons and evidence supporting the appeal. If a surety or its agent decides not to timely challenge a breach determination, this proposed requirement would impose no additional costs.

In the recent past, sureties have filed few administrative appeals of bond breach determinations. From fiscal year (FY) 2013 through FY 2015, on average 466 surety bonds were breached annually, and only 23 bond breaches for both cash bonds and surety bonds were appealed annually.[10] In other words, less than five percent of all surety bond breaches were appealed annually during FY 2013 through FY 2015.

DHS believes that the proposed exhaustion of administrative remedies requirement would likely increase the

[9] USCIS I–290B, Notice of Appeal or Motion, Filing Fee $675, *https://www.uscis.gov/i-290b.*

[10] USCIS AAO Appeals Adjudications. All cash and surety breached bond appeals for Immigration Bond Form I–352 are presented for FY 2011 through FY 2015. *https://www.uscis.gov/sites/default/files/USCIS/About%20Us/Directorates%20and%20Program%20Offices/AAO/AAO_Appeal_Adjudications_FY11-FY15.pdf.*

number of appeals of breach determinations by sureties because they would waive their right to federal district court review if they did not file an administrative appeal.

To estimate the number of appeals under this proposed rule, DHS assumes that invoices that were paid promptly can serve as a proxy for breaches that are not subject to disputes and are thus not likely to be appealed. In FY 2013, ICE issued invoices for 401 breached surety bonds. Sixty-five percent of the invoices (259 invoices) were timely paid.[11] Because these bond breach determinations were not disputed and the invoices were paid timely, DHS presumes that it is unlikely that surety companies would file appeals with the AAO to contest these breaches. The remaining 35 percent of the FY 2013 surety bond invoices (142 invoices) that were not timely paid could be considered ''disputed'' and potential candidates for AAO appeals if the proposed exhaustion of administrative remedies requirement were in effect. In FY 2014, 119 out of 382 or 31 percent of invoices were not timely paid. In FY 2015, 313 out of 616 or 51 percent of invoices were not timely paid. Based upon this information, DHS estimates that approximately 41 percent of the surety bond breaches from FY 2013–FY 2015 might have been appealed if an exhaustion requirement had been in place compared to the current average annual appeal rate of less than five percent.[12] DHS calculates that the total expected number of AAO appeals for surety bonds that might be filed each year is approximately 190.[13] DHS requests comment on all aspects of this analysis and the assumptions underlying the analysis.

Sureties that appeal would incur an opportunity cost for time spent filing an appeal with the AAO. USCIS estimates the average burden for filing Form I–290B is 90 minutes.[14] The person preparing the appeal could either be an attorney or a non-attorney in the immigration bond business. DHS does not have information on whether all surety companies have an in-house attorney, so we considered a range of scenarios depending on the opportunity cost of the person who would prepare the appeal. DHS assumes the closest approximation to the cost of a non-attorney in the immigration bond business is an insurance agent. DHS requests comment on these assumptions. The average hourly loaded wage rate of an insurance agent is $44.31.[15] The average hourly loaded wage rate of an attorney is $96.06.[16] To determine the full opportunity costs if a surety company hired outside counsel, we multiplied the fully loaded average wage rate for an in-house attorney ($96.06) by 2.5 for a total of $240.14 to roughly approximate an hourly billing rate for outside counsel.[17] For purposes of this analysis, DHS assumes the minimum opportunity cost scenario is one where a non-attorney, or insurance agent (or equivalent), prepares the appeal. The opportunity cost per appeal in this scenario would be approximately $66.47 ($44.31 × 1.5 hours). DHS assumes that an in-house attorney or an insurance agent (or equivalent) is equally likely to prepare a surety's appeal. Thus, the primary estimate for the cost to prepare the appeal is $105.27—the average of the wage rates for an in-house attorney and an insurance agent multiplied by the estimated time to prepare the appeal ($70.19[18] × 1.5 hours). DHS estimates a maximum cost scenario in which a surety would hire outside counsel to prepare the appeal, resulting in a cost of $360.21 ($240.14 × 1.5 hours). Sureties would also incur a $675 filing fee per appeal. When the filing fee is added to the cost of preparing the appeal, the total cost per appeal would range from $741 ($675 + $66.47) to $1,035 ($675 + $360.21), with a primary estimate of $780 ($675 + $105.27). This results in a total annual cost between $140,790 and $196,650, with a primary estimate of $148,200 ($780 × 190 breached bonds).

DHS expects minimal costs to the Federal government associated with the proposed regulation. When a surety files an appeal with the AAO seeking review of a breach determination, an ICE Enforcement and Removal Operations (ERO) Bond Control Specialist at the ERO field office that issued the breach determination submits to the AAO a Record of Proceedings (ROP) containing documents relevant to the breach determination. Each ROP takes approximately 90 minutes to compile, for a total of 285 hours annually (1.5 hours × 190 appeals). The fully loaded average hourly wage rate, including locality pay, for an ERO Bond Control Specialist is $30.40.[19] The total annual cost to ICE to compile the ROPs is approximately $8,664. The costs to USCIS for conducting an administrative review of the appeals are covered by the $675 fee charged for each appeal, as well as by funds otherwise available to USCIS.

ii. Benefits

The proposed rule would assist both DOJ's and ICE's efforts in litigating unpaid invoices to collect on breached surety bonds. For example, the proposed rule would eliminate the need for the type of remand decisions required by two federal courts in litigation to collect unpaid breached bond invoices because the AAO would already have had an opportunity to issue a written decision addressing all of the surety company's defenses raised as part of the required administrative appeal. As with any requirement for exhaustion of administrative remedies, the proposed rule would promote judicial and administrative efficiency by resolving many claims without the need for litigation. Furthermore, with an exhaustion requirement, any court would review the AAO decision under the APA's arbitrary and capricious standard of review. Review confined to a defined administrative record would eliminate the time-consuming discovery process.

[11] ''Timely'' as used in this context means that the payments were processed within 45 days of issuance of the invoice or were made in accordance with a payment agreement.

[12] ICE's Financial Service Center Burlington.

[13] Three-year average (FY 2013–FY 2015) of invoices not timely paid. 142 + 119 + 313 = 574. 574 ÷ 3 = 191.33.

[14] Form I–290B, 2016 Information Collection Request Supporting Statement, Question 12, *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201609-1615-002.*

[15] Bureau of Labor Statistics, Occupational Employment Statistics May 2015, Standard Occupational Code 41–3021 Insurance Sales Agents, Mean hourly wage $31.15, *http://www.bls.gov/oes/2015/may/oes413021.htm.* The fully loaded wage rate is calculated using the percentage of wages to total compensation, found in the Bureau of Labor Statistics, Employer Costs for Employee Compensation June 2015, Table 1: Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group, Sales and Office Occupational Group, *http://www.bls.gov/news.release/archives/ecec_09092015.pdf.* Wages are 70.3 percent of total compensation. $44.31 = $31.15/0.703.

[16] Bureau of Labor Statistics, Occupational Employment Statistics May 2015, Standard Occupational Code 23–1011 Lawyers, Mean hourly wage $65.51, *http://www.bls.gov/oes/2015/may/oes231011.htm.* The fully loaded wage rate is calculated using the percentage of wages to total compensation, found in the Bureau of Labor Statistics, Employer Costs for Employee Compensation June 2015, Table 1: Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group, Management, Professional, and related group, *http://www.bls.gov/news.release/archives/ecec_09092015.pdf.* Wages are 68.2 percent of total compensation. $96.06 = $65.51/0.682.

[17] DHS has previously calculated the hourly cost of outside counsel using this methodology of multiplying the fully loaded average wage rate for an in-house attorney by 2.5. See the Final Small Entity Impact Analysis of the Supplemental Proposed Rule ''Safe-Harbor Procedures for Employers Who Receive a No-Match Letter,'' page G–4, at *http://www.regulations.gov/#!documentDetail;D=ICEB-2006-0004-0922.*

[18] $70.19 = ($44.31 + $96.06)/2.

[19] ICE Office of Human Capital.

2. Process for Declining Bonds

i. Costs

The proposed rule would establish for cause standards that ICE would use to decline new immigration bonds from a surety company. If the surety does not meet these standards, ICE would be authorized to notify the surety that it has fallen below the required performance levels and, if the surety fails to cure its deficient performance, ICE will stop accepting new bonds from the company. The anticipated costs of a surety's response to ICE's notification would derive from the due process requirements set by Treasury for all agencies that issue rules to decline new bonds from Treasury-certified sureties. The proposed rule would provide an opportunity for the surety to rebut the stated reasons for non-acceptance of new bonds and would provide an opportunity to cure the stated deficiencies. In addition to costs in responding to ICE's notifications, sureties may lose future revenue if ICE makes a final determination to decline new bonds underwritten by the surety.

The proposed rule would only apply prospectively. However, for purposes of this economic analysis, DHS uses a snapshot of sureties' past financial performance to estimate the possible impacts of the proposed rule on future performance. DHS examined the impacts to surety companies that actively posted bonds with ICE in FY 2015. In FY 2015, nine sureties posted immigration bonds with ICE and would have been subject to the requirements of this rule had it been in place. Of those nine sureties, three would have met at least one of the proposed for cause standards as of the end of FY 2015. Moreover, two of those three surety companies would have met two of the three for cause standards as of the end of FY 2015. These two sureties together had more than 1,500 invoices that were on average more than 1,000 days past due. In addition, they had a total outstanding balance of over $13.4 million, although DOJ has filed cases or is negotiating settlements on debts referred to it for litigation to resolve these past due balances. The third surety company would have exceeded one for cause standard with an aggregate of more than $50,000 past due. DHS proposes the for cause standards to deter deficient performance. DHS believes that less stringent standards would allow historical, deficient business practices to continue. DHS also believes that more stringent standards could result in unnecessarily sanctioning sureties when they are making good-faith efforts to comply with their obligations.

Currently, sureties have ample opportunities to evaluate and challenge breach determinations. When ICE issues a breach determination, sureties have 30 days to file an appeal with the AAO. If obligors do not appeal in a timely manner, or if the appeal is dismissed, then the breach determination becomes an administratively final agency action. When ICE issues a demand for payment on administratively final breach determinations, the surety is given 30 days to pay the invoice, during which time the surety may dispute the amount as well as the validity of the breach determination. The surety may also ask to review documents supporting the debt. If the surety disputes the debt, ICE will review and provide a written response to any issues raised by the surety. These opportunities are available each time a bond is breached and invoiced.

Under the proposed rule, if a surety has 10 or more invoices past due at one time, owes a cumulative total of $50,000 or more on past due invoices, or has a breach rate of 35 percent or greater in a fiscal year, ICE would be authorized to notify the surety that it has fallen below the required performance levels. The surety would have the opportunity to review ICE's written notice identifying the for cause reasons for declining new bonds, rebut the agency's reasons for non-acceptance of new bonds, and cure its performance deficiencies. Before any surety would receive a notification from ICE of its intention to decline any new bonds underwritten by the surety, the surety would have had ample opportunities to evaluate and rebut each administratively final breach determination. Furthermore, the for cause standards for declining new bonds would be triggered only when the surety has failed to pay amounts due on administratively final breach determinations or has an unacceptably high breach rate. If a surety fulfills its obligations and is not subject to these for cause standards, this proposed rule would impose no additional costs on that surety.

Surety companies may incur a new opportunity cost when responding to the agency's notification of its intention to decline any new bonds underwritten by the surety. DHS estimates that personnel at a surety company may spend three hours to complete a response to the ICE notification. DHS assumes that an insurance agent (or equivalent) of the surety company, an in-house attorney, or outside counsel is equally likely to respond to the notification. The opportunity cost estimate per response would be $381 ($127 × 3 hours).[20] DHS requests comment on all aspects of this analysis and the assumptions underlying the analysis.

Because a surety would have had ample opportunities to evaluate and challenge administratively final breach determinations, DHS anticipates that it will rarely need to send a notification of its intent to decline new bonds because sureties will use good faith efforts to avoid triggering the proposed for cause standards. However, for the purposes of this cost analysis, DHS assumes that it would send one to three notifications during a 10-year period.[21] To calculate the cost of responding to three notifications over 10 years (the likely maximum number of notifications), the likelihood of issuing a notification during any given year is multiplied by the opportunity cost per response. This equals about $114 (30 percent × $381). The cost of responding to one notification over 10 years (the likely minimum number of notifications) would be approximately $38 (10 percent × $381). Thus, the range of response costs per year would be $38 to $114, with a primary, or most likely, estimate of $76 (20 percent × $381).

Sureties that receive, after being afforded due process, a written determination that future bonds will be declined pursuant to the for cause standards set forth in this rule would also incur future losses from the inability to submit to ICE future bonds underwritten by the surety. Because DHS does not have access to information about the surety companies' profit margins per bond, DHS is unable to estimate any future loss in revenue to these companies. However, DHS notes that, although it would no longer accept immigration bonds underwritten by these sureties, the proposed rule would not prohibit these sureties from underwriting bonds for other agencies in the Federal Government.

ii. Benefits

This rule would address problems that ICE has had with certain surety

[20] $127 represents the rounded, average loaded wage rate of an insurance agent, an in-house attorney and outside counsel hired by the surety. $127 = ($44.31 + $96.06 + $240.14)/3.

[21] As discussed previously, one or more of the proposed for cause standards would have applied to three companies as of the end of FY 2015. DHS assumes that, at most, the for cause standards would be triggered for the same number of companies over the course of 10 years. DHS assumes that it is possible and somewhat likely that at a minimum, one company's failure to perform will trigger the proposed for cause standards over 10 year timeframe.

companies failing to pay amounts due on administratively final bond breach determinations or having unacceptably high breach rates. For example, certain companies have realized an undeserved windfall when they have refused to timely pay invoices, yet have foreclosed on collateral securing the bonds because the bonds have been breached. The proposed rule would provide greater incentive for surety companies to timely pay their administratively final bond breach determinations and help ensure that sureties comply with the requirements imposed by the terms of a bond. In turn, this would minimize the number of situations where the surety routinely fails to pay and reduce the number of times agency resources are expended in locating aliens when the alien is not surrendered in response to demands issued pursuant to bonds. In addition, the proposed rule would allow ICE to resolve or avoid certain disputes, thereby decreasing the debt referred to Treasury for further collection efforts or the cases referred to DOJ for litigation.

3. Regulatory Familiarization Costs

During the first year that this rule is in effect, sureties would need to learn about the new rule and its requirements. DHS assumes that each Treasury-certified surety company currently issuing immigration bonds would conduct a regulatory review. DHS assumes that this task is equally likely to be performed by either an in-house attorney or by a non-attorney at each surety company. DHS estimates that it would take eight hours for the regulatory review by either an in-house attorney or a non-attorney, such as an insurance agent (or equivalent), at each surety. No data were identified from which to estimate the amount of time required to review the regulation. DHS requests that commenters provide data if possible.

To calculate the familiarization costs, DHS multiplies its estimated review time of eight hours by the average hourly loaded wage rate of an attorney and an insurance agent, $70.19. DHS calculates that the familiarization cost per surety company is $562 (8 hours × $70.19). DHS calculates the total estimated regulatory familiarization cost for all sureties currently issuing immigration bonds as $5,054 ($70.19 × 8 hours × 9 sureties).

4. Alternatives

OMB Circular A–4 directs agencies to consider regulatory alternatives to the provisions of the proposed rule.[22] This section addresses two alternative regulatory approaches and the rationales for rejecting these alternatives in favor of the proposed rule.

The first alternative would be to include different for cause standards for surety companies that fall in different ranges of underwriting limitations.[23] For example, surety companies with higher underwriting limitations could be held to more stringent for cause standards than companies with lower underwriting limitations. The difference of underwriting limitations is great for some Treasury-certified sureties: the lowest underwriting limitation of all of the Treasury-certified sureties is $251,000 per bond and the highest is $9.7 billion per bond. This distinction might be supported by the assumptions that companies with higher underwriting limitations would issue more bonds and possibly bonds of higher values and thus their actions should be monitored more closely, and larger companies have greater resources to ensure compliance with the for cause standards.

This alternative was rejected because the amount of a non-performing surety company's underwriting limitation should have no bearing on whether DHS can stop accepting bonds from that surety company. The underwriting limitation is an indication of the surety company's financial resources. A surety company can comply with its immigration bond responsibilities regardless of its underwriting limitation. In addition, because the average amount of a surety bond is about $10,200,[24] and the lowest underwriting limitation per bond set by Treasury greatly exceeds this average bond amount, it would serve no purpose to make a distinction among surety companies based on their underwriting limitations. Thus, the agency rejected this alternative.

The second regulatory alternative DHS considered would be to apply the requirements of the proposed rule to cash bond obligors as well as to surety companies to further the goal of treating all bond obligors similarly. DHS has rejected this alternative for several reasons. First, by definition, cash bond obligors cannot be delinquent in paying invoices on administratively final breach determinations. Cash bond obligors deposit with ICE the full face amount of the bond before the bond is issued. Thus, when a bond is breached, no invoice is issued because the Federal Government already has the funds on deposit. Second, because cash bond obligors generally will post only one immigration bond, the same concerns about repeated violations of applicable standards do not apply to them. The majority of cash bond obligors are not institutions, but friends or family members of the alien who has been detained. From FY 2011—FY 2015, at least 65 percent of cash bonds were posted by an obligor who only posted one bond.[25] Finally, the volume of disputes regarding surety bonds, as opposed to cash bonds, necessitates administrative and issue exhaustion requirements for claims based on surety bonds. The number of claims in federal court involving breached surety bonds in litigation has far exceeded the number of claims involving breached cash bonds. One surety bond case alone presented more than 1,400 breached bond claims for adjudication.[26] In contrast, the number of cash bond cases litigated in federal courts has averaged less than two per year for the past five years.[27]

DHS requests public comment on the alternatives considered, as well as any additional alternatives that DHS does not include here but should consider in the future.

5. Conclusion

The proposed rule would require Treasury-certified sureties or their bonding agents seeking to overturn a breach determination to file an administrative appeal raising all legal and factual defenses in this appeal, and would allow ICE to decline new bonds from surety companies that fail to meet for cause standards. DHS has provided an estimate of the transactional costs, the opportunity costs, and the familiarization costs associated with this proposed rule, as well as the proposed rule's benefits. DHS requests public comment on all aspects of its

[22] OMB Circular A–4, *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

[23] The underwriting limitations set forth in the Treasury's Listing of Certified Companies are on a per bond basis. Department of the Treasury's Listing of Certified Companies Notes, (b) (updated July 1, 2017), *https://www.fiscal.treasury.gov/fsreports/ref/suretybnd/notes.htm.*

[24] Immigration Bond Statistics maintained by ICE's Financial Service Center Burlington.

[25] ICE's Financial Service Center Burlington.

[26] *AAA Bonding Agency Inc.,* v. *DHS,* 447 F. App'x 603, 606 (5th Cir. 2011).

[27] ICE's Financial Service Center Burlington.

analysis, including assumptions and alternatives considered. Table 1 summarizes the costs and benefits of the proposed rule.

TABLE 1—SUMMARY OF COSTS AND BENEFITS OF THE PROPOSED RULE

[2015$]

Category	Discount rate (%)	Minimum estimate ($)	Primary estimate ($)	Maximum estimate ($)
Annualized Monetized Costs:				
Exhaustion of administrative remedies	7	140,790	148,200	196,650
	3	140,790	148,200	196,650
For Cause Standards	7	38	76	114
	3	38	76	114
Familiarization *	7	673	673	673
	3	575	575	575
Government Costs to prepare record of proceedings	7	8,664	8,664	8,664
	3	8,664	8,664	8,664
Total Annualized Cost	7	150,165	157,613	206,101
	3	150,067	157,515	206,004
Total 10-Year Undiscounted Cost		1,499,975	1,574,456	2,059,337
Total 10-Year Discounted Cost	7	1,054,693	1,107,005	1,447,566
	3	1,280,104	1,343,638	1,757,252
Unquantified Costs	• Surety companies may lose revenue if ICE declines new immigration bonds.			
Unquantifiable Benefits	• The proposed rule would assist DOJ's efforts in preparing cases for litigation and eliminate the need for remand decisions. • The proposed rule would decrease the debt referred to Treasury for further collection efforts, and streamline the litigation of any breached bond claims referred to DOJ. • The proposed rule would increase compliance with a surety company's duty to surrender aliens and reduce the number of times agency resources are expended in locating aliens when the alien is not surrendered.			
Net Benefits		NA	NA	NA

* Familiarization cost is the cost to businesses to familiarize themselves with the proposed rule. It is a one-time cost expected to be incurred within the first year of the rule's effective date. The cost is estimated to be $562 per surety company.

B. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) at 5 U.S.C. 603 requires agencies to consider the economic impact its rules will have on small entities. In accordance with the RFA, DHS has prepared an Initial Regulatory Flexibility Analysis (IRFA) that examines the impacts of the proposed rule on small entities (5 U.S.C 601 *et seq.*). 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 fewer than 50,000.

DHS requests information and data from the public that would assist with better understanding the impact of this proposed rule on small entities. DHS also seeks alternatives that will accomplish the objectives of this rulemaking and minimize the proposed rule's economic impact on small entities.

1. A Description of the Reasons Why the Action by the Agency is Being Considered

DHS proposes procedural and substantive standards under which it may decline new immigration bonds from a Treasury-certified surety and an exhaustion of administrative remedies requirement. If finalized, this rule would facilitate the resolution of disputes between ICE and sureties that arise after the effective date of any final rule.

The proposed rule would promote judicial and administrative efficiency by allowing Federal courts to review the AAO's written evaluation of the validity of a breach determination under the APA without first remanding breach decisions to DHS to prepare written decisions based on defenses raised for the first time in federal court. In addition, the discovery process would be unnecessary in cases solely involving the review of a written AAO decision on a defined administrative record.

By establishing the for cause standards, surety companies would have a greater incentive to surrender aliens in response to demand notices, thereby reducing agency resources expended in locating aliens. They also would have a greater incentive to either pay amounts due on invoices for breached bonds or appeal the breach determination, thereby reducing the number of delinquent debts referred to Treasury for further collection efforts and claims referred to DOJ for litigation.

2. A Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

DHS's objective in requiring exhaustion of administrative remedies and issue exhaustion for disputed surety bond breaches is to allow the agency to correct any mistakes it may have made before claims are filed in federal court, and to allow for more efficient judicial review of breach determinations under the APA. Currently, sureties are not

required to file administrative appeals, and one case involving breached bond claims took over 10 years to litigate and another took over seven years. The legal bases for requiring exhaustion of administrative remedies and issue exhaustion are well-established. *See Darby* v. *Cisneros,* 509 U.S. 137, 154 (1993); *Sims* v. *Apfel,* 530 U.S. 103, 107–108 (2000).

DHS's objective in adopting the for cause standards for declining bonds is to provide an incentive for sureties to comply with their obligations to surrender aliens in response to demand notices and to timely pay the amounts due on invoices for breached bonds or appeal the breach determinations.

3. A Description—and, Where Feasible, an Estimate of the Number—of Small Entities To Which the Proposed Rule Will Apply

For FY 2015 nine of the 273 Treasury-certified sureties [28] would have been subject to the requirements of this proposed rule had it been in place because these nine sureties are the only ones that posted new immigration bonds with ICE during FY 2015. However, any of the Treasury-certified sureties could potentially post new immigration bonds with ICE and would then be subject to the requirements of this proposed rule. Most surety companies are subsidiaries or divisions of insurance companies,[29] where bail bonds are a small part of their portfolios. Other lines of surety bonds include contract, commercial, customs, construction, notary, and fidelity bonds.[30]

DHS used multiple data sources such as Hoover's and ReferenceUSA [31] to determine that four of these sureties are small entities as that term is defined in 5 U.S.C. 601(6). This determination is based on the number of employees or revenue being less than their respective Small Business Administration (SBA) size standard.[32] These four sureties issued approximately 85 percent of the total number of surety bonds to ICE in FY 2015. The following table provides the industry descriptions of the small entities that would be impacted by the proposed rule.

None of the nine entities that posted bonds with ICE in FY2015 were small governmental organizations or small organizations not dominant in their field.

TABLE 2—SMALL ENTITIES TO WHICH THE PROPOSED RULE WOULD APPLY

NAICS Code	NAICS Description	Count of entities impacted by proposed rule	SBA size standard (in sales receipts or number of employees)
523930	Investment Advice	1	$38,500,000.
524126	Direct Property and Casualty Insurance Carriers	3	1,500 employees.
Total		4	

4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Types of Professional Skills Necessary for Preparation of the Report or Record

The proposed rule would require that a surety company, or its bonding agent, that receives a breach determination notification must seek administrative review of that breach determination by filing an appeal with the AAO before seeking judicial review. The proposed rule would also require a surety company to respond to any notification that it violated a for cause standard. Other than responding to such a notification, the proposed rule would impose no recordkeeping or reporting requirement.

Estimated Cost and Impact as a Percentage of Revenue

To estimate the impact on small entities, DHS has calculated the cost of this proposed rule as a percentage of the revenue of those entities. During the first year that this rule would be in effect, sureties of all sizes would need to learn about the new rule and its requirements. DHS assumes that this task would be equally likely to be performed by either an attorney or by a non-attorney in the immigration bond business. DHS uses the average compensation of an attorney and an insurance agent (the closest approximation to the cost of a non-attorney in the immigration bond business), $70.19,[33] to estimate the familiarization cost. DHS estimates that it will take eight hours for the regulatory review. No data were identified from which to estimate the amount of time required to review the regulation. DHS requests that commenters provide data if possible.

To calculate the familiarization costs, DHS multiplies its estimated review time of eight hours by the average of an attorney and an insurance agent's hourly loaded wage rate, $70.19. DHS calculates that the familiarization cost per surety is $562 (8 hours × $70.19).

Another cost that sureties may incur is the fee for filing an appeal with the AAO. One possibility that DHS cannot account for in its analysis is that a surety company's agent may pay the filing fee instead of the surety company. DHS has no information about the contractual arrangements between a surety company and its agent, but either party can file an appeal with the AAO and pay the required fee. For purposes of its analysis, DHS assumes that the surety company pays for all the appeals filed. DHS requests comment on this assumption.

[28] The list of Treasury-certified sureties can be found here: *https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/CertifiedCompanies.pdf.* There are 266 sureties as of July 1, 2017.

[29] National Association of Surety Bond Producers and Surety and Fidelity Association of America, ''Frequently-Asked Questions,'' 2016, *http://suretyinfo.org/?page_id=84#surety.*

[30] International Credit Insurance & Surety Association, ''What kind of surety bonds does a surety insurance company issue?'', 2016, *http://www.icisa.org/surety/1548/mercury.asp?page_id=1899.*

[31] These databases offer information of location, number of employees, and estimated sales revenue for millions of U.S. businesses. The Hoover's website is *www.hoovers.com.* The Reference USA website is *http://www.referenceusa.com.* ICE collected data from these sources in April 2016.

[32] U.S. Small Business Administration, Table of Small Business Size Standards Matched to North American Industry Classification System (NAICS) Codes, February 26, 2016. *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

[33] Bureau of Labor Statistics, *supra* notes 12 and 13. The average of the described wages is $70.19 = ($96.06 + $44.31)/2.

As discussed previously, sureties that chooses to appeal complete Form I–290B, Notice of Appeal, and submit the form with a $675 filing fee and a brief written statement setting forth the reasons and evidence supporting the appeal. From FY 2013 through FY 2015, 466 bonds were breached on average annually. Of these 466 breached bonds, only 23 bond breaches for all types of bonds (cash bonds and surety bonds) were appealed each year on average. DHS believes that the proposed exhaustion of administrative remedies requirement would likely increase the number of appeals filed by sureties because otherwise they would waive their right to judicial review.

To estimate the number of appeals under this proposed rule, DHS assumes that invoices that were paid promptly can serve as a proxy for breaches that are not subject to disputes and are thus not likely to be appealed. In FY 2013, ICE issued invoices for 401 breached surety bonds. Sixty-five percent of the invoices (259 invoices) were timely paid. Because these bond breach determinations were not disputed and the invoices were paid timely, DHS presumes that it is unlikely that surety companies would file appeals with the AAO to contest these breaches. The remaining 35 percent of the FY 2013 surety bond invoices (142 invoices) that were not timely paid could be considered ''disputed'' and potential candidates for AAO appeals if the proposed exhaustion of administrative remedies requirement were in effect. In FY 2014, 119 out of 382 or 31 percent of invoices were not timely paid. In FY 2015, 313 out of 616 invoices or 51 percent of invoices were not timely paid. Based upon this information, DHS estimates that approximately 41 percent of the surety bond breaches from FY 2013—FY 2015 might have been appealed if an exhaustion requirement had been in place. DHS calculates that the total expected number of AAO appeals for surety bonds that might be filed each year is approximately 190.

For the purposes of this analysis, DHS assumes that the 190 appeals are divided among the sureties at the same ratio at which the sureties posted bonds in FY 2015. DHS multiplies the percent of bonds posted in FY 2015 that may be appealed, or 4.8 percent, by the number of bonds posted in FY 2015 for each of four small business sureties to estimate the annual number of breached bonds that the companies might appeal. Applying this methodology to the number of bonds posted by the four small businesses during FY 2015, DHS estimates that each of the four sureties would file between 29 and 68 appeals.

Sureties that appeal will incur an opportunity cost for time spent filing an appeal with the AAO. USCIS has estimated that the average burden for filing Form I–290B is 90 minutes.[34] The person preparing the appeal could either be an attorney or a non-attorney in the immigration bond business. The closest approximation to the cost of a non-attorney in the immigration bond business is an insurance agent. For purposes of this analysis, DHS uses as its primary estimate the average of the hourly loaded wage rate of an in-house attorney and insurance agent, $70.19, to reflect that an in-house attorney or an insurance agent (or equivalent) is equally likely to prepare the appeal. Thus, an approximation of the cost to prepare the appeal would be $105 per appeal ($70.19 × 1.5 hours). The total cost per appeal is $780 for fees and opportunity costs ($105 opportunity cost + $675 fee).

DHS multiplies the total cost per appeal ($780) by the estimated annual number of breached bonds that a surety company might appeal to determine the annual cost per surety for additional appeals filed because of the exhaustion requirement. DHS adds the familiarization costs per surety to the first year of costs incurred by the surety. For the four small businesses analyzed, the company with the lowest first year costs would incur costs of $23,182 ($780 cost per appeal × 29 appeals + $562 familiarization cost) and the company with the highest first year costs would incur costs of $53,602 ($780 cost per appeal × 68 appeals + $562 familiarization cost).

The four surety companies that are small entities would not have to change any of their current business practices if they do not violate any of the for cause standards set forth in the proposed rule. If one of the entities were to receive notification from ICE that it violated a for cause standard, the entity would then have the opportunity to submit a written response either explaining why the company is not in violation or how the company intends to cure any deficiency. These due process protections benefit the small entity and would entail no additional recordkeeping or reporting other than preparing a response to ICE's notification. Surety companies would, however, incur a new opportunity cost when responding to ICE's notification of its intent to decline new bonds underwritten by the surety. DHS estimates that personnel at a surety company may spend three hours to complete a response to ICE's notification. The opportunity cost estimate per response would be $381 ($127[35] × 3 hours). Because a surety would have had ample opportunities to evaluate and challenge administratively final breach determinations, DHS anticipates that it will rarely need to send a notification of its intent to decline new bonds. However, for the purposes of this opportunity cost estimate, DHS assumes that it may send about two notifications during a 10-year period to the small sureties. To calculate the cost of responding to two notifications over 10 years, the likelihood of issuing a notification during any given year is multiplied by the opportunity cost per response. This equals about $76 (20 percent × $381).

DHS estimates the proposed rule's annual impact to each small surety company by calculating its total costs as a percentage of its annual revenue. The costs are the cost of filing appeals for each small surety company, the opportunity cost to respond to a notification that ICE intends to decline future bonds posted by the company, plus the familiarization costs.

The annual revenue for these four sureties, according to the 2015 sales revenue reported by Hoover's, ranges from approximately $3 million to $26 million. The annual impact of the proposed rule is estimated to be less than two percent of each company's annual revenue. The following tables summarize the quantified impacts of the proposed rule on the four small surety companies for the first year which includes the one-time familiarization costs and for the subsequent years, not including the familiarization costs.

TABLE 3—QUANTIFIED FIRST YEAR IMPACT TO SMALL ENTITIES FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RESPONDING TO A NOTIFICATION OF ICE'S INTENT TO DECLINE NEW BONDS, INCLUDING REGULATORY FAMILIARIZATION COSTS

Revenue impact range	Number of small entities	Percent of small entities
0% < Impact ≤ 1%	3	75
1% < Impact ≤ 2%	1	25

[34] Form I–290B, 2013 Information Collection Request Supporting Statement, Question 12, *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201309-1615-002.*

[35] $127 represents the rounded, average loaded wage rate of an insurance agent, an in-house attorney and an outside counsel hired by the surety. $111 = ($44.31 + $96.06 + $240.14)/3.

TABLE 3—QUANTIFIED FIRST YEAR IMPACT TO SMALL ENTITIES FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RESPONDING TO A NOTIFICATION OF ICE'S INTENT TO DECLINE NEW BONDS, INCLUDING REGULATORY FAMILIARIZATION COSTS—Continued

Revenue impact range	Number of small entities	Percent of small entities
Total	4	100

TABLE 4—QUANTIFIED ANNUAL IMPACT TO SMALL ENTITIES FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RESPONDING TO A NOTIFICATION OF ICE'S INTENT TO DECLINE NEW BONDS

Revenue impact range	Number of small entities	Percent of small entities
0% < Impact ≤ 1%	3	75
1% < Impact ≤ 2%	1	25
Total	4	100

The above estimated impacts reflect the quantified direct costs to comply with the rule. Surety companies may be impacted in other ways that DHS is unable to quantify. This rule may result in some surety companies changing behavior to pay breached bonds when they otherwise may not have, thereby impacting revenue. For surety companies that fail to fulfill their obligations and cure deficiencies in their performance, this rule may result in business losses when ICE declines to accept new bonds submitted by the surety. DHS is not able to predict which surety companies may choose non-compliance and is not able to factor in the loss of surety companies' revenue.

5. An Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

DHS is unaware of any Federal rules applying to sureties that may duplicate, overlap, or conflict with the proposed rule.

6. A Description of Any Significant Alternatives to the Proposed Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

DHS examined two regulatory alternatives that could potentially reduce the burden of this proposed rule on small entities. The alternatives to the proposed rule were: (1) Different for cause standards for surety companies with different underwriting limitations; and (2) application of the proposed rule to cash bond obligors as well as surety bond obligors. The first alternative would include different for cause standards for surety companies that fall in different ranges of underwriting limitations.[36] For example, surety companies with higher underwriting limitations could be held to more stringent for cause standards than companies with lower underwriting limitations. The difference of underwriting limitations is great for some Treasury-certified sureties: The lowest underwriting limitation of the Treasury-certified sureties is $251,000 per bond and the highest is $9.7 billion per bond. This distinction might be supported by the assumptions that companies with higher underwriting limitations are larger companies that might issue more bonds and possibly bonds of higher values, and smaller companies might have fewer resources to ensure compliance with the for cause standards. Based on these differences, an argument could be made that larger companies' actions should be monitored more closely than smaller companies' actions.

This alternative was rejected because the amount of a non-performing surety company's underwriting limitation should have no bearing on whether DHS can stop accepting bonds from that surety company. The underwriting limitation is an indication of the surety company's financial resources. A surety company can comply with its immigration bond responsibilities regardless of its underwriting limitation. In addition, because the average amount of a surety bond is about $10,200,[37] and the lowest underwriting limitation per bond set by Treasury greatly exceeds this average bond amount, it would serve no purpose to make a distinction among surety companies based on their underwriting limitations. Thus, the agency rejected this alternative.

DHS rejected the second alternative because many of the for cause standards would not be applicable to cash bond obligors. For cash bond obligors, the Federal government already has collected the face value of the bond as collateral and thus does not need to issue invoices to collect amounts due on breached bonds. The majority of cash bond obligors are not in the business of issuing bonds for profit and thus do not raise concerns about manipulating the bond management process for institutional gain. DHS, however, requests comment on all aspects of this analysis, including any alternatives that would minimize the impact to small entities.

C. 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 year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

D. Small Business Regulatory Enforcement Fairness Act of 1996

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult ICE using the contact information provided in the **FOR FURTHER INFORMATION** section above.

E. Collection of Information

Agencies are required to submit to OMB for review and approval any reporting or recordkeeping requirements inherent in a rule under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995), 44 U.S.C. 3501–3520. This proposed rule would not require a collection of information.

As protection provided by the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

[36] Department of the Treasury's Listing of Certified Companies, *https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm.*

[37] Immigration Bond Statistics maintained by ICE's Financial Service Center Burlington.

displays a currently valid OMB control number.

F. Federalism

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 does not have implications for federalism.

G. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

H. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. Environment

DHS Management Directive (MD) 023–01, Rev. 01 establishes procedures that DHS and its Components use to comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375, and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500–1508. CEQ regulations allow federal agencies to establish categories of actions, which do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1508.4. MD 023–01 lists the Categorical Exclusions for categories of actions that DHS has found to have no such effect. MD 023–01, app. A, tbl. 1.

For an action to be categorically excluded, MD 023–01 requires the action to satisfy each of the following three conditions:

(1) The entire action clearly fits within one or more of the Categorical Exclusions;

(2) The action is not a piece of a larger action; and

(3) No extraordinary circumstances exist that create the potential for a significant environmental effect. MD 023–01, app. A, § V.B(2). Where it may be unclear whether the action meets these conditions, MD 023–01 requires the administrative record to reflect consideration of these conditions. MD 023–01, app. A, § V.B.

The proposed rule would require Treasury-certified sureties seeking to overturn a breach determination to file an administrative appeal raising all legal and factual defenses in this appeal. The proposed rule would also allow ICE to decline additional immigration bonds from Treasury-certified surety companies for cause after certain procedures have been followed. The procedures would require ICE to provide written notice before declining additional bonds to allow sureties the opportunity to challenge ICE's proposed action and to cure any deficiencies in their performance.

DHS has analyzed this proposed rule under MD 023–01. DHS has made a preliminary determination that this action is one of a category of actions, which do not individually or cumulatively have a significant effect on the human environment. This proposed rule clearly fits within the Categorical Exclusion found in MD 023–01, Appendix A, Table 1, number A3(d): ''Promulgation of rules . . . that interpret or amend an existing regulation without changing its environmental effect.'' This proposed rule is not part of a larger action. This proposed rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this proposed rule is categorically excluded from further NEPA review.

DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this proposed rule.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Surety bonds.

The Proposed Amendments

Accordingly, by the authority vested in me as the Acting Deputy Secretary of Homeland Security, and for the reasons set forth in the preamble, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

Subchapter B—Immigration Regulations

PART 103—IMMIGRATION BENEFITS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2; Pub. L. 112–54; 31 CFR part 223.

■ 2. Section 103.6 is amended by revising the section heading and paragraph (b), and adding paragraph (f) to read as follows:

§ 103.6 Immigration bonds.

* * * * *

(b) *Acceptable sureties.* (1) Immigration bonds may be posted by a company holding a certificate from the Secretary of the Treasury under 31 U.S.C. 9304–9308 as an acceptable surety on Federal bonds (a Treasury-certified surety). They may also be posted by an entity or individual who deposits cash or cash equivalents, such as postal money orders, certified checks, or cashier's checks, in the face amount of the bond.

(2) In its discretion, ICE may decline to accept an immigration bond underwritten by a Treasury-certified surety when—

(i) Ten or more invoices issued to the surety on administratively final breach determinations are past due at the same time;

(ii) The surety owes a cumulative total of $50,000 or more on past due invoices issued to the surety on administratively final breach determinations, including interest and other fees assessed by law on delinquent debt; or

(iii) The surety has a breach rate of 35 percent or greater in any Federal fiscal year after [DATE 30 DAYS AFTER PUBLICATION OF FINAL RULE]. The surety's breach rate will be calculated in the month of January following each Federal fiscal year after the effective date of this rule by dividing the sum of administratively final breach determinations for that surety during the fiscal year by the total of such sum and bond cancellations for that surety during that same year. For example, if 50 bonds posted by a surety company were declared breached from October 1 to September 30, and 50 bonds posted by that same surety were cancelled during the same fiscal year (for a total of 100 bond dispositions), that surety would have a breach rate of 50 percent for that fiscal year.

(3) Definitions: For purposes of paragraphs (b)(2)(i) and (ii) of this section—

(i) A breach determination is administratively final when the time to file an appeal with the Administrative Appeals Office (AAO) has expired or when the appeal is dismissed or rejected.

(ii) An invoice is past due if it is delinquent, meaning either that it has not been paid or disputed in writing within 30 days of issuance of the invoice; or, if it is a debt upon which the surety has submitted a written dispute within 30 days of issuance of the invoice, ICE has issued a written explanation to the surety of the agency's determination that the debt is valid, and the debt has not been paid within 30 days of issuance of such written explanation that the debt is valid.

(4) When one or more of the for cause standards provided in paragraph (b)(2) of this section applies to a Treasury-certified surety, ICE may, in its discretion, initiate the process to notify the surety that it will decline future bonds. To initiate this process, ICE will issue written notice to the surety stating ICE's intention to decline bonds underwritten by the surety and the reasons for the proposed non-acceptance of the bonds. This notice will inform the surety of its opportunity to rebut the stated reasons set forth in the notice, and its opportunity to cure the stated reasons, *i.e.,* deficient performance.

(5) The Treasury-certified surety must send any response to ICE's notice in writing to the office that sent the notice. The surety's response must be received by the designated office on or before the 30th calendar day following the date the notice was issued. If the surety or agent fails to submit a timely response, the surety will have waived the right to respond, and ICE will decline any future bonds submitted for approval that are underwritten by the surety.

(6) After considering any timely response submitted by the Treasury-certified surety to the written notice issued by ICE, ICE will issue a written determination stating whether future bonds issued by the surety will be accepted or declined. This written determination constitutes final agency action. If the written determination concludes that future bonds will be declined from the surety, ICE will decline any future bonds submitted for approval that are underwritten by the surety.

* * * * *

(f) *Appeals of breached bonds issued by Treasury-certified sureties.* (1) Consistent with section 10(c) of the Administrative Procedure Act, 5 U.S.C. 704, the AAO's decision on appeal of a breach determination constitutes final agency action. The initial breach determination remains inoperative during the administrative appeal period and while an administrative appeal is pending. Dismissal of an appeal is effective upon the date of the AAO decision. Only the granting of a motion to reopen or reconsider makes the decision no longer final.

(2) The failure by a Treasury-certified surety or its bonding agent to exhaust administrative appellate review before the AAO, or the lapse of time to file an appeal to the AAO without filing an appeal to the AAO, constitutes waiver and forfeiture of all claims, defenses, and arguments involving the bond breach determination. A Treasury-certified surety's or its agent's failure to move to reconsider or to reopen a breach decision does not constitute failure to exhaust administrative remedies.

(3) A Treasury-certified surety or its bonding agent must raise all issues and present all facts relied upon in the appeal to the AAO. A Treasury-certified surety's or its agent's failure to timely raise any claim, defense, or argument before the AAO in support of reversal or remand of a breach decision waives and forfeits that claim, defense, or argument.

(4) If a Treasury-certified surety or its bonding agent does not timely file an appeal with the AAO upon receipt of a breach notice, a claim in favor of ICE is created on the bond breach determination, and ICE may seek to collect the amount due on the breached bond.

Claire M. Grady,

Acting Deputy Secretary.

[FR Doc. 2018–11940 Filed 6–4–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0322; Airspace Docket No. 18–AEA–12]

RIN 2120–AA66

Proposed Amendment of Class D Airspace and Class E Airspace; Williamsport, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, Class E surface airspace, Class E airspace designated as an extension to a Class D surface area, and Class E airspace area extending upward from 700 feet or more above the surface at Williamsport Regional Airport (formerly Williamsport-Lycoming County Airport), Williamsport, PA. Airspace reconfiguration is necessary due to the decommissioning of Picture Rocks non-directional radio beacon (NDB), and cancellation of the NDB approaches. This action also removes the Notice to Airmen (NOTAM) part-time language from the legal description of the Class E airspace area designated as an extension at this airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport. This action also would recognize the airport's name change and update the geographic coordinates of the airport and Williamsport Hospital, and would replace the outdated term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace.

DATES: Comments must be received on or before July 20, 2018.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2018–0322; Airspace Docket No. 18–AEA–12, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Av, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2018–0322 and Airspace Docket No. 18–AEA–12) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number.) You may also submit comments through the internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2018–0322; Airspace Docket No. 18–AEA–12.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 by:

Amending Class D airspace and Class E surface area airspace at Williamsport, PA, by recognizing the airport name change from Williamsport-Lycoming County Airport to Williamsport Regional Airport, and adjusting the geographic coordinates of the airport to be in concert with the FAA's aeronautical database. Also, this action would make an editorial change to the legal descriptions of the airspace areas above replacing ''Airport/Facility Directory'' with ''Chart Supplement'';

Amending Class E airspace extending upward from the surface at Williamsport Regional Airport by removing the NOTAM part-time language from the legal description, and adjusting the geographic coordinates and noting the airport name change;

Amending Class E airspace extending upward from 700 feet or more above the surface at Williamsport Regional Airport to within a 12.6-mile radius of the airport, due to the decommissioning of the Picture Rocks NDB, and cancellation of the NDB approach. Also, the geographic coordinates of the airport (as well as the airport name change) and the Williamsport Hospital point in space coordinates would be adjusted to be in concert with the FAA's aeronautical database.

Class D and Class E airspace designations are published in Paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000. Class D Airspace.

* * * * *

AEA PA D Williamsport, PA [Amended]

Williamsport Regional Airport, PA
(Lat. 41°14′30″ N, long. 76°55′19″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.2-mile radius of Williamsport Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002. Class E Surface Area Airspace.

* * * * *

AEA PA E2 Williamsport, PA [Amended]

Williamsport Regional Airport, PA
(Lat. 41°14′30″ N, long. 76°55′19″ W)

That airspace extending upward from the surface within a 4.2-mile radius of Williamsport Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004. Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA PA E4 Williamsport, PA [Amended]

Williamsport Regional Airport, PA
(Lat. 41°14′30″ N, long. 76°55′19″ W)

That airspace extending upward from the surface from the 4.2-mile radius of Williamsport Regional Airport to a 7-mile radius of the airport extending clockwise from the 270° bearing to the 312° bearing from the airport and within an 11.3-mile radius of the airport, extending clockwise from the 312° bearing to the 350° bearing from the airport and within an 11.3-mile radius of the airport extending clockwise from the 004° bearing to the 099° bearing from the airport and within 3.5 miles south of the airport east localizer course extending from the 4.2-mile radius of the airport east to the 099° bearing from the airport.

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

* * * * *

AEA PA E5 Williamsport, PA [Amended]

Williamsport Regional Airport, PA
(Lat. 41°14′30″ N, long. 76°55′19″ W)
Williamsport Hospital, Point In Space Coordinates
(Lat. 41°14′51″ N, long. 77°00′55″ W)

That airspace extending upward from 700 feet above the surface within a 12.6-mile radius of Williamsport Regional Airport, and that airspace within a 6-mile radius of the point in space (Lat. 41°14′51″ N, long. 77°00′55″ W) serving Williamsport Hospital.

Issued in College Park, Georgia, on May 24, 2018.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–11862 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0236; Airspace Docket No. 18–AGL–8]

RIN 2120–AA66

Proposed Amendment of Class D and E Airspace; Eau Claire, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, Class E airspace designated as a surface area, and Class E airspace extending upward from 700 feet above the surface at Chippewa Valley Regional Airport, Eau Claire, WI. The FAA is proposing this action as a result of an airspace review caused by the decommissioning of the Eau Claire nondirectional radio beacon (NDB)/outer compass locator (LOM). The name and geographic coordinates of the Chippewa Valley Regional Airport and the name of the May Clinic Health System-Eau Claire Heliport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before July 20, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0236; Airspace Docket No. 18–AGL–8, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

and Class E airspace extending upward from 700 feet above the surface at Chippewa Valley Regional Airport, Eau Claire, WI, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0236; Airspace Docket No. 18–AGL–8.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 by:

Amending the Class D airspace at Chippewa Valley Regional Airport, Eau Claire, WI, by adding an extension 1.0 mile each side of the 215° bearing from the airport from the 4.3-mile radius to 4.5 miles south of the airport; adding an extension 1.0 mile each side of the 224° bearing from the Chippewa Valley RGNL: RWY 22 LOC from the 4.3-mile radius to 4.5 miles south of the airport; removing the name of the city associated with the airport in the airspace legal description to comply with a change to FAA Order 7400.2L, Procedures for Handling Airspace Matters; and amending the part-time language from ''The effective date and time will thereafter be continuously published in advance by Notice to Airmen.'' to ''The effective date and time will thereafter be continuously published in the Chart Supplement.'' in compliance with FAA Order 7400.2L;

Amending the Class E airspace designated as a surface area to within a 4.3-mile radius (reduced from a 4.4-mile radius) of the Chippewa Valley Regional Airport (formerly Eau Claire County Airport); removing the Eau Claire County Airport Localizer and the associated extension from the airspace legal description; adding an extension 1.0 mile each side of the 215° bearing from the airport from the 4.3-mile radius to 4.5 miles south of the airport; adding an extension 1.0 mile each side of the 224° bearing from the Chippewa Valley RGNL: RWY 22 LOC from the 4.3-mile radius to 4.5 miles south of the airport; adding part-time language to the airspace legal description; and updating the name and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and

Amending the Class E airspace extending upward from 700 feet above the surface to within a 6.8-mile radius (increased from a 6.7-mile radius) at Chippewa Valley Regional Airport; removing the extension to the southwest of the airport associated with the localizer; amending the extension north of the airport to within 4.0 miles (increased from 3.1 miles) each side of the Eau Claire VORTAC 004° radial from the 6.8-mile radius to 7.0 miles north of the airport;, and updating the geographic coordinates of Chippewa Valley Regional Airport and the name of Mayo Clinic Health System-Eau Claire Heliport (formerly Luther Hospital) to coincide with the FAA's aeronautical database.

This action is necessary due to an airspace review caused by the decommissioning of the Eau Claire NDB/LOM.

Class D and E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000. Class D Airspace.

* * * * *

AGL WI D Eau Claire, WI [Amended]

Chippewa Valley Regional Airport, WI
(Lat. 44°51′57″ N, long. 91°29′03″ W)
Chippewa Valley RGNL: RWY 22 LOC
(Lat. 44°51′31″ N, long. 91°29′37″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.3-mile radius of Chippewa Valley Regional Airport, and within 1.0 mile each side of the 215° bearing from the airport from the 4.3-mile radius to 4.5 miles south of the airport, and within 1.0 mile each side of the 224° bearing from the Chippewa Valley RGNL: RWY 22 LOC from the 4.3-mile radius to 4.5 miles south of the airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002. Class E Airspace Areas Designated as Surface Areas.

* * * * *

AGL WI E2 Eau Claire, WI [Amended]

Chippewa Valley Regional Airport, WI
(Lat. 44°51′57″ N, long. 91°29′03″ W)
Chippewa Valley RGNL: RWY 22 LOC
(Lat. 44°51′31″ N, long. 91°29′37″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.3-mile radius of the Chippewa Valley Regional Airport, and within 1.0 mile each side of the 215° bearing from the airport from the 4.3-mile radius to 4.5 miles south of the airport, and within 1.0 mile each side of the 224° bearing from the Chippewa Valley RGNL: RWY 22 LOC from the 4.3-mile radius to 4.5 miles south of the airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AGL WI E5 Eau Claire, WI [Amended]

Chippewa Valley Regional Airport, WI
(Lat. 44°51′57″ N, long. 091°29′03″ W)
Eau Claire VORTAC
(Lat. 44°53′52″ N, long. 091°28′43″ W)
Mayo Clinic Health System-Eau Claire Heliport, WI, Point In Space Coordinates
(Lat. 44°48′24″ N, long. 091°31′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Chippewa Valley Regional Airport, and within 4.0 miles each side of the Eau Claire VORTAC 004° radial extending from the 6.8-mile radius to 7.0 miles north of the airport, and within a 6.0-mile radius of the point in space serving the Mayo Clinic Health System-Eau Claire Heliport.

Issued in Fort Worth, Texas, on May 24, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–11852 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0138; Airspace Docket No. 18–ASW–5]

RIN 2120–AA66

Proposed Amendment of Class D and E Airspace; Austin, TX; and Establishment of Class E Airspace; Georgetown, TX, and Austin, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace at San Marcos Regional Airport, Austin, TX; establish Class E airspace designated as a surface area at Georgetown Municipal Airport, Georgetown, TX, and San Marcos Regional Airport; and amend Class E airspace extending upward from 700 feet above the surface at San Marco Regional Airport and Lockhart Municipal Airport, Lockhart, TX. The FAA is proposing this action at the request of Austin Air Traffic Control Tower (ATCT)/Terminal Radar Approach Control (TRACON) to establish part-time Class E airspace designated as a surface area at Georgetown Municipal Airport and San Marcos Regional Airport and to review the associated airspace for the safety and management of instrument flight rule (IFR) operations at these airports. The name of San Marcos Regional Airport would be updated to coincide with the FAA's aeronautical database, and the outdated term ''Airport/Facility Directory'' would be replaced with the term ''Chart Supplement''.

DATES: Comments must be received on or before July 20, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0138; Airspace Docket No. 18–ASW–5, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority

described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D airspace at San Marcos Regional Airport, Austin, TX; establish Class E airspace designated as a surface area at Georgetown Municipal Airport, Georgetown, TX, and San Marcos Regional Airport; and amend Class E airspace extending upward from 700 feet above the surface at San Marco Regional Airport and Lockhart Municipal Airport, Lockhart, TX, to support IFR operations at these airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0138; Airspace Docket No. 18–ASW–5.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 by:

Amending the airspace designation location in the airspace legal description of the Class D airspace from San Marcos, TX, to Austin, TX, to coincide with the FAA's aeronautical database; amending the radius to within a 4.3-mile radius (increased from a 4.2-mile radius) of San Marcos Regional Airport (formerly San Marcos Municipal Airport), Austin, TX; adding an extension 1.0 mile each side of the 306° bearing from the San Marcos Regional: RWY 13–LOC extending from the 4.3-mile radius to 4.6 miles northwest of the airport; updating the name of the airport to coincide with the FAA's aeronautical database; and replacing the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Establishing Class E airspace designated as a surface area within a 4.3-mile radius of San Marcos Regional Airport, Austin, TX, with an extension 1.0 mile each side of the 306° bearing from the San Marcos Regional: RWY 13–LOC from the 4.3-mile radius to 4.6 miles northwest of the airport; and with an extension 1.0 mile each side of the 313° bearing from the airport from the 4.3-mile radius to 5.0 miles northwest of the airport; and with an extension 1.0 mile each side of the 268° bearing from the airport from the 4.3-mile radius to 4.4 miles west of the airport; and with an extension 1.0 mile each side of the 358° bearing from the airport from the 4.3-mile radius to 4.4 miles north of the airport;

Establishing Class E airspace designated as a surface area within a 4.1-mile radius of Georgetown Municipal Airport, Georgetown, TX; and

Amending the airspace designation location in the airspace legal description of the Class E airspace extending upward from 700 feet above the surface from San Marcos, TX, to Austin, TX, to coincide with the FAA's aeronautical database; amending the radius to within a 6.8-mile radius (increased from a 6.7-mile radius) of San Marcos Regional Airport (formerly San Marcos Municipal Airport), Austin, TX; amending the extension to the northwest of the airport to 12.0 miles (increased from 11.1 miles); amending the extension to the east of the airport to 10.5 miles (increased from 10.4 miles); amending the extension to the southeast of the airport to 9.7 miles (increased from 9.6 miles); amending the extension to the south of the airport to 10.5 miles (increased from 10.4 miles); and amending the radius to within 6.4-miles (increased from a 6.3-mile radius) of Lockhart Municipal Airport, Lockhart, TX, included in the Austin, TX, airspace legal description.

This action is being proposed at the request of Austin ATCT/TRACON to establish part-time Class E airspace designated as an extension of Class D and E surface areas at Georgetown Municipal Airport and San Marcos Regional Airport and to review the associated airspace for the safety and management of IFR operations at these airports.

Class D and E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000. Class D Airspace.

* * * * *

ASW TX D Austin, TX [Amended]

San Marcos Regional Airport, TX
(Lat. 29°53′34″ N, long. 97°51′47″ W)
San Marcos Regional: RWY 13–LOC
(Lat. 29°53′03″ N, long. 97°51′15″ W)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4.3-mile radius of San Marcos Regional Airport, and within 1.0 mile each side of the San Marcos Regional: RWY13–LOC extending from the 4.3-mile radius to 4.6 miles northwest of the airport, and within 1.0 mile each side of the 313° bearing from the airport extending from the 4.3-mile radius to 5.0 miles northwest of the airport, and within 1.0 mile each side of the 268° bearing from the airport extending from the 4.3-mile radius to 4.4 miles west of the airport, and within 1.0 mile each side of the 358° bearing from the airport extending from the 4.3-mile radius to 4.4 miles north of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continually published in the Chart Supplement.

Paragraph 6002. Class E Airspace Areas Designated as Surface Areas.

* * * * *

ASW TX E2 Austin, TX [New]

San Marcos Regional Airport, TX
(Lat. 29°53′34″ N, long. 97°51′47″ W)
San Marcos Regional: RWY 13–LOC
(Lat. 29°53′03″ N, long. 97°51′15″ W)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4.3-mile radius of San Marcos Regional Airport, and within 1.0 mile each side of the San Marcos Regional: RWY13–LOC extending from the 4.3-mile radius to 4.6 miles northwest of the airport, and within 1.0 mile each side of the 313° bearing from the airport extending from the 4.3-mile radius to 5 miles northwest of the airport, and within 1.0 mile each side of the 268° bearing from the airport extending from the 4.3-mile radius to 4.4 miles west of the airport, and within 1.0 mile each side of the 358° bearing from the airport extending from the 4.3-mile radius to 4.4 miles north of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continually published in the Chart Supplement.

* * * * *

ASW TX E2 Georgetown, TX [New]

Georgetown Municipal Airport, TX
(Lat. 30°40′44″ N, long. 97°40′46″ W)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 4.1-mile radius of Georgetown Municipal Airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASW TX E5 Austin, TX [Amended]

San Marcos Regional Airport, TX
(Lat. 29°53′34″ N, long. 97°51′47″ W)
Lockhart Municipal Airport, TX
(Lat. 29°51′01″ N, long. 97°40′21″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of San Marcos Regional Airport, and within 2 miles each side of the 268° bearing from the airport extending from the 6.8-mile radius to 13.1 miles west of the airport, and within 2 miles each side of the 313° bearing from the airport extending from the 6.8-mile radius to 12.0 miles northwest of the airport, and within 2 miles each side of the 088° bearing from the airport extending from the 6.8-mile radius to 10.5 miles east of the airport, and within 2 miles each side of the 133° bearing from the airport extending from the 6.8-mile radius to 9.7 miles southeast of the airport, and within 2 miles each side of the 178° bearing from the airport extending from the 6.8-mile radius to 10.5 miles south of the airport, and within a 6.4-mile radius of Lockhart Municipal Airport.

Issued in Fort Worth, Texas, on May 24, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–11859 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0328; Airspace Docket No. 18–ASO–7]

RIN 2120–AA66

Proposed Amendment of Class D Airspace and Class E Airspace, and Revocation of Class E Airspace: New Smyrna Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace and Class E airspace extending upward from 700 feet or more above the surface, and remove Class E airspace designated as an extension to a Class D surface area at New Smyrna Beach Municipal Airport, New Smyrna Beach, FL. This action would accommodate airspace reconfiguration due to the decommissioning of New Smyrna Beach non-directional beacon radio (NDB), and cancellation of the NDB approaches. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport. This action also would update the geographic coordinates of the airport, and Massey Ranch Airpark, and would replace the outdated term Airport/Facility Directory with the term Chart Supplement in the legal description of Class D airspace.

DATES: Comments must be received on or before July 20, 2018.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–

2018–0328; Airspace Docket No. 18–ASO–7, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Av, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2018–0328 and Airspace Docket No. 18–ASO–7) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number.) You may also submit comments through the internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2018–0328; Airspace Docket No. 18–ASO–7.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 by amending Class D airspace and Class E airspace extending upward from 700 feet or more above the surface at New Smyrna Beach Municipal Airport, New Smyrna Beach, FL, as the New Smyrna Beach NDB has been decommissioned and the NDB approach cancelled. Also, the southeast extension would be removed due to the cancellation of the NDB approach. This action also would update the geographic coordinates of the airport and Massey Ranch Airpark to be in concert with the FAA's aeronautical database.

Additionally, this action would make an editorial change to the Class D airspace legal description replacing ''Airport Facility Directory'' with ''Chart Supplement''. These changes would enhance the safety and management of IFR operations at the airport.

Class D and Class E airspace designations are published in Paragraphs 5000, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will

only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000. Class D Airspace.

* * * * *

ASO FL D New Smyrna Beach, FL [Amended]

New Smyrna Beach Municipal Airport, FL
(Lat. 29°03′21″ N, long. 80°56′56″ W)

That airspace extending upward from the surface to but not including 1,200 feet MSL, within a 3.2-mile radius of New Smyrna Beach Municipal Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ASO FL E4 New Smyrna Beach, FL [Removed]

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

* * * * *

ASO FL E5 New Smyrna Beach, FL [Amended]

New Smyrna Beach Municipal Airport, FL
(Lat. 29°03′21″ N, long. 80°56′56″ W)
Massey Ranch Airpark, FL
(Lat. 28°58′44″ N, long. 80°55′29″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of New Smyrna Beach Municipal Airport, and within a 6.5-mile radius of Massey Ranch Airpark.

Issued in College Park, Georgia, on May 24, 2018.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–11848 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2018–0188; FRL–9978–79—Region 7]

Approval of Nebraska Air Quality Implementation Plan; Particulate Emissions; Limitations and Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) submitted on July 14, 2014, by the State of Nebraska. This proposed action will amend the SIP to include revisions to title 129 of the Nebraska Administrative Code, chapter 20 ''Particulate Emissions; Limitations and Standards''. The revisions make clear that the emission rates in the rule apply to applicable sources except when a more stringent Federal rule or limit in a construction permit exists. Other minor administrative revisions are also being made. Approval of these revisions will not impact air quality, ensures consistency between the State and Federally approved rules, and ensures Federal enforceability of the State's rules.

DATES: Comments must be received on or before July 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2018–0188 to *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7391, or by email at *crable.gregory@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What is being addressed in this document?

EPA is proposing to amend Nebraska's SIP to include revisions to title 129 of the Nebraska Administrative Code, chapter 20, ''Particulate Emissions; Limitations and Standards''. The revisions being addressed in this action on chapter 20 were submitted with other title 129 chapters as part of the July 14, 2014 SIP submittal. EPA took final action on two title 129 chapters, chapter 1 ''Definitions'', and chapter 15 ''Operating Permit Modifications; Reopening for Cause''. In that action, EPA stated it would take action separately on chapter 20. *See* 83 FR 14762. EPA is now proposing action on chapter 20. The revisions to chapter 20 are described below.

Nebraska revised a clause under the chapter title from ''(EXCEPTIONS DUE

TO BREAKDOWNS OR SCHEDULED MAINTENANCE: SEE CHAPTER 35)'' to ''For exceptions due to breakdowns or scheduled maintenance: see Chapter 35—COMPLIANCE; EXCEPTIONS DUE TO STARTUP, SHUTDOWN, OR MALFUNCTION'', and added a space to distinguish between the title and the clause. In addition, the state removed a footnote to table 20–2 and made it a stand-alone section numbered *007* which explains how the values in table 20–2 were determined. And finally, the revision added section *008* which clarifies that the emission rates apply to all applicable sources unless a more stringent particulate matter emissions rate is specified in the underlying requirements of an applicable Federal rule or is specified within a construction permit issued pursuant to title 129.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The revised chapter 20 was placed on public notice, along with other title 129 chapter revisions on January 6, 2014, and a public hearing was held by NDEQ on February 6, 2014. No comments regarding chapter 20 were received. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is proposing to approve the title 129, chapter 20, SIP revision submitted by NDEQ on July 14, 2014. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

IV. Incorporation by Reference

In this action, 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, EPA is proposing to incorporate by reference the Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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: May 21, 2018.

Karen A. Flournoy,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

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 CC—Nebraska

■ 2. Amend § 52.1420 paragraph (c) by revising the entry for ''129–20'' in the Table titled ''EPA-Approved Nebraska Regulations'' to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA				
Department of Environmental Quality				
Title 129—Nebraska Air Quality Regulations				
*	*	*	*	*
129–20	Particulate Emissions; Limitations and Standards	5/13/2014	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2018–11579 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2018–0307; FRL–9979–13—Region 7]

Air Plan Approval; Nebraska; Revisions to Title 115 of the Nebraska Administrative Code; Rules of Practice and Procedure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) submitted by the State of Nebraska on August 28, 2014. This proposed action will amend the SIP to revise title 115 of the Nebraska Administrative Code ''Nebraska Rules of Practice and Procedure.'' The proposed revisions to title 115 update the Nebraska Department of Environmental Quality's (NDEQ) rules of practice and procedure to incorporate legislative changes that have been made to the State's Administrative Procedure Act and the public record laws.

DATES: Comments must be received on or before July 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2018–0307 to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7391, or by email at *crable.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What is being addressed in this document?

EPA is proposing to amend Nebraska's SIP to include revisions to title 115 of the Nebraska Administrative Code. The last revision to title 115—Rules of Practice and Procedure was approved into the Nebraska SIP in 1994 (60 FR 372). Since that time, the legislature has amended the Administrative Procedure Act and the public record laws which impose additional requirements on NDEQ. NDEQ has adopted the revisions to title 115 and has requested EPA amend the SIP.

This action proposes to revise chapter 1, Definitions of Terms; chapter 2, Filings and Correspondence; chapter 3, Public Records Availability; chapter 4, Public Records Confidentiality; chapter 5, Public Hearings; chapter 7, Contested Cases; chapter 8, Emergency Proceeding Hearings; chapter 9, Declaratory Rulings; and chapter 10, Rulemaking. This action proposes to revise the chapter titles for chapters 2, 4, 8, 9 and 10. No revisions are being made to chapter 6, Voluntary Compliance. Chapter 11, Variances, is being deleted. The proposed revisions to title 115 are numerous and can be found in the August 28, 2014 State submission which is part of the docket.

Specifically, the changes to chapters 1, 2, 7, 8, 9 and 10 conform regulatory language to the Attorney General's model rules. Revisions to chapters 3 and 5 better describe the procedures already in place by practice for obtaining public records and public hearings on permit decisions or fact-finding hearings that are required by law. Revisions to chapter 4 clarify the procedures for asserting a claim of confidentiality trade secrets. Finally, chapter 11 is being deleted from title 115 because it is duplicative and found in chapter 33 of title 129.

EPA is proposing approval of these revisions as they are not fundamentally different from a procedural standpoint from existing rules. These revisions do not impact air quality. The revisions do not revise emission limits or procedures, nor do they impact the state's ability to attain or maintain the

National Ambient Air Quality Standards.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The revised title 115 chapters were placed on public notice on January 30, 2004, and a public hearing was held by the NDEQ on March 5, 2004. During the public hearing NDEQ received three comments. NDEQ addressed each of the comments and made no change to the rule based on comments received. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, and as demonstrated in the documents in the docket, the revisions meet the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is proposing to approve the title 115 SIP revision submitted by the State of Nebraska on August 28, 2014. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

IV. Incorporation by Reference

In this action, 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, EPA is proposing to incorporate by reference the Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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: May 25, 2018.

James B. Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

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 CC Nebraska

■ 2. Amend § 52.1420(c) by:

■ a. Revising the entries for 115–1; 115–2; 115–3; 115–4; 115–5; 115–7; 115–8; 115–9; and 115–10; and

■ b. Removing the entry for 115–11.

The revisions read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA				
Department of Environmental Quality				

EPA-APPROVED NEBRASKA REGULATIONS—Continued

Nebraska citation	Title	State effective date	EPA approval date	Explanation
*	*	*	*	*
Title 115—Rules of Practice and Procedure				
115–1	Definitions of Terms	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
115–2	Petition for Declaratory Order	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
115–3	Public Records Availability	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
115–4	Confidentiality for Trade Secrets	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
115–5	Public Hearings	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
*	*	*	*	*
115–7	Contested Cases	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
115–8	Intervention in a Contested Case	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
115–9	Ex Parte Communications Prohibited	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	
115–10	Petition for Rulemaking	6/8/2004	[date of final publication in the **Federal Register**] [final **Federal Register** citation].	

* * * * *

[FR Doc. 2018–12072 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2018–0261; FRL–9978–78—Region 7]

Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard Interstate Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of Missouri for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS). States are required to have a SIP that provides for the implementation, maintenance, and enforcement of the NAAQS. Whenever EPA promulgates a new or revised NAAQS, states are required to make a SIP submission to establish that they have, or to add, the provisions necessary to address various requirements to address the new or revised NAAQS. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. In this action EPA is proposing to approve the interstate transportion obligations of the State's 2012 $PM_{2.5}$ NAAQS infrastructure SIP submittal.

DATES: Comments must be received on or before July 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2018–0261, to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7016, or by email at *casburn.tracey@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP submission been met?
III. What action is EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What is being addressed in this document?

EPA is proposing to approve the submittal as meeting the submittal requirement of section 110(a)(1). EPA is proposing to approve certain elements of the infrastructure SIP submission from the State of Missouri received on October 14, 2015. Specifically, EPA is proposing to approve the following elements of section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQs (prong 2). EPA has already addressed elements of 110(a)(2) including: (A) Through (C), (D)(i)(II)—prevention of significant

deterioration of air quality (prong 3), (D)(ii), and (E) through (M) in separate rulemaking (see docket EPA–R07–OAR–2017–0513). EPA intends to act on section 110(a)(2)(D)(i)(II)—protection of visibility (prong 4) in a subsequent rulemaking.

A Technical Support Document (TSD) is included as part of this docket to discuss the details of this action, including analysis of how the SIP meets the applicable 110 requirements for infrastructure SIPs.

II. Have the requirements for approval of a SIP submission been met?

The state's submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The state held a public comment period from July 27, 2015, to September 3, 2015. The state received no comments during the public comment period. A public hearing was held on August 27, 2015. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V. As explained in more detail in the TSD, which is part of this docket, the submittal meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is proposing to approve the following elements of October 14, 2015, infrastructure SIP submission from the State of Missouri: Section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQs (prong 2) as applicable to the 2012 Annual $PM_{2.5}$ NAAQS.

IV. Incorporation by Reference

In this action, 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, EPA is proposing to incorporate by reference the Missouri Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides.

Dated: May 21, 2018.

Karen A. Flournoy,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

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 AA—Missouri

■ 2. In § 52.1320, the table in paragraph (e) is amended by adding the entry ''(74)'' in numerical order to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(e) * * *

EPA—APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
* * *		*	*	* * *
(74) Section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQs (prong 2) (Interstate Transport) Infrastructure Requirements for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) NAAQS.	Statewide	10/14/2015	6/5/2018, [insert **Federal Register** citation]	This action approves the following CAA elements: 110(a)(1) and 110(a)(2)(D)(i)(I)—prongs 1 and 2 [EPA–R07–OAR–2018–0261; FRL–9978–78–Region 7].

[FR Doc. 2018–11580 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2018–0098; FRL–9978–71—Region 1]

Air Plan Approval; Rhode Island; Control of Volatile Organic Compound Emissions, Control of Nitrogen Oxide Emissions, and Sulfur Content of Fuels

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 Rhode Island. This revision updates Rhode Island Air Pollution Control Regulations (APCRs) for volatile organic compound (VOC) emissions, nitrogen oxide (NOx) emissions, sulfur content in fuel requirements and associated general definitions. The intended effect of this action is to propose approval of the revised regulations. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before July 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2018–0098 at *www.regulations.gov,* or via email to *Mackintosh.David@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the ''For Further Information Contact'' section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: David L. Mackintosh, 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, tel. 617–918–1584, email *Mackintosh.David@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose
II. EPA's Evaluation of the Submittal
III. Proposed Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background and Purpose

On February 10, 2017, the Rhode Island Department of Environmental Management (DEM) submitted to EPA a State Implementation Plan (SIP) revision containing six revised Air Pollution Control Regulations (APCRs): No. 8, ''Sulfur Content of Fuels;'' No. 19, ''Control of Volatile Organic Compounds from Surface Coating Operations;'' No. 27, ''Control of Nitrogen Oxide Emissions;'' No. 35, ''Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations;'' No. 36, ''Control of Emission from Organic Solvent Cleaning;'' and General Definitions. The amended APCRs became effective in Rhode Island on January 9, 2017.

EPA has previously approved these Rhode Island APCRs into the Rhode Island SIP. APCR No. 8, ''Sulfur Content of Fuels,'' was last approved on October 7, 2015 (80 FR 60541), APCR No. 19, ''Control of Volatile Organic Compounds from Surface Coating Operations,'' on July 22, 2016 (81 FR 47708), APCR No. 27, ''Control of Nitrogen Oxide Emissions,'' and APCR No. 35. ''Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations,'' on July 22, 2016 (81 FR 47708), APCR No. 36, ''Control of Emission from Organic Solvent Cleaning,'' on March 13, 2012 (77 FR 14691), and APCR General Definitions on March 13, 2012 (77 FR 14691).

II. EPA's Evaluation of the Submittal

Rhode Island's submittal states that RI DEM has revised APCR No. 8, ''Sulfur Content of Fuels,'' to correct a mistake made when it revised the regulation in 2014. The purpose of the 2014 revision was to limit the sulfur content of certain fuel oils, which the regulation divided

into two categories—''Distillate Oil, Biodiesel, or Alternative Fuel'' and ''Residual Oil''—establishing lower limits for the first category than for the second. The submittal states that the placement of alternative fuel in the same category as distillate oil and biodiesel in the 2014 revision was in error and that it should have been included with residual oil. Sometime after the 2014 revision was incorporated into the SIP, the mistake was brought to RI DEM's attention along with documentation that showed it is not possible to achieve equally low-sulfur limits for waste oils [1] and distillate fuel oils, because waste oils are generally comprised of used residual oil, which has an inherently higher sulfur content than distillate oil. The different sulfur levels stem from the distillation of crude oil during refinement and are inherent to the various fractions of crude oil. Therefore, the agency agrees that compliance with the current version of APCR No. 8, ''Sulfur Content of Fuels,'' is not technically feasible and that placing alternative fuel in the lower sulfur level grouping was incorrect. This proposed action corrects the mistake, moving alternative fuel from the first category (with distillate oil and biodiesel) into the second (with residual oil), effectively allowing a higher sulfur content for alternative fuel.

EPA proposes to replace the previously approved version of APCR No. 8 with the version submitted by Rhode Island on February 10, 2017. EPA proposes to approve APCR No. 8 into the SIP, with the exception of Sections 8.7, ''Fuel Supply Shortages,'' and 8.8.3, ''Application,'' which were not submitted by the state. Although Section 8.8.3 had been previously approved into the SIP, EPA requested that the state strike this section when submitted as a SIP revision for the reasons indicated in the response to comments document included with the state's submittal, a copy of which is included in the docket for today's proposal. Therefore, this action will remove Section 8.8.3 from the SIP.

RI DEM has updated APCR No. 19, ''Control of Volatile Organic Compounds from Surface Coating Operations,'' to acknowledge that the emission limitations in this regulation do not apply if the source is controlled by the emission limit requirements in APCR No. 44, ''Control of Volatile Organic Compounds from Adhesives and Sealants.'' This change is consistent with the EPA Control Technique Guidelines (CTGs) for coating operations and industrial adhesives (EPA–453/R–08–005, September 2008), which consider a VOC source to be subject to the requirements of only one CTG with respect to VOC Reasonably Available Control Technology (RACT). Additionally, RI DEM revised the registration requirements in APCR No. 19 to be consistent with the requirements in APCR No. 14, ''Record Keeping and Reporting,'' requiring emission statements to be submitted by April 15th of each year instead of ''within 45 days of the end of the calendar year.'' EPA proposes to approve APCR No. 19 into the SIP, excluding Section 19.2.2, which was not submitted by the state.

RI DEM has revised APCR No. 27, ''Control of Nitrogen Oxides Emissions,'' to reduce the frequency of compliance testing required under the regulation from annually to once every five years, reduce the frequency of tune-ups required for industrial-commercial-institutional boilers from annually to biennially, allow the tune-up procedure for boilers specified in federal regulations (40 CFR 63, Subpart JJJJJJ) as an acceptable substitute procedure for the procedure specified in Appendix A of the regulation, and revise the method for determining compliance with the emission limits to allow compliance to be demonstrated based upon the average results of three one-hour test runs (rather than demonstrating compliance with each individual test run) to be consistent with federal requirements. EPA proposes to approve APCR No. 27 into the SIP, excluding Section 27.7.3, which was not submitted by the state.

RI DEM has revised APCR No. 35, ''Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants (HAP) from Wood Products Manufacturing Operations,'' so the HAP applicability threshold applies to major source of HAP from wood products manufacturing operations, as opposed to all operations at the facility. EPA proposes to approve APCR No. 35 into the SIP, excluding Sections 35.2.3 and 35.9.3, which were not submitted by the state.

RI DEM has revised APCR No. 36, ''Control of Emissions from Organic Solvent Cleaning,'' to provide an exemption from most requirements for small cold cleaners (internal volume of 1 liter or less), provide an alternative means of compliance for spray gun cleaning operations, clarify the performance standard when an air pollution control system is used as an alternative to low vapor pressure solvents, and revise recordkeeping requirements to allow users of certain machines additional time to compile monthly records to be consistent with the requirements in other Rhode Island APCR regulations and permits. EPA is proposing to approve APCR No. 36 into the SIP, with the exception of Sections 36.2.2 and 36.14.2, ''Application,'' which Rhode Island did not submit to EPA. Although Section 36.14.2 was previously approved into the SIP, today's proposal would remove it from the SIP for similar reasons discussed earlier with respect to Section 8.8.3.

Finally, RI DEM has revised APCR General Definitions to amend the definition of ''volatile organic compound'' to be consistent with the EPA definition at 40 CFR 51.100(s). EPA is proposing to approve the revised definition of ''volatile organic compound'' into the SIP.

The above revisions satisfy section 110(*l*) of the CAA, which prohibits EPA from approving a SIP revision ''if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress . . . or any other applicable requirement of [the Clean Air Act].'' In particular, many of the revisions to APCR Nos. 19, 27, and 36, including changes to reporting dates, tune-up procedures and frequency, and compliance methods and testing frequency, do not impact emission control requirements and will not affect emissions or ambient concentrations of a pollutant or its precursors. With respect to the revision to APCR No. 8, as noted earlier, the current standard for alternative fuel, was not obtainable, meaning that the revision will not affect actual sulfur content or emissions. Furthermore, Rhode Island is currently designated as attainment for all criteria pollutants, and levels of sulfur dioxide, $PM_{2.5}$, and PM_{10}, which can be affected by the sulfur content of fuel in general, are well below those standards. This regulatory change will therefore not interfere with maintenance of the standards. The revision to APCR No. 35 changes the applicability threshold regarding HAP emissions but retains the appropriate VOC thresholds for the source category. The other revision to APCR No. 36 exempts *de minimis* sources (solvent cleaners with internal volume of 1 liter or less) consistent with EPA's approval of other state rules controlling VOC emissions from industrial cleaning solvent sources. *See, e.g.,* 79 FR 32873 (June 9, 2014). Any increase in emissions resulting from these revisions to APCR Nos. 35 and 36 are not expected to be significant, and the two rules otherwise generally retain the same VOC emission control requirements as the previous SIP-

[1] Pursuant to state regulations, ''waste oil'' is a type of ''alternative fuel.'' APCR No. 8.1.1; *see also* APCR No. 20.1.1.

approved version of these rules. Moreover, as indicated above, Rhode Island is designated as attainment for ozone. Thus, the SIP revisions satisfy the requirements of Section 110(*l*) of the CAA because they will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. Accordingly, we are proposing to approve Rhode Island's revised regulations into the Rhode Island SIP.

EPA is proposing to approve the Rhode Island SIP revision for these six APCR revisions (excluding those provisions indicated above that were not submitted by the state), which was submitted on February 10, 2017. 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**.

III. Proposed Action

EPA is proposing to approve the February 10, 2017 RI DEM SIP submittal consisting of the six revised APCRs: No. 8, ''Sulfur Content of Fuels'' (with the exception of sections 8.7 and 8.8.3); No. 19, ''Control of Volatile Organic Compounds from Surface Coating Operations'' (with the exception of section 19.2.2); No. 27, ''Control of Nitrogen Oxide Emissions'' (with the exception of section 27.7.3); No. 35, ''Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations'' (with the exception of sections 35.2.3 and 35.9.3); No. 36, ''Control of Emission from Organic Solvent Cleaning'' (with the exception of sections 36.2.2 and 36.14.2); and the definition of ''volatile organic compound'' in General Definitions.

IV. 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 Rhode Island APCRs No. 8 ''Sulfur Content of Fuels,'' No. 19 ''Control of Volatile Organic Compounds from Surface Coating Operations,'' No. 27 ''Control of Nitrogen Oxide Emissions,'' No. 35 ''Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations,'' No. 36 ''Control of Emission from Organic Solvent Cleaning,'' and General Definitions. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov.*

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

Dated: May 25, 2018.

Alexandra Dunn,

Regional Administrator, EPA Region 1.

[FR Doc. 2018–12020 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R04–OAR–2018–0183; FRL–9978–91–Region 4]

Approval of AL Plan for Control of Emissions From Commercial and Industrial Solid Waste Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state plan submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM) on May 19, 2017, and supplemented on October 24, 2017, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incineration (CISWI) units. The state plan provides for implementation and enforcement of the EG, as finalized by EPA on June 23, 2016, applicable to existing CISWI units for which construction commenced on or before June 4, 2010, or for which modification or reconstruction commenced after June 4, 2010, but no later than August 7, 2013. The state plan establishes emission limits, monitoring, operating, recordkeeping, and reporting requirements for affected CISWI units.

DATES: Comments must be received on or before July 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. [EPA–R04–OAR–2018–0183] at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, 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: Mark Bloeth, South Air Enforcement and Toxics Section, Air Enforcement and Toxics Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303. Mr. Bloeth can be reached via telephone at 404–562–9013 and via email at *bloeth.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 129 of the Clean Air Act (CAA or the Act) directs the Administrator to develop regulations under section 111(d) of the Act limiting emissions of nine air pollutants (particulate matter, carbon monoxide, dioxins/furans, sulfur dioxide, nitrogen oxides, hydrogen chloride, lead, mercury, and cadmium) from four categories of solid waste incineration units: Municipal solid waste; hospital, medical, and infectious solid waste; commercial and industrial solid waste; and other solid waste.

On December 1, 2000, EPA promulgated new source performance standards (NSPS) and EG to reduce air pollution from CISWI units, which are codified at 40 CFR part 60, subparts CCCC and DDDD, respectively. *See* 65 FR 75338. EPA revised the NSPS and EG for CISWI units on March 21, 2011. *See* 76 FR 15704. Following promulgation of the 2011 CISWI rule, EPA received petitions for reconsideration requesting that EPA reconsider numerous provisions in the rule. EPA granted reconsideration on certain issues and promulgated a CISWI reconsideration rule on February 7, 2013. *See* 78 FR 9112. Subsequently, EPA received petitions to further reconsider certain provisions of the 2013 NSPS and EG for CISWI units. On January 21, 2015, EPA granted reconsideration on four specific issues and finalized reconsideration of the CISWI NSPS and EG on June 23, 2016. *See* 81 FR 40956.

Section 129(b)(2) of the CAA requires states to submit to EPA for approval state plans and revisions that implement and enforce the EG—in this case, 40 CFR part 60, subpart DDDD. State plans and revisions must be at least as protective as the EG, and become federally enforceable upon approval by EPA. The procedures for adoption and submittal of state plans and revisions are codified in 40 CFR part 60, subpart B.

II. Review of Alabama's CISWI State Plan Submittal

Alabama submitted a state plan to implement and enforce the EG for existing CISWI units in the state [1] on March 14, 2014. On May 19, 2017, Alabama submitted a revised plan, which was supplemented on October 24, 2017. EPA has reviewed the revised plan for existing CISWI units in the context of the requirements of 40 CFR part 60, subparts B and DDDD. State plans must include the following nine essential elements: Identification of legal authority; identification of mechanism for implementation; inventory of affected facilities; emissions inventory; emission limits; compliance schedules; testing, monitoring, recordkeeping, and reporting; public hearing records; and, annual state progress reports on plan enforcement.

A. Identification of Legal Authority

Under 40 CFR 60.26 and 60.2515(a)(9), an approvable state plan must demonstrate that the State has legal authority to adopt and implement the EG's emission standards and compliance schedule. In its submittals, Alabama cites the following State law provisions for its authority to implement and enforce the plan: Code of Alabama Section 22–28–11 (adopt emission requirements); Code of Alabama 22–28–14 (adopt regulations to prescribe emissions standards and adopt compliance schedules); Code of Alabama Section 22–22A–5(10) (authority to issue orders, citations, notices of violation, licenses, certifications, and permits); Code of Alabama Section 22–22A–5(20) (authority to perform any other necessary duty); Code of Alabama Section 22–28–18 (authority to require use of pollution control equipment); Code of Alabama Section 22–28–19A (authority to conduct inspections and sample air contaminants); Code of Alabama Section 22–28–20 (authority to require recordkeeping); and Code of Alabama Section 22–28–22 (proceedings upon violation; penalties; subpoenas; injunctions). In addition to the foregoing statutory provisions, Alabama also notes that it has adopted rules into the Alabama Administrative Code to implement and enforce its air quality program. EPA has reviewed the cited authorities and has preliminarily concluded that the State has adequately demonstrated legal authority to implement and enforce the CISWI state plan in Alabama.

B. Identification of Enforceable State Mechanisms for Implementing the Plan

Under 40 CFR 60.24(a), a state plan must include emission standards, defined at 40 CFR 60.21(f) as ''a legally enforceable regulation setting forth an allowable rate of emissions into the atmosphere, or prescribing equipment specifications for control of air pollution emissions.'' *See also* 40 CFR 60.2515(a)(8). Alabama has adopted enforceable emission standards for affected CISWI units at Rule 335–3–3.05(6). EPA has preliminarily concluded that the rule meets the emission standard requirement under 40 CFR 60.24(a).

C. Inventory of Affected Units

Under 40 CFR 60.25(a) and 60.2515(a)(1), a state plan must include a complete source inventory of all CISWI units. Alabama has identified affected units at four facilities: National Cement, Argos, Holcim, and CEMEX. Omission from this inventory of CISWI units does not exempt an affected facility from the applicable section 111(d)/129 requirements. EPA has preliminarily concluded that Alabama has met the affected unit inventory requirements under 40 CFR 60.25(a) and 60.2515(a)(1).

D. Inventory of Emissions From Affected CISWI Units

Under 40 CFR 60.25(a) and 60.2515(a)(2), a state plan must include an emissions inventory of the pollutants regulated by the EG. Emissions from

[1] The submitted state plan does not apply in Indian country located in the state.

CISWI units may contain cadmium, carbon monoxide, dioxins/furans, hydrogen chloride, lead, mercury, nitrogen oxides, particulate matter, and sulfur dioxide. Alabama submitted an emissions inventory for CISWI units as part of its state plan. This emissions inventory contains CISWI unit emissions rates for each regulated pollutant. EPA has preliminarily concluded that Alabama has met the emissions inventory requirements of 40 CFR 60.25(a) and 60.2515(a)(2).

E. Emission Limitations, Operator Training and Qualification, Waste Management Plan, and Operating Limits for CISWI Units

Under 40 CFR 60.24(c) and 60.2515(a)(4), the state plan must include emission standards that are no less stringent than the EG. Alabama has incorporated the emission standards from the EG by reference into its regulations at Rule 335–3–3-.05, with one exception: For units in the waste-burning kiln subcategory, Alabama's state plan provides an equivalent production-based mercury emission limit of 58 pounds of mercury per million tons of clinker, rather than the concentration-based standard of 0.011 milligrams per dry standard cubic meter contained in 40 CFR 60, Subpart DDDD, Table 8. *See* Alabama Rule 335–3–3-.05, Table 7.

Under 40 CFR 60.2515(b), EPA has the authority to approve plan requirements that deviate from the content of the EG, so long as the state demonstrates that the requirements are at least as protective. In the February 7, 2013 rule adopting the EG for existing CISWI units, EPA discussed its methodology for developing emission limits for the subcategories of sources subject to the rule. *See* 78 FR 9112 (February 7, 2013). Though we noted that the Agency was retaining an ''emissions concentration basis for the standards,'' we also expressed the standard for waste-burning kiln emission limits on a production basis. *See id.* at 9122–23. For those kilns, we noted that an equivalent production-based standard for mercury would be 58 pounds of mercury per million tons of clinker. *See id.* at 9122.

In other words, EPA has previously explained that the equivalent production-based emission limit of 58 pounds of mercury per million tons of clinker for waste-burning kilns is at least as protective as the standard contained in the EG. Because Alabama's state plan imposes either this equivalent standard or the applicable EG on waste-burning kilns—and imposes the applicable EG on all other affected CISWI units—we have preliminarily concluded that Alabama's CISWI plan satisfies the emission limitations requirements of 40 CFR 60.24(c).

40 CFR 60.2515(a)(4) also requires a state plan to include operator training and qualification requirements, a waste management plan, and operating limits that are at least as protective as the EG. Alabama's state plan submittal includes: Operator training and qualification requirements at Rule 335–3–3-.05(5); a waste management plan at Rule 335–3–3-.05(4); and, operating limits that are at least as protective as the EG at Rule 335–3–3-.05(6)(b) and Rule 335–3–3-.05, Table 2. Thus, we have preliminarily concluded that Alabama's state plan satisfies the requirements of 40 CFR 60.24(c) and 60.2515(a)(4).

F. Compliance Schedules

Under 40 CFR 60.24(a), (c), and (e) and 40 CFR 60.2515(a)(3), each state plan must include a compliance schedule, which requires affected CISWI units to expeditiously comply with the state plan requirements. EPA has the authority to approve compliance schedule requirements that deviate from those imposed under the EG, so long as those requirements are at least as protective as the EG. *See* 40 CFR 60.2515(b).

In the state plan at Rule 335–3–3-.05(8), Alabama generally requires that affected sources comply with the EG initial compliance requirements for CISWI units, which EPA has codified at 40 CFR 60.2700 through 40 CFR 60.2706. However, for waste-burning kilns complying with the production-based emission limit, Alabama's state plan requires compliance with the requirements applicable to Portland Cement Manufacturing Kilns, which are codified at 40 CFR part 63, subpart LLL. *See* Alabama Rule 335–3–3-.05(8)(g).

As noted above, EPA has authority to approve requirements that are at least as stringent as the EG. Here, we have preliminarily concluded that the state plan's compliance requirements for waste-burning kilns contain all relevant elements of the EG, and also impose additional recordkeeping requirements that are necessary for the effective implementation and enforcement of the equivalent limit. For these reasons, we have preliminarily concluded that Alabama's state plan satisfies the requirements of 40 CFR 60.24(a), (c), and (e) and 40 CFR 60.2515(a)(3).

G. Testing, Monitoring, Recordkeeping, and Reporting Requirements

Under 40 CFR 60.24(b)(2), 60.25(b), and 60.2515(a)(5), an approvable state plan must require that sources conduct testing, monitoring, recordkeeping, and reporting. Alabama's state plan incorporates the model rule provisions of the EG: For testing at Rule 335–3–3-.05(7); for monitoring at Rule 335–3–3-.05(10); and, for recordkeeping and reporting at Rule 335–3–3-.05(11). In addition to these requirements, Alabama imposes further monitoring, recordkeeping, and reporting requirements for waste-burning kilns operating under a production-based mercury emission limit. EPA has thus preliminarily concluded that Alabama's state plan satisfies the requirements of 40 CFR 60.24(b)(2), 60.25(b), and 60.2515(a)(5).

H. A Record of Public Hearing on the State Plan Revision

40 CFR 60.23 sets forth the public participation requirements for each state plan. The State must conduct a public hearing; make all relevant plan materials available to the public prior to the hearing; and provide notice of such hearing to the public, the Administrator of EPA, each local air pollution control agency, and, in the case of an interstate region, each state within the region. 40 CFR 60.2515(a)(6) requires each state plan include certification that the hearing was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.

In its submittal, Alabama submitted records, including transcripts, of two public hearings. First, a hearing was held on March 8, 2017, for the May 19, 2017 state plan submittal. Alabama held a second hearing on September 6, 2017, for the October 24, 2017, supplement. Alabama provided notice and made all relevant plan materials available prior to each hearing. Additionally, Alabama certifies in its state plan submittal that a hearing was held, and that the State received no written or oral comments on the plan. Thus, EPA has preliminarily concluded that Alabama's CISWI plan satisfies the requirements of 40 CFR 60.23 and 60.2515(a)(6).

I. Annual State Progress Reports to EPA

Under 40 CFR 60.25(e) and (f) and 40 CFR 60.2515(a)(7), the State must provide in its state plan for annual reports to EPA on progress in enforcement of the plan. Accordingly, Alabama provides in its plan that it will submit reports on progress in plan enforcement to EPA on an annual (calendar year) basis, commencing with the first full reporting period after plan revision approval. EPA has preliminarily concluded that Alabama's CISWI plan satisfies the requirements of

40 CFR 60.25(e) and (f) and 40 CFR 60.2515(a)(7).

III. Proposed Action

Pursuant to CAA section 111(d), CAA section 129, and 40 CFR part 60, subparts B and DDDD, EPA is proposing to approve Alabama's state plan for regulation of CISWI units as submitted on May 19, 2017 and supplemented on October 24, 2017. In addition, EPA is proposing to amend 40 CFR part 62, subpart B to reflect this action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the CAA and applicable Federal regulations. In reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided they meet the criteria and objectives of the CAA and EPA's implementing regulations. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this rule 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. It also 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). And it does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because EPA is not proposing to approve the submitted plan to apply in Indian country located in the state, and because the submitted plan will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Manufacturing, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Authority: 42 U.S.C. 7411.

Dated: May 15, 2018.

Onis ''Trey'' Glenn, III

Regional Administrator, Region 4.

[FR Doc. 2018–12064 Filed 6–4–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2018–0084; FRL–9974–26–Region 8]

North Dakota: Proposed Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The state of North Dakota has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed North Dakota's application and has determined that these changes satisfy all requirements needed to qualify for final authorization and is proposing to authorize the state's changes. The EPA uses the regulations entitled, ''Approved State Hazardous Waste Management Programs'' to provide notice of the authorization status of state programs and to incorporate by reference those provisions of state statutes and regulations that will be subject to the EPA's inspection and enforcement. This action also proposes to codify in the regulations the authorized provisions of North Dakota's hazardous waste management program and to incorporate by reference authorized provisions of the state's regulations. Finally, today's rule corrects errors made in the state authorization citations published in the February 14, 2008 **Federal Register** authorization document for North Dakota.

DATES: Comments on this proposed rule must be received by July 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2018–0084 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: lin.moye@epa.gov.*
3. *Fax:* (303) 312–6341 (prior to faxing, please notify the EPA contact listed below).
4. *Mail, Hand Delivery or Courier:* Moye Lin, Resource Conservation and Recovery Program, EPA Region 8, Mailcode 8P–R, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Courier or hand deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–RCRA–2018–0084. The EPA's policy is that all comments received will be included in the public docket without change and may be available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or email. The federal *http://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in

the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at: EPA Region 8, from 8:00 a.m. to 4:00 p.m., 1595 Wynkoop Street, Denver, Colorado 80202–1129, contact: Moye Lin, phone number (303) 312–6667, or the North Dakota Department of Health (NDDH) from 9:00 a.m. to 4:00 p.m., 918 East Divide Avenue, 3rd Floor, Bismarck, North Dakota 58501–1947, phone number (701) 328–5166. The public is advised to call in advance to verify business hours.

FOR FURTHER INFORMATION CONTACT: Moye Lin, Resource Conservation and Recovery Program, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129; phone number (303) 312–6667; Email address: *lin.moye@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authorization of Revisions to North Dakota's Hazardous Waste Program

A. Why are revisions to state programs necessary?

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

B. What decisions have we made in this rule?

We conclude that North Dakota's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant North Dakota final authorization to operate its hazardous waste program with the changes described in the authorization application. North Dakota will continue to have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian country), and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in North Dakota, including issuing permits, until North Dakota is authorized to do so.

C. What is the effect of this proposed authorization decision?

If North Dakota is authorized for these changes, a facility in North Dakota subject to RCRA will have to comply with the authorized state requirements instead of the equivalent federal requirements in order to comply with RCRA. Additionally, such facilities will have to comply with any applicable federal requirements such as, HSWA regulations issued by the EPA for which the state has not received authorization. North Dakota continues to have enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend or revoke permits; and,
- Take enforcement actions regardless of whether North Dakota has taken its own actions.

This action to approve these provisions would not impose additional requirements on the regulated community because the regulations for which North Dakota is requesting authorization are already effective under state law and are not changed by the act of authorization.

D. What happens if the EPA receives comments on this action?

If the EPA receives comments on this proposed action, we will address those comments in our final action. You may not have another opportunity to comment, therefore, if you want to comment on this proposed authorization, you must do so at this time.

E. For what has North Dakota previously been authorized?

North Dakota initially received final authorization on October 5, 1984, effective October 19, 1984 (49 FR 39328) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on: June 25, 1990, effective August 24, 1990 (55 FR 25836); May 4, 1992, effective July 6, 1992 (57 FR 19087); April 7, 1994, effective June 6, 1994 (59 FR 16566); January 19, 2000, effective March 20, 2000 (65 FR 02897); September 26, 2005, effective November 25, 2000 (70 FR 56132), and February 14, 2008, effective April 14, 2008 (73 FR 8610).

F. What changes are we proposing to authorize with this action?

North Dakota submitted a final complete program revision application on September 20, 2016, and March 24, 2017, seeking authorization of their changes in accordance with 40 CFR 271.21. In its program revision application, the state of North Dakota also requested authorization for the Revisions to the Definition of Solid Waste (DSW) Rule, 80 FR 1694 (Jan. 13, 2015). However, due to the Court of Appeals for the District of Columbia Circuit's decisions, *Am. Petroleum Inst.* v. *EPA,* 862 F.3d 50 (DC Cir. 2017) and *Am. Petroleum Inst.* v. *EPA,* No. 09–1038 (DC Cir. Mar. 6, 2018) (vacating both the Factor 4 Legitimacy Test and the Verified Recycler Exclusion aspects of the 2015 DSW Rule), the EPA is not granting authorization to the state for: (1) One criterion in the determination of whether recycling is legitimate (on Revision Checklist 233B at 40 CFR 260.43(a)(4)); (2) one criterion in the variance determination for exceptions to the classification of hazardous secondary materials as a solid waste (on Revision Checklist 233D2 at 40 CFR 260.31(d)(6)); and (3) the verified recycler exclusion, which allowed generators to send their hazardous secondary materials to certain reclaimers (on Revision Checklist 233D2 at 40 CFR 261.4(a)(24)). We have determined that North Dakota's hazardous waste program revision

satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we propose to grant North Dakota final authorization for the following program changes:

1. Program Revision Changes for Federal Rules

North Dakota seeks authority to administer the federal requirements that are listed below (the federal citation is followed by the analogs from the North Dakota Administrative Code (NDAC), Article 33–24, as revised January 1, 2016): NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (69 FR 22601, 04/26/2004) (Checklist 205)/33–24–05–420.7, 33–24–06–16.5; Nonwastewaters from Dyes and Pigments (70 FR 9138, 02/24/2005 and 70 FR 35032, 06/16/2005) (Checklists 206 and 206.1)/33–24–02–04.2.o., 33–24–02–17, 33–24–02/Appendices IV and V, 33–24–05–266, 33–24–05–280/Table; Uniform Hazardous Waste Manifest Rule (70 FR 10776, 03/04/2005 and 70 FR 35034, 06/16/2005) (Checklists 207 and 207.1)/33–24–01–04.30, 33–24–01–04.90, 33–24–01–04.91, 33–24–02–07.3.b.(2) and (3), 33–24–03–04.1 introductory paragraph and .1.a, 33–24–03–05, 33–24–03–07.6, 33–24–03–10.2, 33–24–03–11, 33–24–03–12.10, 33–24–03–21.3 and .5, 33–24–03–30.3 through .5, 33–24–03/Appendix I, 33–24–04–04.1.a through .c, 33–24–04–04.7.a through .d, 33–24–04–05.2 and .3, 33–24–05–37, 33–24–05–38.1.a through .c, 33–24–05–38.2.d, 33–24–05–38.5, 33–24–05–39.1 through .5, 33–24–05–39.6 except .6(h), 33–24–05–39.7, 33–24–05–43, 33–24–06–16.5; Methods Innovation Rule and SW–846 Final Update IIIB (70 FR 34538, 06/14/2005 and 70 FR 44150, 08/01/2005)/33–24–01–05.1 through .2.j, .3 through .6.a, .7 introductory paragraph and .a, 33–24–01–07.4, 33–24–01–08.4.a(1), 33–24–02–03.1.b.(5), 33–24–02–11.1.a, 33–24–02–12.1, 33–24–02–19.2.b.(3)(a) and (b), 33–24–02/Appendices I—III, 33–24–05–103.1, 33–24–05–183.2, 33–24–05–280.2 and Table, 33–24–05–288/Table UTS, 33–24–05–404.3.a.(2), .3.a.(4), .4.a(3), and .6, 33–24–05–433.4.b, 33–24–05–525.4.a.(2) and.7.b, 33–24–05–527.2.a, 33–24–05–531.1, 33–24–05–537.2.a and .2.b.(1), 33–24–05–610.2.a.(2), 33–24–05–644.3, 33–24–05–653.3, 33–24–05–663.3, 33–24–05/Appendices V, XII, and XXIV, 33–24–06–16.5, 33–24–06–17.2.w.(3)(a)[3] and [4], 33–24–06–17.2.ff.(1)(b)(2)[b], 33–24–06–19.2.b.(2)(a)[3] and [4], 33–24–06–19.4.c.(2)(a) and (b); Universal Waste Rule: Specific Provisions for Mercury Containing Equipment (70 FR 45508, 08/05/2005) (Checklist 209)/33–24–01–04.92, 33–24–01–04.153 introductory paragraph and .c, 33–24–02–06.5.c, 33–24–05–01.6.j.(3), 33–24–05–250.6.c, 33–24–05–701.1.c, 33–24–05–704, 33–24–05–709.1, .3, and .4, 33–24–05–713.3, 33–24–05–714.4, 33–24–05–732.2.d and .e, 33–24–05–733.3, 33–24–05–734.4, 33–24–06–01.2.b.(8)(c), 33–24–06–16.5; Standardized Permit for RCRA Hazardous Waste Management Facilities (70 FR 53420, 09/08/2005) (Checklist 210)/33–24–01–04.48, .107 and .131, 33–24–01–05.3.a, .3.c.(27), and .4.a, 33–24–02–07.1, 33–24–05–950.3, 33–24–05–951, 33–24–05–960, 33–24–05–961, 33–24–05–963 through 968, 33–24–05–980 through 986, 33–24–05–990 through 998, 33–24–05–1010 through 1016, 33–24–05–1020, 33–24–05–1031, 33–24–05–1040 through 1047, 33–24–05–1060 through 1063, 33–24–05–1067, 33–24–05–1068, 33–24–05–1071, 33–24–05–1080 through 1087, 33–24–05–1100 through 1114, 33–24–05–1130 through 1138, 33–24–06–01.1 and .9, 33–24–06–02.4, 33–24–06–11.2, 33–24–06–12 introductory paragraph and .2.c, 33–24–06–16.5, 33–24–06–19.6, 33–24–06–45, 33–24–06–48, 33–24–06–52, 33–24–06–56, 33–24–06–57, 33–24–06–62, 33–24–06–65, 33–24–06–70, 33–24–06–73, 33–24–06–76, 33–24–06–80, 33–24–06–85, 33–24–07–01, 33–24–07–03 introductory paragraph and .3.a, 33–24–07–25.1 through .3, 33–24–07–26.1, 33–24–07–40 through 54; Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (''Headworks exemptions'') (70 FR 57769, 10/04/2005) (Checklist 211)/33–24–02–03.1.b.(4)(a) and (b), 33–24–02–03.1.b.(4)(d), (f), and (g); NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) (70 FR 59402, 10/12/2005) (Checklist 212)/33–24–01–05.1, .3 introductory paragraph, and .3.a, 33–24–05–144.2.a, 33–24–05–525.2.a, .c and .d, 33–24–06–01.12, 33–24–06–05.2.c, 33–24–06–14.10.a through .c, 33–24–06–14.11, 33–24–06–14/Appendix I, 33–24–06–16.5, 33–24–06–17.2.w.(5), .ff, .cc.(4)(c), and .dd.(5)(c), 33–24–06–19.2 and .4, 33–24–06–100; Burden Reduction Initiative (71 FR 16862, 04/04/2006) (Checklist 213)/33–24–01–10.2.b through .g, 33–24–02–04.1.i.(3)(e) and .6.i, 33–24–05–06.2.d, 33–24–05–07.1.d, 33–24–05–27.2, 33–24–05–31.9, 33–24–05–40.2 introductory paragraph, .a, .b, .f, .h, .j, .r, and .s, 33–24–05–55.4, .7.b, and .7.c, 33–24–05–56.6 and .7, 33–24–05–57.7, 33–24–05–64, 33–24–05–69, 33–24–05–77.9, 33–24–05–79.5, 33–24–05–93, 33–24–05–104.1 and .2.e.(2), 33–24–05–105.1 introductory paragraph and .2 introductory paragraph, 33–24–05–106.1.a, .1.b, and .9.b, 33–24–05–108.2 through .7, 33–24–05–109.6, 33–24–05–131.3, 33–24–05–167.2, 33–24–05–183.1 through .5, 33–24–05–147.1.b, 33–24–05–150.4, 33–24–05–256.1.a, .1.b, and .2.f, 33–24–05–258.1 and .4, 33–24–05–431.2.a and .b, 33–24–05–432.1, 33–24–05–475, 33–24–05–476.3.b and .d, 33–24–05–502.1 through .3, 33–24–05–504.1.d.(2) and .7, 33–24–05–505.1, 33–24–05–527.5.j, 33–24–05–528.4 and .11, 33–24–06–14/Appendix I, 33–24–06–16.5, 33–24–06–17.2 introductory paragraph, .t.(1), and .ee.(3)(o); Corrections to Errors in the Code of Federal Regulations (71 FR 40254, 07/14/2006) (Checklist 214)/33–24–01–04.69, .102, .109, .114, .153, and .158, 33–24–01–08.1.a and .4.a.(2), 33–24–01–13, 33–24–01–14, 33–24–02–02.3.a.(1), 33–24–02–03.1.b.(1), 33–24–02–04.1.t.(5), .2.f.(1)(b), .2.f.(2) introductory paragraph, .2.f.(2)(a), .2.i, .5.b.(6), and .5.c.(1), 33–24–02–06.1.b and .3.b, 33–24–02–11.1.c and .d, 33–24–02–11.Notes 1 through 4, 33–24–02–14.2, 33–24–02–16.1/Table, 33–24–02–17/Table entries ''K107'' and ''K069'', 33–24–02–18.5, .5/Comment, and .5/Table, 33–24–02–18.6, .6/Comment, and .6/Table, 33–24–02/Appendices IV and V, 33–24–03–12.1.a.(4), 33–24–03–20.2, 33–24–03–23.2, 33–24–03–25.1.a, 33–24–03–40, 33–24–03–51.12, 33–24–03–53.2.a.(1) and .b.(1), 33–24–03–54.5, 33–24–03–57.1 introductory paragraph and .e, 33–24–05–01.6.b, 33–24–05–04.2.g.(3)(b), 33–24–05–08.2, 33–24–05–09.1, 33–24–05–54.1.a and .9.e, 33–24–05–55.1.b and .7.d.(1), 33–24–05–56.8.b, 33–24–05–58.4, 33–24–05–60.3, 33–24–05–64, 33–24–05–65, 33–24–05–67.3, 33–24–05–68.2.a.(2), 33–24–05–76.2.b.(2), 33–24–05–77.1.c.(1), .2.g, .2.h, .4.f, .5.e, and .6.j, 33–24–05–79.8.a, 33–24–05–81.2, .6, .7, .8.a and .b, .9, .10/Item(2)(d), and .11 through .14, 33–24–05–94.2.a, 33–24–05–106.3 through .5, and .7, 33–24–05–119.3.a.(1)(b), .3.b.(2), .5.a, .5.b.(1)(b), and.5.b.(1)(c), 33–24–05–120.1.b, 33–24–05–127.2.a, 33–24–05–131.1.b.(1)(a), 33–24–05–136.2, 33–24–05–137.1 and .2, 33–24–05–148.2, 33–24–05–167.3.g and .4, 33–24–05–170.1, 33–24–05–177.3.b and .5.b.(1)(b), 33–24–05–183.5.b, 33–24–05–186.1, 33–24–05–187.1 and .2, 33–24–05–188.2.a, 33–24–05–230.1, 33–24–05–235.1/Table, 33–24–05–251.1, 33–24–05–253.1.c, 33–24–05–255.3.e, 33–24–05–256.1.a, .1.c.(2), .1.d/Table (entry 8), .2.c.(2)/Table (entry 5), .2.d.(2), .3.b, .4 introductory paragraph through .c, 33–24–05–265.2 and .3, 33–24–05–280.7 and Table, 33–24–05–282/Table 1, 33–24–05–284.3, 33–24–05–285/Table 1, 33–24–05–288/Table UTS, 33–24–05–289.4, 33–24–05–290.3 and .7, 33–24–05–300, 33–24–05–301.1, .2.k, and .3.d, 33–24–05–400.3, 33–24–05–

403.6.b.(7)(b), 33–24–05–404.2.b, 33–24–05–405.3.d.(1) and (2), 33–24–05–420.6, 33–24–05–428.3.a, 33–24–05–434.3.c, 33–24–05–450.1 and .3, 33–24–05–460.3, 33–24–05–476.2.c.(3), .3.c introductory paragraph, .3.c.(1), and .4, 33–24–05–477.1, 33–24–05–504.1.a, .1.d(1), .1.e, .2, .13.b, and .13.c, 33–24–05–525.2.b.(4), .4.c.(1)(a), and .7, 33–24–05–527.1.b.(6), .5.c.(1)(e), .5.e.(1)(c), .5.f.(2)(b)[2], and .5.h.(3), 33–24–05–528.1.d.(7), .2.b.(5)(b)[2], .2.e.(2)(a), .2.f.(8)(a), .3.a.(1), .3.a.(2)(a)[2], .3.a.(9) introductory paragraph and (a), .3.d.(4)(c)[1], and .7.a.(1), 33–24–05–531.4.a, 33–24–05–534.1.b.(2) and .2, 33–24–05–552.5.d.(3), .5.d.(4)(f), and .5.f.(3)(e), 33–24–05–553.5, 33–24–05–554.1, 33–24–05–555.5.f, 33–24–05–600.8, 33–24–05–610.2.b, 33–24–05–611 and 611/Table 1, 33–24–05–643.3.c.(1) and .3.e, 33–24–05–644.1 and .3.b, 33–24–05–645.1, 33–24–05–652.1, .2 introductory paragraph, .2.a.(2), .2.f.(2), and .2.f.(3), 33–24–05–655.1 and .2.b.(1)(b), 33–24–05–656.1.b, 33–24–05–657.1.b.(2), 33–24–05–659, 33–24–05–663.2.c, 33–24–05–664.5, 33–24–05–670.2.a, 33–24–05–713.2, 33–24–05–714.1, 33–24–05–734.1, 33–24–05–1067.6.b.(1)(a), 33–24–05/Appendix I Table 1 and Table 2 Section 6, Appendices XIII, XVIII through XXI, XXIII, XXIV, and XXVIII, 33–24–06–01.1, .2.b.(9)(a), and .10.a, 33–24–06–02, 33–24–06–03.4.a and .b, 33–24–06–07.2, 33–24–06–12.3, 33–24–06–14.4.b.(1), 33–24–06–14/Appendix I, 33–24–06–16.5, 33–24–06–17.1.e.(8), .2 introductory paragraph, .2.q.(3), .2.u.(6), .2.v.(2) and (7), .2.x.(9)(b), .2.aa, and .2.ee.(3)(o); Cathode Ray Tubes Rule (71 FR 42928, 07/28/2006) (Checklist 215)/33–24–01–04.13, .14, .16, and .17, 33–24–02–04.1.v, 33–24–02–23, 33–24–02–25 through 33–24–05–27; NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments (73 FR 18970, 04/08/2008) (Checklist 217)/33–24–05–144.2.a and .c, 33–24–05–525.2.c.(2); F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes (73 FR 31756, 06/04/2008) (Checklist 218)/33–24–02–16.1/Table and .2.d; Revisions to the Definition of Solid Waste (73 FR 64668, 10/30/2008) (Checklist 219)/33–24–01–04.48, .59, .60, .77, .81, and .141, 33–24–01–09 introductory paragraph, .2, .4, and .5, 33–24–01–12 introductory paragraph, .1, and .3, 33–24–01–17 through 33–24–01–19, 33–24–02–01.3.d, 33–24–02–02.1 and .3.c, 33–24–02–04.1.x and .y, 33–24–02–33 through 33–24–02–42, 33–24–06–14/Appendix I; Academic Laboratories Generator Standards (73 FR 72912, 12/01/2008) (Checklist 220)/33–24–02–05.3.f and .g, 33–24–03–01.9, 33–24–03–60 through 33–24–03–77; Hazardous Waste Technical Corrections and Clarifications (75 FR 12989, 03/18/2010) (Checklist 223)/33–24–01–04.98, 33–24–01/Appendix I, 33–24–02–01.3.k, 33–24–02–02.3/Table 1, 33–24–02–04.1.q.(6), 33–24–02–05.2, .5, .6 introductory paragraph, .6.b, .7 introductory paragraph, and .7.b, 33–24–02–06.1.b introductory paragraph., .1.b.(2), .1.c, .3.a, and .4, 33–24–02–07.1 through .3, and .5, 33–24–02–13.1.h, 33–24–02–15.3 and .4, 33–24–02–16.1, 33–24–02–17.1/Table, 33–24–02–18.6, 33–24–02/Appendix IV (removal of entries K064, K065, K066, K090, K091), 33–24–03–01.5, 33–24–03–02.4, 33–24–03–07.7, 33–24–03–12.1.d, .2, .3, .4.d, .6, and .9, 33–24–03–14.2, 33–24–03–15.1, .2 introductory paragraph, and .4, 33–24–03–30.2, 33–24–04–03, 33–24–05–27.2, 33–24–05–31.4.b, 33–24–05–39.5.f, .6.a, .6.g, and .6.h, 33–24–05–183.4, 33–24–05–185.2, 33–24–05–201.2, 33–24–05–203, 33–24–05–230.4, 33–24–05–235.2, 33–24–05–526.3.a and .b, 33–24–05–280/Table (entries F025, K031, K156, K157, K158), 33–24–05–288/Table UTS, 33–24–05–552.1.c.(2) through (4), and .5.d.(4)(f), 33–24–06–10.1.a and .b, 33–24–06–16.5; Academic Laboratories Generator Standards Technical Corrections (75 FR 79304, 12/20/2010) (Checklist 226)/33–24–03–61.1, 33–24–03–67.2.c.(1), 33–24–03–73.5.a, 33–24–03–75.1.a and .2.a; Revision of the Land Disposal Treatment Standards for Carbamate Wastes (76 FR 34147, 06/13/2011) (Checklist 227)/33–24–05–280/Table, 33–24–05–288/Table UTS; Hazardous Waste Technical Corrections and Clarifications Rule (77 FR 22229, 04/13/2012) (Checklist 228)/33–24–02–17.1 (entry K107), 33–24–05–201.2; Conditional Exclusions for Solvent Contaminated Wipes (78 FR 46448, 07/31/2013) (Checklist 229)/33–24–01–04.100, .128, and .164, 33–24–02–04.1.w and .2.p; Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities (79 FR 350, 01/03/2014) (Checklist 230)/33–24–01–04.11, 33–24–02–04.9; Hazardous Waste Electronic Manifest Rule (79 FR 7518, 02/07/2014) (Checklist 231)/33–24–01–04.38, .39, .90, and .151; 33–24–03–04.1.b, 33–24–03–07.8 and .9, 33–24–04–04.1 and .9, 33–24–05–38.1 introductory paragraph, .1.b, and .6 through .11, 33–24–06–16.5; Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule (79 FR 36220, 06/26/2014) (Checklist 232)/33–24–01–04.15, 33–24–02–25.1.e.(1)(f), .1.e.(10), and .1.e.(11), 33–24–02–27; Revisions to the Definition of Solid Waste (80 FR 1694, 01/13/2015) (Checklist 233A)/33–24–01–10.3, 33–24–01–12.3 through .5, 33–24–01–18; Revisions to the Definition of Solid Waste (80 FR 1694, 01/13/2015) (Checklist 233B)/33–24–01–04.24 and .59, 33–24–01–19.1.a through .c, 33–24–02–02.2.c and .d, 33–24–02–02.7; Revisions to the Definition of Solid Waste (80 FR 1694, 01/13/2015) (Checklist 233C)/33–24–02–01.3.h; Revisions to the Definition of Solid Waste (80 FR 1694, 01/13/2015) (Checklist 233D2)/33–24–01–09.6, 33–24–01–10.4, except .4.f, 33–24–01–17.2 introductory paragraph and .2.d, 33–24–01–17.3.e, 33–24–02–01.3.d, 33–24–02–02.3.c, and .3.d/Table 1, 33–24–02–04.1.x, 33–24–02–33 through 33–24–02–42, 33–24–02–120 through 33–24–02–129, 33–24–06–14/Appendix I; Revisions to the Definition of Solid Waste (80 FR 1694, 01/13/2015) (Checklist 233E)/33–24–01–04.116, 33–24–02–02.3.c and .d/Table 1, 33–24–02–04.1.z, 33–24–02–50 through 33–24–02–70, 33–24–02–170 through 33–24–02–173.1.a, 33–24–02–174, 33–24–02–175, 33–24–02–200 through 33–24–02–203.2, 33–24–02–204, 33–24–02–206, 33–24–02–207 through 33–24–02–209.2; Response to Vacatur of the Comparable Fuels Rule and the Gasification Rule (80 FR 18777, 04/08/2015) (Checklist 234)/33–24–02–04.1.l.(1) and .1.p, 33–24–02–22; Disposal of Coal Combustion Residuals from Electric Utilities (80 FR 21302, 04/17/2015) (Checklist 235)/33–24–02–04.2.d.

2. State-Initiated Changes

North Dakota has made amendments to its regulations that are not directly related to any of the federal rules addressed in Item F.1 above. These state-initiated changes are either for the purpose of clarifying existing authorized provisions, or of adopting provisions to render the state's regulations both clearer and internally consistent. The state's regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the federal laws and regulations. These state-initiated changes are submitted under the requirements of 40 CFR 271.21(a) and include the following provisions from the North Dakota Administrative Code (NDAC), Article 33–24, as revised January 1, 2016: 33–24–01–04.21, .29, .84, and .126; 33–24–02–04.1.i.(3)(d); 33–24–02–06.5 introductory paragraph; 33–24–02–07.3.a through .b.1, .4, and .5.a through .c; 33–24–02–18.3; 33–24–03–13.2; 33–24–03–14.3; 33–24–03–17; 33–24–05–07.4.b; 33–24–05–38.2.b, .2.c, and .3; 33–24–05–47.1 through .4; 33–24–05–61.4.c; 33–24–05–75.5; 33–24–

05–76.2.a introductory paragraph and .2.b introductory paragraph; 33–24–05–79.6.c.(1); 33–24–05–81.1 and .8.a; 33–24–05–103 introductory paragraph; 33–24–05–106.8; 33–24–05–132.1, .2.b, and .2.c; 33–24–05–180.2 introductory paragraph; 33–24–05–250.3.a; 33–24–05–252.1; 33–24–05–253.1.b.(1) and (2); 33–24–05–256.1.d; 33–24–05–271.2 and .3; 33–24–05–278; 33–24–05–289.1 through .3 introductory paragraph; 33–24–05–290.1 introductory paragraph and .1.a; 33–24–05–403.14; 33–24–05–421; 33–24–05–456.3.c and .3.d introductory paragraph; 33–24–05–459.6.a; 33–24–05–501; 33–24–05–504.1.c and .9; 33–24–05–536; 33–24–05–645.8; 33–24–05–654.7; 33–24–05–664.7; 33–24–05–718.2; 33–24–05–821.3; 33–24–05–822.4; 33–24–05/Appendix II; 33–24–06–01.2 introductory paragraph and .2.c; 33–24–06–05.1 introductory paragraph through 2.b, and .3 through .5; 33–24–06–17.2.hh and .3.d.2; 33–24–06–30.1.c; 33–24–07–14.

The state-initiated changes also include conforming changes to internal references to the incorporation by reference of 40 CFR part 265 which was renumbered from 33–24–06–16(1) to 33–24–06–16(5) at the following citations: 33–24–02–04.1.i(3)(d); 33–24–05–254.8.b.(5); 33–24–05–290.1.a; 33–24–05–403.14.a(2); 33–24–05–528.1.f (3) and .12; 33–24–05–536.2.b, .4.b, and .5; 33–24–05–552.1.2; 33–24–05–622.1 introductory paragraph; 33–24–05–664.1; and 33–24–06–17.2.hh(7).

Since receiving authorization of the base program, North Dakota has removed certain provisions from the authorized program regulations, which resulted in the clarification of the state's program. These provisions have been reviewed and we have determined that it is appropriate for the state to remove them, and that their removal has no impact on the equivalency or consistency with the federal program. The provisions removed were NDAC sections: 33–24–06–06.3; 33–24–06–16.1 through .4 as found in the January 1, 2016 version of the regulations; 33–24–05–56.11 as found in the December 1, 2003 version of the regulations; 33–24–05–132.2.b as found in the December 1, 1988 version of the regulations; and 33–24–05–132.4 as found in the January 1, 1984 version of the regulations.

G. Where are the revised state rules different from the Federal rules?

We consider the following state requirements to be more stringent than the federal requirements: 33–24–02–22, 33–24–02–25, 33–24–02–27, 33–24–02–30.5 33–24–03–20.2, and 33–24–03–23.2, because North Dakota requires documentation, such as manifests, to be submitted to the state in addition to the federal U.S. EPA; 33–24–02–36.4.a because North Dakota has additional state-specific insurance requirements; and 33–24–05–968 because North Dakota has more stringent location standards that restrict the location of permitted facilities within certain geographical areas.

There are no requirements that are broader-in-scope than the federal program in these revisions.

North Dakota's rules, promulgated pursuant to this application, contain an error which may create confusion within the regulated community. The EPA has determined that the error does not pose implementation or enforcement problems; therefore, the EPA will approve this application with the understanding that the state will correct this item during its next rulemaking. The error is at 33–24–05/Appendix II within the North Dakota Administrative Code (NDAC), revised January 1, 2016.

H. Who handles permits after the final authorization takes effect?

North Dakota will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization.

I. How does this action affect Indian country (18 U.S.C. 1151) in North Dakota?

North Dakota is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to:

1. Lands within the exterior boundaries of the following Indian Reservations located within or abutting the State of North Dakota:

a. Fort Totten Indian Reservation
b. Fort Berthold Indian Reservation
c. Standing Rock Indian Reservation
d. Turtle Mountain Indian Reservation

2. Any land held in trust by the U.S. for an Indian tribe, and

3. Any other land, whether on or off a reservation that qualifies as Indian country within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where the EPA will continue to implement and administer the RCRA program.

II. Corrections

Corrections to February 14, 2008 (73 FR 8610) Authorization document: The following two citations: 33–24–05–256.1.c.1 and 33–24–05–256.1.c.2 were not included in the authorization of Checklist 137 that was published February 14, 2008. We have reviewed these citations and determined that it is appropriate to include them as technical corrections as part of this codification.

III. Incorporation by Reference

A. What is codification?

Codification is the process of including the statutes and regulations that comprise the state's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the EPA to authorize state hazardous waste management programs. The state regulations authorized by the EPA supplant the federal regulations concerning the same matter with the result that after authorization, the EPA enforces the authorized regulations. Infrequently, state statutory language which acts to regulate a matter is also authorized by the EPA with the consequence that the EPA enforces the authorized statutory provision. The EPA does not authorize state enforcement authorities and does not authorize state procedural requirements. The EPA codifies the authorized state program in 40 CFR part 272 and incorporates by reference state statutes and regulations that make up the approved program which is federally enforceable in accordance with Sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

B. What is the history of the codification of North Dakota's hazardous waste management program?

The EPA incorporated by reference North Dakota's then authorized hazardous waste program effective April 14, 2008 (73 FR 8610). In this action, the EPA is proposing to revise Subpart JJ of 40 CFR part 272 to include the authorization revision actions described in this preamble.

C. What decisions have we proposed in this rule?

In this action, the EPA is proposing to finalize regulatory text that includes those incorporated by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to finalize the incorporation by reference of the North Dakota rules described in the amendments to 40 CFR part 272 set forth below. The EPA has made, and will continue to make, these documents available electronically through *http://*

www.regulations.gov and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

This action proposes to codify the EPA's authorization of North Dakota's base hazardous waste management program and its revisions to that program. The proposed codification reflects the state program that will be in effect at the time the EPA's authorized revisions to the North Dakota hazardous waste management program addressed in this proposed rule become final. This proposed action does not reopen any decision the EPA previously made concerning the authorization of the state's hazardous waste management program. The EPA is not requesting comments on its prior decisions published in the **Federal Register** actions referenced in Section I.E of this preamble.

The EPA is proposing to incorporate by reference the EPA's approval of North Dakota's hazardous waste management program by amending Subpart JJ to 40 CFR part 272. The proposed action amends section 272.1751 and incorporates by reference North Dakota's authorized hazardous waste regulations, as amended effective January 1, 2016. Section 272.1751 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the state's implementation of the hazardous waste management program. In addition, section 272.1751 references the Memorandum of Agreement, the Attorney General's Statements, and the Program Description, which are evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA.

D. What is the effect of North Dakota's codification on enforcement?

The EPA retains the authority under federal statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized states. With respect to enforcement actions, the EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state analogs to these provisions. Therefore, the EPA is not proposing to incorporate by reference North Dakota's inspection and enforcement authorities, nor are those authorities part of North Dakota's approved state program which operates in lieu of the federal program. 40 CFR 272.1751(c)(2) lists these authorities for informational purposes, and because the EPA also considered them in determining the adequacy of North Dakota's procedural and enforcement authorities. North Dakota's authority to inspect and enforce the state's hazardous waste management program requirements continues to operate independently under state law.

E. What state provisions are not proposed as part of the codification?

The public is reminded that some provisions of North Dakota's hazardous waste management program are not part of the federally-authorized state program. These non-authorized provisions include:

1. Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));
2. Federal rules for which North Dakota is not authorized, but which have been incorporated into the state regulations because of the way the state adopted federal regulations by reference;
3. State procedural and enforcement authorities which are necessary to establish the ability of the state's program to enforce compliance, but which do not supplant the federal statutory enforcement and procedural authorities.
4. Federal rules which North Dakota adopted, but which were vacated by the U.S. Court of Appeals for the District of Columbia Circuit (DC Cir. No. 09–1038, rulings dated July 7, 2017, and March 6, 2018).

State provisions that are ''broader in scope'' than the federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, the EPA proposes to list in 40 CFR 272.1751(c)(3) the North Dakota statutory provisions that are ''broader in scope'' than the federal program, and which are not part of the authorized program being incorporated by reference. While ''broader in scope'' provisions are not part of the authorized program and cannot be enforced by the EPA, the state may enforce such provisions under state law.

North Dakota has adopted, but is not authorized for, the federal rules published in the **Federal Register** on April 12, 1996 (61 FR 16290); October 22, 1998 (63 FR 56710), and January 8, 2010 (75 FR 1235). Therefore, these federal amendments included in North Dakota's adoption by reference at section 33–24–06–16.5 of the North Dakota Administrative Code, are not part of the state's authorized program and are not part of the proposed incorporation by reference addressed by this **Federal Register** document.

F. What will be the effect of the proposed codification on Federal HSWA requirements?

With respect to any requirement(s) pursuant to HSWA for which the state has not yet been authorized, and which the EPA has identified as taking effect immediately in states with authorized hazardous waste management programs, the EPA will enforce those federal HSWA standards until the state is authorized for those provisions.

The proposed codification does not affect federal HSWA requirements for which the state is not authorized. The EPA has authority to implement HSWA requirements in all states, including states with authorized hazardous waste management programs, until the states become authorized for such requirements or prohibitions, unless the EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the federal program. A HSWA requirement or prohibition, unless identified by the EPA as optional or as less stringent, supersedes any less stringent or inconsistent state provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985).

Some existing state requirements may be similar to the HSWA requirements implemented by the EPA. However, until the EPA authorizes those state requirements, the EPA enforces the HSWA requirements and not the state analogs.

IV. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action proposes to authorize state requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by state law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as today's proposed authorization of North Dakota's revised hazardous waste program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action proposes to authorize pre-existing requirements under state law and does not impose any additional

enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this proposed action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to authorize and codify state requirements as part of the state RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA.

This proposed action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This proposed action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed action, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule proposes to authorize pre-existing state rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by state law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

List of Subjects

40 CFR Part 271

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

40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

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

Dated:May 25, 2018.

Douglas Benevento,

Regional Administrator, Region 8.

For the reasons set forth in the preamble, 40 CFR parts 271 and 272 are amended as follows:

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

EPA is proposing to grant final authorization under part 271 to the State of North Dakota for revisions to its hazardous waste program under the Resource Conservation and Recovery Act.

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.1751 to read as follows:

§ 272.1751 North Dakota State-Administered Program: Final Authorization.

(a) *History of the State of North Dakota authorization.* Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), North Dakota has final authorization for the following elements as submitted to the EPA in North Dakota's base program application for final authorization which was approved by the EPA effective on October 19, 1984. Subsequent program revision applications were approved effective on August 24, 1990, July 6, 1992, June 6, 1994, March 20, 2000, November 25, 2005, April 14, 2008, and [EFFECTIVE DATE OF FINAL RULE].

(b) *Enforcement authority.* The state of North Dakota has primary responsibility for enforcing its hazardous waste management program. However, the EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the state has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.*

(1) *Incorporation by reference.* The North Dakota statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the North Dakota regulations that are incorporated by reference in this paragraph from North Dakota Legislative Council, Second Floor, State Capitol, 600 E. Boulevard Avenue, Bismarck, North Dakota 58505, phone (701) 328–2916. You may inspect a copy at EPA Region 8, 1595 Wynkoop Street, Denver,

Colorado, phone number (303) 312–6231, or 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.*

(i) The Binder entitled ''EPA-Approved North Dakota Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program,'' dated April 2018.

(ii) [Reserved]

(2) *Legal basis.* The EPA considered the following statutes and regulations in evaluating the state program but is not incorporating them herein for enforcement purposes:

(i) North Dakota Century Code (NDCC), Volume 13A, 2012 Replacement, North Dakota Constitution, Article XI: Sections 5 and 6.

(ii) North Dakota Century Code, Volume 4A, 2012 Replacement. Chapter 23–01 ''State Department of Health'', Section 23–01–04.1; Chapter 23–20.3 ''Hazardous Waste Management'', Sections 23–20.3–01, 23–20.3–02 introductory paragraph, (2), (3) through (8), (10), (13) through (16), and (18); 23–20.3–03; 23–20.3–04; 23–20.3–05(3), (5), (6), and (8); 23–20.3–06 through 23–20.3–10; and Chapter 23–29 ''Solid Waste Management and Land Protection'', Section 23–29–04.

(iii) North Dakota Century Code, Volume 4A, 2015 Pocket Supplement. Chapter 23–01 ''State Department of Health'', Section 23–01–36

(iv) North Dakota Century Code, Volume 5, 2012 Replacement. Chapter 28–32 ''Administrative Agencies Practice Act'', Section 28–32–21.1 ''Actions against administrative agencies—Attorney's fees and costs''.

(v) North Dakota Century Code, Volume 6, 2012 Replacement. Chapter 32–40 ''Environmental Law Enforcement'', Sections 32–40–03 through 32–40–11.

(vi) North Dakota Century Code, Volume 9A, 2012 Replacement, as amended by the 2015 Pocket Supplement. Chapter 44–04 ''Duties, records and meetings'', Sections 44–04–18 through 19.1.

(vii) North Dakota Administrative Code (NDAC), Article 33—24, Hazardous Waste Management, as amended through January 1, 2016. Sections 33–24–01–15; 33–24–01–16; 33–24–06–05, except .2.c; 33–24–06–06.2; 33–24–06–09; 33–24–06–15.1.6 through .3.b; 33–24–07–03.4; 33–24–07–04 through 33–24–07–14; 33–24–07–25 through 33–24–07–27; and 33–24–07–40 through 33–24–07–54.

(3) *Related legal provisions.* The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the authorized program, are not incorporated by reference, and are not federally enforceable:

(i) North Dakota Century Code, 2012 Replacement, Volume 4A, Chapter 23–01 ''State Department of Health'', Section 23–01–04.1(6).

(ii) North Dakota Century Code, Volume 4A, 2012 Replacement. Chapter 23–20.3 ''Hazardous Waste Management'', Sections 23–20.3–02(1); 23–20.3–05.1; 23–20.3–05.2; and 23–20.3–05.3.

(iii) North Dakota Administrative Code, Article 33–24, ''Hazardous Waste Management'', as amended through January 1, 2016, Sections 33–24–03–03.4; 33–24–04–02.3; 33–24–05–02 second sentence; 33–24–06–14.3.a(4); and 33–24–06–21.

(iv) North Dakota's hazardous waste regulations set forth additional transporter requirements including permit requirements at 33–24–04–02. The transporter permit requirements are broader in scope than the federal program.

(4) *Unauthorized state amendments and provisions.*

(i) North Dakota has partially or fully adopted, but is not authorized to implement, the federal rule published in the **Federal Register** on October 22, 1998 (63 FR 56710) Post-Closure Requirements and Closure Process (HSWA/non-HSWA) (Checklist 174). The EPA will continue to implement the federal HSWA requirements for which North Dakota is not authorized until the state receives specific authorization for those requirements.

(ii) The federal rules listed in the following table are not delegable to states. North Dakota has adopted these provisions and left the authority to the EPA for implementation and enforcement.

Federal requirement	**Federal Register** reference	Publication date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152).	61 FR 16290	April 12, 1996.
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries (Non-HSWA) (Checklist 222) ...	75 FR 1236	January 8, 2010.

(iii) North Dakota has adopted the following federal provisions from the *Revisions to the Definition of Solid Waste Rule,* 80 FR 1694 (Jan. 13, 2015) which have since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit in *Am. Petroleum Inst.* v. *EPA,* 862 F.3d 50 (DC Cir. 2017) and *Am. Petroleum Inst.* v. *EPA,* No. 09–1038 (DC Cir. Mar. 6, 2018) (vacating both the Factor 4 Legitimacy Test and the Verified Recycler Exclusion aspects of the 2015 DSW Rule): (1) One criterion in the determination of whether recycling is legitimate at 40 CFR 260.43(a)(4); (2) one criterion in the variance determination for exceptions to the classification of hazardous secondary materials as a solid waste (at 40 CFR 260.31(d)(6)); and (3) the verified recycler exclusion, which allowed generators to send their hazardous secondary materials to certain reclaimers at 40 CFR 261.4(a)(24).

(5) *Memorandum of Agreement.* The Memorandum of Agreement between the EPA Region 8 and the state of North Dakota, signed by the Environmental Health Section of the North Dakota Department of Health on July 18, 2016, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* ''Attorney General's Statement: Hazardous Waste Management Program'' signed by the Attorney General of North Dakota on June 8, 1984, and revisions, supplements, and addenda to that Statement dated February 22, 1989, February 11, 1984, October 13, 1999, April 23, 2004, August 19, 2004 and December 5, 2016, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program

under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''North Dakota'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

North Dakota

(a) The statutory provisions include: North Dakota Century Code (NDCC), Volume 4A, 2012 Replacement. Chapter 23–20.3 ''Hazardous Waste Management'', Sections 23–20.3–05(1), (2), (4), (7), and (9). Copies of the North Dakota statutes that are incorporated by reference are available from Matthew Bender & Company Inc., 701 E. Water Street Charlottesville, VA 22902–5389, phone number: (800) 833–9844.

(b) The regulatory provisions include: North Dakota Administrative Code (NDAC), Article 33–24, as revised January 1, 2016, except reserved provisions.

Chapter 33–24–01—General provisions: Sections 33–24–01–01 through 33–24–01–04, 33–24–01–05, except .2.k and .7.a; 33–24–01–06 through 33–24–01–09; 33–24–01–10, except .4.f; 33–24–01–11 through 33–24–01–14; 33–24–01–17; 33–24–01–18; and 33–24–01–19, except .1.d.

Chapter 33–24–02—Identification and Listing of Hazardous Waste: Sections 33–24–02–01 through 33–24–02–03; 33–24–02–04, except .1.y; 33–24–02–05; 33–24–02–06, except .1.e; 33–24–02–07 through 33–24–02–10; 33–24–02–11, except the phrase ''or a miniflash continuously closed cup tester, using the test method specified in American Society for Testing and Material D6450–99 (incorporated by reference in section 33–24–01–05)'' in paragraph .1.a; 33–24–02–12 through 33–24–02–19; 33–24–02–25 through 33–24–02–27; 33–24–02–33 through 33–24–02–42; 33–24–02–50 through 33–24–02–70; 33–24–02–120 through 33–24–02–129; 33–24–02–170 through 33–24–02–175; 33–24–02–180 through 33–24–02–194; 33–24–02–200 through 33–24–02–209; and Appendices I, IV, and V.

Chapter 33–24–03—Standards for Generators: Sections 33–24–03–01, except .4; 33–24–03–02; 33–24–03–03.1 and .2; 33–24–03–03.3 except the phrase ''and a transporter permit''; 33–24–03–04 through 33–24–03–24; 33–24–03–30; 33–24–03–40; 33–24–03–60 through 33–24–03–77; and Appendix I.

Chapter 33–24–04—Standards for Transporters: Sections 33–24–04–01, except .4 and Note following paragraph .3.b; 33–24–04–02.1, except the phrase '', a transporter permit, and a registration certificate''; 33–24–04–02.2, except the phrases ''and a registration certificate, or a transporter permit,'' in the first sentence, and ''and issue a registration certificate'' in the second sentence; and 33–24–04–03 through 33–24–04–08.

Chapter 33–24–05—Standards for Treatment, Storage, and Disposal Facilities and for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities: Sections 33–24–05–01; 33–24–05–02, except the second sentence; 33–24–05–03, except 33–24–05–03.1; 33–24–05–04 through 33–24–05–10; 33–24–05–15 through 33–24–05–20; 33–24–05–26 through 33–24–05–31; 33–24–05–37; 33–24–05–38, except .1.c and .4; 33–24–05–39 through 33–24–05–44; 33–24–05–47 through 33–24–05–69; 33–24–05–74 through 33–24–05–81; 33–24–05–89 through 33–24–05–98; 33–24–05–103 through 33–24–05–115; 33–24–05–118 through 33–24–05–128; 33–24–05–130 through 33–24–05–138; 33–24–05–144 through 33–24–05–151; 33–24–05–160 through 33–24–05–170; 33–24–05–176 through 33–24–05–188; 33–24–05–201 through 33–24–05–204; 33–24–05–230, except .2.c; 33–24–05–235, except .1/Table entries (6) and (7); 33–24–05–250 through 33–24–05–253; 33–24–05–256; 33–24–05–258; 33–24–05–265; 33–24–05–266; 33–24–05–270 through 33–24–05–281; 33–24–05–282, except .2; 33–24–05–283; 33–24–05–284.8 through .13; 33–24–05–285; 33–24–05–286; 33–24–05–288 through 33–24–05–290; 33–24–05–300 through 33–24–05–303; 33–24–05–400 through 33–24–05–406; 33–24–05–420 through 33–24–05–435; 33–24–05–450 through 33–24–05–460; 33–24–05–475 through 33–24–05–477; 33–24–05–501 through 33–24–05–506; 33–24–05–525 through 33–24–05–537; 33–24–05–550 through 33–24–05–555; 33–24–05–600; 33–24–05–610 through 33–24–05–612; 33–24–05–620 through 33–24–05–624; 33–24–05–630 through 33–24–05–632; 33–24–05–640 through 33–24–05–647; 33–24–05–650 through 33–24–05–667; 33–24–05–670 through 33–24–05–675; 33–24–05–680; 33–24–05–681; 33–24–05–701 through 33–24–05–705; 33–24–05–708 through 33–24–05–720; 33–24–05–730 through 33–24–05–740; 33–24–05–750 through 33–24–05–756; 33–24–05–760 through 33–24–05–762; 33–24–05–770, except .4; 33–24–05–780; 33–24–05–781; 33–24–05–800 through 33–24–05–802; 33–24–05–820 through 33–24–05–826; 33–24–05–850; 33–24–05–855 through 33–24–05–857; 33–24–05–860; 33–24–05–865; 33–24–05–866; 33–24–05–870; 33–24–05–875; 33–24–05–880; 33–24–05–885; 33–24–05–890; 33–24–05–895 through 33–24–05–900; 33–24–05–905; 33–24–05–910; 33–24–05–915; 33–24–05–916; 33–24–05–950; 33–24–05–951; 33–24–05–960; 33–24–05–961; 33–24–05–963 through 33–24–05–968; 33–24–05–980 through 33–24–05–986; 33–24–05–990 through 33–24–05–998; 33–24–05–1010 through 33–24–05–1016; 33–24–05–1020; 33–24–05–1031; 33–24–05–1040 through 33–24–05–1043; 33–24–05–1045 through 33–24–05–1047; 33–24–05–1060 through 33–24–05–1063; 33–24–05–1067; 33–24–05–1068; 33–24–05–1071; 33–24–05–1080 through 33–24–05–1087; 33–24–05–1100 through 33–24–05–1114; 33–24–05–1130 through 33–24–05–1138; and Appendices I through VIII, X through XIII, XV through XXIV, and XXVI through XXIX.

Chapter 33–24–06—Permits: Sections 33–24–06–01; 33–24–06–02, 33–24–06–03, except Note following paragraph .1.a.(2); 33–24–06–04; 33–24–06–05.2.c; 33–24–06–06.1; 33–24–06–07; 33–24–06–08; 33–24–06–10 through 33–24–06–13; 33–24–06–14, except .3.a.(4); 33–24–06–15 introductory paragraph through .1.a; 33–24–06–16.5 through .7; 33–24–06–17 through 33–24–06–20; 33–24–06–30 through 33–24–06–35; 33–24–06–45; 33–24–06–48; 33–24–06–52; 33–24–06–56; 33–24–06–57; 33–24–06–62; 33–24–06–65; 33–24–06–70; 33–24–06–73; 33–24–06–76; 33–24–06–80; 33–24–06–85; 33–24–06–100; and Appendix I to Section 33–24–06–14.

Chapter 33–24–07—Permitting Procedures: Sections 33–24–07–01; 33–24–07–02; and 33–24–07–03, except .4.

Copies of the North Dakota regulations that are incorporated by reference are available from North Dakota Legislative Counsel, Second Floor, State Capitol, 600 East Boulevard, Bismarck, North Dakota 58505, phone number: (701) 328–2916.

* * * * *

[FR Doc. 2018–11842 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 83, No. 108
Tuesday, June 5, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Sabine-Angelina Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sabine-Angelina Resource Advisory Committee (RAC) will meet in Hemphill, Texas. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcvCAAS.*

DATES: The meeting will be held on Tuesday, June 19, 2018, at 3:00 p.m.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Sabine Ranger District, 5050 State Highway 21 East, Hemphill, Texas.

Written comments may be submitted as described under *Supplementary Information.* All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Sabine Ranger District. Please call ahead at 409–625–1940 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Becky Nix, RAC Coordinator, by phone at 409–625–1940 or via email at *bnix@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Approve minutes from November 3, 2016 meeting;

2. Approve resignation from Felix Holmes;

3. Discuss, recommend, and approve new Title II projects;

4. Provide opportunity for review and discussion of RAC Title III funds planned uses by counties;

5. Discuss next 2–3 Stewardship Proposals that Angelina/Sabine will be developing and gain collaborative input from RAC; and

6. Discuss next 3–4 vegetation management areas that Angelina/Sabine hopes to initiate over the next 4–5 years and gain collaborative input from the committee on the projects/activities that we'd hope to do in those areas.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by Friday, June 8, 2018, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Becky Nix, RAC Coordinator, 5050 State Highway 21 East, Hemphill, Texas 75948; by email to *bnix@fs.fed.us,* or via facsimile to 409–625–1953.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: May 23, 2018.

Christopher French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–12069 Filed 6–4–18; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oregon Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Oregon Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Thursday, June 14, 2018. The purpose of the meeting is for the Committee to debrief testimony received at four public meetings (April 3, 2018; April 17, 2018; May 1, 2018; and May 2, 2018) on human trafficking in Oregon.

DATES: The meeting will be held on Thursday, June 14, 2018, at 1:00 p.m. PT.

Public Call Information:
Dial: 800–839–7875.
Conference ID: 9708817.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the above toll-free call-in number. Any interested member of the public may call this number and listen to the meeting. 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 telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of

the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://facadatabase.gov/committee/meetings.aspx?cid=270.*

Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Debrief
III. Review Report Outline
IV. Public comment
V. Next Steps
VI. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of this Committee preparing for its report on human trafficking that will be issued before the end of the fiscal year.

Dated: May 30, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–11975 Filed 6–4–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Alaska Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Alaska Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Alaska Time) Tuesday, June 19, 2018. The purpose of the meeting is for the Committee to receive testimony from a mail-in voting expert to supplement their report on Alaska Native Voting Rights.

DATES: The meeting will be held on Tuesday, June 19, 2018, at 1:00 p.m. AKT.

Public Call Information:
Dial: 877–856–1955,
Conference ID: 8098730.

Web Access Information: (visual only) The online portion of the meeting may be accessed through the following link: *https://cc.readytalk.com/r/iohnfma2757d&eom.*

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877–856–1955, conference ID number: 8098730. Any interested member of the public may call this number and listen to the meeting. 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 telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://facadatabase.gov/committee/meetings.aspx?cid=234.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Approve Minutes from May 10, 2018 Meeting
III. Presentation by Dr. Joseph Dietrich, Claremont Graduate University
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: May 30, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–11974 Filed 6–4–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request: Request for the Appointment of a Technical Advisory Committee

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: Request for the Appointment of a Technical Advisory Committee.

Form Number(s): N/A.

OMB Control Number: 0694–0100.

Type of Review: Regular submission.

Estimated Total Annual Burden Hours: 5.

Estimated Number of Respondents: 1.

Estimated Time per Response: 5 hours.

Needs and Uses: This collection of information is required by the Export Administration Regulations and the Federal Advisory Committee Act. The Technical Advisory Committees (TACs) were established to advise and assist the U.S. Government on export control matters such as proposed revisions to export control lists, licensing procedures, assessments of the foreign availability of controlled products, and export control regulations. Under this collection, interested parties may submit a request to BIS to establish a new TAC. The Bureau of Industry and

Security provides administrative support for these Committees.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov, http://www.reginfo.gov/public/*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–12056 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Licensing Responsibilities and Enforcement

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 6, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 1401 Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mark Crace, BIS ICB Liaison, (202) 482–8093, *mark.crace@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection supports the various collections, notifications, reports, and information exchanges that are needed by the Office of Export Enforcement and Customs to enforce the Export Administration Regulations and maintain the national security of the United States.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0122.

Form Number(s): N/A.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,821,891.

Estimated Time per Response: 5 seconds to 2 hours per response.

Estimated Total Annual Burden Hours: 78,576 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Section 758 of the Export Administration Regulations.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–12057 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Department of Commerce Trade Finance Advisory Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The U.S. Department of Commerce Trade Finance Advisory Council (TFAC or Council) will hold a meeting on Thursday, June 21, 2018, at the U.S. Department of Commerce, in Washington, DC. The meeting is open to the public with registration instructions provided below.

DATES: Thursday, June 21, 2018, from approximately 1:30 p.m. to 3:30 p.m. Eastern Standard Time (EST). The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EST on June 14, 2018. Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

ADDRESSES: U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ericka Ukrow, Designated Federal Officer, Office of Finance and Insurance Industries (OFII), International Trade Administration, U.S. Department of Commerce at (202) 482–0405; email: *Ericka.Ukrow@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 25, 2016, the Secretary of Commerce established the TFAC pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The TFAC advises the Secretary of Commerce in identifying effective ways to expand access to finance for U.S. exporters, especially small- and medium-sized enterprises (SMEs) and their foreign buyers. The TFAC also provides a forum to facilitate the discussion between a diverse group of stakeholders such as banks, non-bank financial institutions, other trade finance related organizations, and exporters, to gain a better understanding regarding current challenges facing U.S. exporters in accessing finance.

On June 21, 2018, the TFAC will hold the fifth and last meeting of its current charter term. During this meeting, members are expected to discuss possible recommendations on policies and programs that can increase awareness of, and expand access to, private export financing resources for U.S. exporters. They will also hear from officials from the Department of Commerce and other agencies on issues impacting the scope of their work and mission.

Public Participation

The meeting will be open to the public and will be accessible to people with disabilities.

All guests are required to register in advance by the deadline identified under the **DATE** caption. Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted by either of the following methods: (a) Electronic Submission: Submit statements electronically to Ericka Ukrow, U.S. Department of Commerce Trade Finance Advisory Council Designated Federal Officer, via email to *TFAC@trade.gov;* or (b) Paper Submissions: Send paper statements to Ericka Ukrow, U.S. Department of Commerce Trade Finance Advisory Council Designated Federal Officer, Room 18002, 1401 Constitution Avenue NW, Washington, DC 20230. Last minute requests will be accepted, but may be impossible to fill.

There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers.

Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on June 14, 2018, for inclusion in the meeting records and for circulation to the members of the Council. In addition, any member of the public may submit pertinent written comments concerning matters relevant to the TFAC's responsibilities at any time before or after the meeting. Comments may be submitted to Ericka Ukrow, at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on June 14, 2018, to ensure transmission to the Council members prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered during the meeting. Comments and statements will be posted on the U.S. Department of Commerce Trade Finance Advisory Council website (*http://trade.gov/TFAC*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers.

All comments and statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you are prepared to have made publicly available.

II. Meeting Minutes

Copies of TFAC meeting minutes will be available within 90 days of the meeting.

Dated: May 30, 2018.

Michael Fuchs,

Trade and Project Finance Team Lead, Office of Finance and Insurance Industries.

[FR Doc. 2018–12062 Filed 6–4–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–833]

Citric Acid and Certain Citrate Salts From Thailand: Affirmative Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that citric acid and certain citrate salts (citric acid) from Thailand are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation (POI) April 1, 2016, through March 31, 2017. In addition, we determine that critical circumstances exist with respect to certain imports of the subject merchandise.

DATES: Applicable June 5, 2018.

FOR FURTHER INFORMATION CONTACT: Joy Zhang (COFCO), George McMahon (Niran), or Cindy Robinson (Sunshine), 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, (202) 482–1167, or (202) 482–3797, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* of sales at LTFV of citric acid from Thailand on January 8, 2018, in which we also postponed the final determination until May 26, 2018.[1] We invited interested parties to comment on the *Preliminary Determination.* Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final determination of this investigation is now May 29, 2018.[2]

A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is adopted by this notice.[3]

Scope of the Investigation

The product covered by this investigation is citric acid from Thailand. For a full description of the scope of this investigation, see the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

Prior to the *Preliminary Determination,* we issued a Preliminary Scope Decision Memorandum.[4] We subsequently invited parties to submit additional scope comments in their case briefs, but received none. Therefore, for the final determination, we continue to find that the scope of the investigation as defined in the *Initiation Notice*[5] and the *Preliminary Determination*[6] remains applicable. *See* Appendix I.

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[1] *See Citric Acid and Certain Citrate Salts from Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Critical Circumstances Determination, in Part, and Postponement of Final Determination and Extension of Provisional Measures,* 83 FR 784 (January 8, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than- Fair-Value Investigation of Citric Acid and Certain Citrate Salts from Thailand,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See* Memorandum ''Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated December 1, 2017 (Preliminary Scope Decision Memorandum).

[5] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 29828 (June 30, 2017) (*Initiation Notice*) and accompanying Initiation Checklist.

[6] *See Preliminary Determination,* 83 FR at 786.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), from January through March 2018, we conducted verification of the sales and cost information submitted by respondents, COFCO Biochemical (Thailand) Co., Ltd. (COFCO), Niran (Thailand) Co., Ltd. (Niran), and Sunshine Biotech International Co., Ltd. (Sunshine) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by COFCO, Niran, and Sunshine.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the interested parties are addressed in the Issues and Decision Memorandum accompanying this notice, which is hereby adopted by this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. 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 it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

In accordance with sections 776(a)(1) and 776(a)(2)(A)–(D) of the Act, we have applied partial adverse facts available (AFA) to Sunshine with respect to the cost of a product which Sunshine sold during the POI but did not produce during the POI because Sunshine failed, prior to the cost verification, to fully disclose the fact that additional materials and equipment were necessary to produce this product compared to other products that were produced and sold during the POI. In addition, we made certain changes to the margin calculations for COFCO, Niran, and Sunshine. These changes are discussed in the ''Changes Since the Preliminary Determination'' section of the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206, we preliminarily found that critical circumstances exist with respect to imports of citric acid from one of the mandatory respondents, Niran, and do not exist with respect to COFCO, Sunshine and the companies covered by the ''all others'' rate.[7] Commerce received no comments regarding this issue after the *Preliminary Determination.* Therefore, based on our analysis, for the final determination we continue to find that, in accordance with section 735(a)(3) of the Act, and 19 CFR 351.206, critical circumstances exist with respect to subject merchandise produced or exported by Niran, but do not exist with respect to COFCO, Sunshine and the companies covered by the ''all others'' rate.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that, in the final determination, Commerce shall determine an estimated weighted-average dumping margin for all-other exporters and producers not individually examined. This rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters or producers individually examined, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act.

Commerce calculated the all-others rate based on a weighted average of the estimated weighted-average dumping margins calculated for the three mandatory respondents: COFCO, Niran, and Sunshine, none of which are zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others' rate using a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's business proprietary data for the merchandise under consideration.[8]

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/Producer	Estimated weighted-average dumping margin (percent)
COFCO Biochemical (Thailand) Co., Ltd. (COFCO)	15.71
Niran (Thailand) Co., Ltd. (Niran)	13.00
Sunshine Biotech International Co., Ltd. (Sunshine)	6.47
All-Others	11.25

Disclosure

We will disclose to interested parties the calculations performed in this final determination within five days of any public announcement in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of citric acid from Thailand, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after January 8, 2018, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.*

For entries made by Niran, in accordance with section 735(c)(4)(A) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of citric acid from Thailand which were entered, or withdrawn from warehouse, for consumption on or after October 10, 2017, which is 90 days prior to the date of publication of the *Preliminary Determination.* Additionally, for entries made by companies covered by the ''all others'' rate, in accordance with section 735(c)(4)(B) of the Act, because we continue to find that critical circumstances do not exist with regard to imports from all other producers and exporters of citric acid from Thailand, we will instruct CBP to continue to suspend liquidation of all appropriate entries of citric acid from Thailand which were entered, or withdrawn from warehouse, for consumption on or after January 8, 2018, which is the date of publication of the *Preliminary Determination.*

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.10(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margins or

[7] *See* Preliminary Decision Memorandum, at 8–13.

[8] For a complete analysis of the data, please *see* the All-Others Rate Calculation Memorandum dated concurrently with this notice.

the estimate all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted average dumping margin established for the producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for countervailable export subsidies, Commerce offsets the estimated weighted-average dumping margin by the appropriate CVD rate. However, in the companion CVD final determination, Commerce has determined that no countervailable export subsidies are being provided to the production or exportation of subject merchandise. Accordingly, we made no adjustment for the export subsidy offset to the estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of citric acid from Thailand no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: May 29, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate.

The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Changes Since the Preliminary Determination
V. Use of Partial Facts Available
VI. Final Affirmative Determination of Critical Circumstances, in Part
VII. Discussion of the Issues
COFCO
Comment 1: The Levels of Trade that Exist in the U.S. and Home Market (HM)
Comment 2: Whether to Modify COFCO's General and Administrative (G&A) Expense Rate for Certain Offsetting Income
Comment 3: Whether to Modify COFCO's G&A Expense Rate for Allowance for Doubtful Accounts
Comment 4: Imputed Interest Expense from Affiliated Party Loans
Niran
Comment 5: Whether to Include Minor Corrections from the Sales and Cost Verifications
Sunshine
Comment 6: Whether to Base Sunshine's Cost of Production for Trisodium Citrate (TSC) on Partial Adverse Facts Available
Comment 7: Whether to Increase Sunshine's Raw Material Costs to Account for Excluded Cassava Costs
Comment 8: Whether to Exclude Sunshine's Waived Interest Expenses
VIII. Recommendation

[FR Doc. 2018–12009 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–813]

Citric Acid and Certain Citrate Salts From Belgium: Affirmative Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that citric acid and certain citrate salts (citric acid) from Belgium are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation (POI) April 1, 2016, through March 31, 2017.

DATES: Applicable June 5, 2018.

FOR FURTHER INFORMATION CONTACT: Paul Stolz, 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) 482–4474.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* of sales at LTFV of citric acid from Belgium on January 8, 2018, in which we also postponed the final determination until May 26, 2018.[1] We invited interested parties to comment on the *Preliminary Determination.* Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final determination of this investigation is now May 29, 2018.[2]

A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum,[3] which is adopted by this notice.

Scope of the Investigation

The product covered by this investigation is citric acid from Belgium. For a full description of the scope of this investigation, see the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

Prior to the *Preliminary Determination,* we issued a Preliminary Scope Decision Memorandum.[4] We subsequently invited parties to submit additional scope comment in their case briefs, but received none. Therefore, for the final determination, we continue to find that the scope of the investigation as defined in the *Initiation Notice*[5] and the *Preliminary Determination*[6] remains applicable. *See* Appendix I.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce verified the sales and cost data reported by S.A, Citrique Belge N.V. (Citrique Belge), for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Citrique Belge.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum is attached to this notice at Appendix II.

The Issues and Decision Memorandum is a public document and is available 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 to all parties in the Central Records Unit, Room B–8024 of Commerce's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and electronic version are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Citrique Belge. These changes are discussed in the ''Changes Since the Preliminary Determination'' section of the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that, in the final determination, Commerce shall determine an estimated weighted-average dumping margin for all-other exporters and producers not individually examined. This rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters or producers individually examined, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act.

Commerce calculated an individual estimate weighted-average dumping margin for Citrique Belge, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely under section 776 of the Act, the estimated weighted-average dumping margin calculated for Citrique Belge is the margin assigned to all-other producers and exporters, pursuant to 735(c)(5)(A) of the Act.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/producer	Estimated weighted-averages dumping margins (percent)
S.A. Citrique Belge N.V	19.30
All-Others	19.30

[1] *See Citric Acid and Certain Citrate Salts from Belgium: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 787 (January 8, 2018) (*Preliminary Determination*), and accompanying memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Citric Acid and Certain Citrate Salts from Belgium'' (Preliminary Decision Memorandum).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended,* 70 FR 24533 (May 10, 2005).

[3] *See* Memorandum, ''Issues and Decision Memorandum for Final Affirmative Antidumping Determination in the Less-Than- Fair-Value Investigation of Citric Acid and Certain Citrate Salts from Belgium,'' dated concurrently with this determination, and hereby adopted by this notice (Issues and Decision Memorandum).

[4] *See* Memorandum, ''Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated December 1, 2017 (Preliminary Scope Decision Memorandum).

[5] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 29828 (June 30, 2017) (*Initiation Notice*) and accompanying Initiation Checklist.

[6] *See Preliminary Determination,* 83 FR at 789.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in this final determination within five days of any public announcement in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all appropriate entries of citric acid from Belgium, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after January 8, 2018, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.*

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.10(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin or the estimate all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted average dumping margin established for the producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of citric acid from Belgium no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: May 29, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate.

The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Changes Since the *Preliminary Determination*
V. Discussion of Issues
  Comment 1: Whether a Certain Home Market Sale Should Be Considered Outside the Normal Course of Trade
  Comment 2: Correction of Misclassification of Indirect Selling and Inventory Carrying Expense as Movement Expenses
  Comment 3: Short Term Interest Income Offset to Interest Expenses
  Comment 4: Minor Correction Revising Indirect Selling Expense, General and Administrative, and Financial Expense Ratios
VI. Recommendation

[FR Doc. 2018–12012 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–803]

Citric Acid and Certain Citrate Salts From Colombia: Affirmative Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that citric acid and certain citrate salts (citric acid) from Colombia are being, or are likely to be, sold in the United States at less than fair

value (LTFV) during the period of investigation (POI) April 1, 2016, through March 31, 2017. In addition, we determine that critical circumstances do not exist with respect to imports of the subject merchandise.

DATES: Applicable June 5, 2018.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, 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) 482–3692.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* of sales at LTFV of citric acid from Colombia on January 8, 2018, in which we also postponed the final determination until May 26, 2018.[1] We invited interested parties to comment on the *Preliminary Determination.* Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final determination of this investigation is now May 29, 2018.[2]

A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is adopted by this notice.[3]

Scope of the Investigation

The product covered by this investigation is citric acid from Colombia. For a full description of the scope of this investigation, see the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

Prior to the *Preliminary Determination,* we issued a Preliminary Scope Decision Memorandum.[4] We subsequently invited parties to submit additional scope comments in their case briefs, but received none. Therefore, for the final determination, we continue to find that the scope of the investigation as defined in the *Initiation Notice*[5] and the *Preliminary Determination*[6] remains applicable. *See* Appendix I.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in January and February 2018, we conducted verification of the sales and cost information submitted by Sucroal S.A. (Sucroal) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Sucroal.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the interested parties are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. 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 it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Sucroal. These changes are discussed in the ''Changes Since the Preliminary Determination'' section of the Issues and Decision Memorandum.

Final Negative Determination of Critical Circumstances

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206, we preliminarily found that critical circumstances do not exist for the mandatory respondent, Sucroal or for exporters and producers not individually examined (*i.e.,* ''all-others'').[7] Commerce received no comments regarding this issue after the *Preliminary Determination.* Therefore, for the final determination, our determination remains unchanged and we continue to find, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206(e), that critical circumstances do not exist for Sucroal or the companies covered by the ''all others'' rate.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that, in the final determination, Commerce shall determine an estimated weighted-average dumping margin for all-other exporters and producers not individually examined. This rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters or producers individually examined, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Sucroal, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely under section 776 of the Act, the estimated weighted-average dumping margin calculated for Sucroal is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/Producer	Estimated weighted-average dumping margin (percent)
Sucroal S.A	28.48

[1] *See Citric Acid and Certain Citrate Salts from Colombia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Critical Circumstances Determination, and Postponement of Final Determination and Extension of Provisional Measures,* 83 FR 791 (January 8, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than- Fair-Value Investigation of Citric Acid and Certain Citrate Salts from Colombia,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See* Memorandum ''Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated December 1, 2017 (Preliminary Scope Decision Memorandum).

[5] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 29828 (June 30, 2017) (*Initiation Notice*) and accompanying Initiation Checklist.

[6] *See Preliminary Determination,* 83 FR at 793.

[7] *See Preliminary Determination,* 83 FR at 791; Preliminary Decision Memorandum, at 6–10.

Exporter/Producer	Estimated weighted-average dumping margin (percent)
All-Others	28.48

Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in this final determination within five days of any public announcement in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of citric acid from Colombia, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after January 8, 2018, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.*

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.10(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin or the estimate all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted average dumping margin established for the producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of citric acid from Colombia no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: May 29, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate.

The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Changes Since the Preliminary Determination
V. Final Negative Determination of Critical Circumstances
VI. Discussion of the Issues
  Comment 1: Date of Sale
  Comment 2: Whether to Include Minor Corrections from the Sales Verification
VII. Recommendation

[FR Doc. 2018–12008 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–834]

Citric Acid and Certain Citrate Salts From Thailand: Final Negative Countervailing Duty Determination, and Final Negative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are not being provided to producers and exporters of

citric acid and certain citrate salts (citric acid) from Thailand. The period of investigation is January 1, 2016, through December 31, 2016. In addition, we determine that critical circumstances do not exist with respect to imports of the subject merchandise.

DATES: Applicable June 5, 2018.

FOR FURTHER INFORMATION CONTACT: John Conniff or Jolanta Lawska, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–1009 or 202–482–8362, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* on November 3, 2017.[1] We invited interested parties to comment on the *Preliminary Determination.* Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final determination of this investigation is now May 29, 2018.[2] On February 23, 2018, Commerce issued a Post-Preliminary Results Decision Memorandum with respect to New Subsidy Allegations.[3]

A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[4]

Scope of the Investigation

The product covered by this investigation is citric acid from Thailand. For a full description of the scope of this investigation, see the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

Prior to the *Preliminary Determination,* we issued a Preliminary Scope Decision Memorandum.[5] We subsequently invited parties to submit additional scope comments in their case briefs, but received none. Therefore, for the final determination, we continue to find that the scope of the investigation as defined in the *Initiation Notice*[6] and the *Preliminary Determination*[7] remains applicable. *See* Appendix I.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in November and December 2017, we conducted verification of the information submitted by the Royal Thai Government (RTG); COFCO Biochemical (Thailand) Co., Ltd. (COFCO); Niran (Thailand) Co., Ltd. (Niran); and Sunshine Biotech International Co., Ltd. (Sunshine) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the RTG, COFCO, Niran, and Sunshine.

Analysis of Subsidy Programs and Comments Received

All issues raised in the case and rebuttal briefs submitted by the interested parties are addressed in the Issues and Decision Memorandum accompanying this notice, which is hereby adopted by this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. 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 it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the respondents' subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Negative Determination of Critical Circumstances

In the *Preliminary Determination,* Commerce explained that a finding of critical circumstances is only relevant if, due to an affirmative preliminary or affirmative final determination, there is a suspension of liquidation.[8] However, Commerce preliminarily determined that the mandatory respondents received *de minimis* net subsidy rates. Thus, Commerce issued a negative *Preliminary Determination,* did not suspend liquidation, and preliminarily found that critical circumstances did not exist.[9]

We continue to find that the mandatory respondents received *de minimis* net subsidy rates and, thus, we have issued a negative final determination. Accordingly, we also continue to find that critical circumstances do not exist.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated individual rates for the three producers/exporters of subject merchandise that are under investigation. We determine that the total net countervailable subsidy rates are as follows:

[1] *See Citric Acid and Certain Citrate Salts from Thailand: Preliminary Negative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 82 FR 51216 (November 3, 2017) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[3] *See* Commerce Post-Preliminary Results Decision Memorandum Regarding New Subsidy Allegations dated February 23, 2018.

[4] *See* Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance ''Decision Memorandum for the Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination of Citric Acid and Certain Citrate Salts from Thailand,'' dated concurrently with this notice (Issues and Decision Memorandum).

[5] *See* Memorandum ''Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated December 1, 2017 (Preliminary Scope Decision Memorandum).

[6] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 29828 (June 30, 2017) (*Initiation Notice*) and accompanying Initiation Checklist.

[7] *See Preliminary Determination,* 82 FR at 51216.

[8] *See* Preliminary Decision Memorandum at 5.

[9] *Id.* at 5; *see also Preliminary Determination,* 82 FR at 51217.

Company	*Ad Valorem* Rate (% *de minimis*)
COFCO Biochemical (Thailand) Co., Ltd. (COFCO)	0.00
Niran (Thailand) Co., Ltd. (Niran)	0.00
Sunshine Biotech International Co., Ltd. (Sunshine)	0.21

The Department has not calculated an all-others rate because it has not reached an affirmative final determination. In the *Preliminary Determination,* the total net countervailable subsidy rates for the three companies were *de minimis* and, therefore, we did not suspend liquidation. Because the rates for the three companies remain *de minimis,* we are not directing U.S. Customs and Border Protection to suspend liquidation of entries of citric acid from Thailand.

Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in this final determination within five days of any public announcement in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. As our final determination is negative, this proceeding is terminated.

Notification Regarding Administrative Protective Orders (APOs)

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 29, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate.

The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Final Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. New Subsidy Allegation
V. Subsidies Valuation
VI. Benchmark and Discount Rates
VII. Analysis of Programs
VIII. Discussion of the Issues
Comment 1: Whether Commerce Should Include Respondents' Imports of Chinese-Origin Machinery and Equipment Made Pursuant to the Association of Southeast Asian Nations (ASEAN)-China Free Trade Area (FTA) in the Benefit Calculation of the IPA Section 28 Program
Comment 2: Whether Subsidies Received by COFCO Biochemical (Thailand) Co., Ltd.'s (COFCO) Predecessor, World Best Biochemical (Thailand) Co., Ltd., (World Best), Are Countervailable
Comment 3: Whether Commerce Should Find Duty Exemptions on Imports of Raw Materials Under the Section 36 IPA Program to be Countervailable
IX. Recommendation

[FR Doc. 2018–12011 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–065]

Stainless Steel Flanges From the People's Republic of China: Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing the countervailing duty (CVD) order stainless steel flanges from the People's Republic of China (China).

DATES: Applicable June 5, 2018.

FOR FURTHER INFORMATION CONTACT: Jerry Huang at (202) 482–4047 or Justin Neuman at (202) 482–0486, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(a), 705(d), and 777(i) of the Tariff Act of 1930, as amended (Act), and 19 CFR 351.210(c), on April 12, 2018, Commerce published its affirmative final determinations that countervailable subsidies are being provided to producers and exporters of stainless steel flanges from China.[1]

[1] *See Countervailing Duty Investigation of Stainless Steel Flanges from the People's Republic of China: Final Affirmative Determination,* 83 FR 15790 (April 12, 2018) (*Final Determination*) and the accompanying Issues and Decision Memorandum.

On May 29, 2018, the ITC notified Commerce of its affirmative determination that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of subject merchandise from China.[2]

Scope of the Order

The scope of this order covers stainless steel flanges from China. For a complete description of the scope, *see* the Appendix to this notice.

Countervailing Duty Order

On May 29, 2018, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured by reason of imports of stainless steel flanges from China.[3] Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this countervailing duty order. Because the ITC determined that imports of stainless steel flanges from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of stainless steel flanges from China. Countervailing duties will be assessed on unliquidated entries of stainless steel flanges from China entered, or withdrawn from warehouse, for consumption on or after January 23, 2018, the date of publication of the *Preliminary Determinations.*[4]

Continuation of Suspension of Liquidation

In accordance with section 706 of the Act, we will instruct CBP to suspend liquidation on all relevant entries of stainless steel flanges from China, as further described below. These instructions suspending liquidation will remain in effect until further notice. Commerce will also instruct CBP to require cash deposits equal to the amounts as indicated below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the subsidy rates listed below.[5] The all-others rate applies to all producers or exporters not specifically listed below.

Company	Subsidy rate (percent)
Bothwell (Jiangyan) Steel Fittings Co., Ltd	174.73
Hydro-Fluids Controls Limited	174.73
Jiangyin Shengda Brite Line Kasugai Flange Co., Ltd	174.73
Qingdao I-Flow Co., Ltd	174.73
All-Others	174.73

Provisional Measures

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the *Preliminary Determination* on January 23, 2018. As such, the four-month period beginning on the date of the publication of the *Preliminary Determinations* ended on May 23, 2018. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 703(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of stainless steel flanges from China entered, or withdrawn from warehouse, for consumption, on or after May 23, 2018, the date the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register.** Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register.**

Notifications to Interested Parties

This notice constitutes the countervailing duty order with respect to stainless steel flanges from China pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: May 29, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The products covered by this order are certain forged stainless steel flanges, whether unfinished, semi-finished, or finished (certain forged stainless steel flanges). Certain forged stainless steel flanges are generally manufactured to, but not limited to, the material specification of ASTM/ASME A/SA182 or comparable domestic or foreign specifications. Certain forged stainless steel flanges are made in various grades such as, but not limited to, 304, 304L, 316, and 316L (or combinations thereof). The term ''stainless steel'' used in this scope refers to an alloy steel containing, by actual weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

Unfinished stainless steel flanges possess the approximate shape of finished stainless steel flanges and have not yet been machined to final specification after the initial forging or like operations. These machining processes may include, but are not limited to, boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing. Semi-finished stainless steel flanges are unfinished stainless steel flanges that have undergone some machining processes.

The scope includes six general types of flanges. They are: (1) Weld neck, generally used in butt-weld line connection; (2) threaded, generally used for threaded line connections; (3) slip-on, generally used to slide over pipe; (4) lap joint, generally used with stub-ends/butt-weld line connections; (5) socket weld, generally used to fit pipe into a machine recession; and (6) blind, generally used to seal off a line. The sizes and descriptions of the flanges within the scope include all pressure classes of ASME B16.5 and range from one-half inch to twenty-four inches nominal pipe size. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A351.

The country of origin for certain forged stainless steel flanges, whether unfinished, semi-finished, or finished is the country where the flange was forged. Subject merchandise includes stainless steel flanges as defined above that have been further processed in a third country. The processing includes, but is not limited to, boring, facing, spot facing, drilling, tapering, threading,

[2] *See* Letters to Gary Taverman, Acting Assistant Secretary of Commerce for Enforcement and Compliance, from Rhonda K. Schmidtlein, Chairman of the U.S. International Trade Commission, regarding stainless steel flanges from China (May 29, 2018) (ITC Letter).

[3] *See* ITC Letter.

[4] *See Countervailing Duty Investigation of Stainless Steel Flanges from the People's Republic of China: Preliminary Affirmative Determination,* 83 FR 3124 (January 23, 2018) (*Preliminary Determination*) and the accompanying Preliminary Issues and Decision Memorandum. However, as described further below, countervailing duties will not be assessed on merchandise entered, or withdrawn for consumption, during the period of time between the expiration of provisional measures and the publication of the ITC's final injury determination in the **Federal Register.**

[5] *See* section 706(a)(3) of the Act.

beveling, heating, or compressing, and/or any other processing that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the stainless steel flanges.

Merchandise subject to the order is typically imported under headings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings and ASTM specifications are provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2018–11908 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAB) will meet Thursday, June 21, 2018 from 9:00 a.m. until 5:00 p.m., Eastern Time, and Friday, June 22, 2018 from 9:00 a.m. until 4:30 p.m. Eastern Time. All sessions will be open to the public.

DATES: The meeting will be held on Thursday, June 21, 2018, from 9:00 a.m. until 5:00 p.m., Eastern Time, and Friday, June 22, 2018, from 9:00 a.m. until 4:30 p.m. Eastern Time.

ADDRESSES: The meeting will be held at the American Institute of Architects, 1735 New York Avenue NW, Washington, DC, 20006.

FOR FURTHER INFORMATION CONTACT: Matthew Scholl, Information Technology Laboratory, NIST, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, Telephone: (301) 975–2941, Email address: *mscholl@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ISPAB will meet Thursday, June 21, 2018, from 9:00 a.m. until 5:00 p.m., Eastern Time, and Friday, June 22, 2018 from 9:00 a.m. until 4:30 p.m. Eastern Time. All sessions will be open to the public. The ISPAB is authorized by 15 U.S.C. 278g–4, as amended, and advises the National Institute of Standards and Technology (NIST), the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal government information systems, including thorough review of proposed standards and guidelines developed by NIST. Details regarding the ISPAB's activities are available at *http://csrc.nist.gov/groups/SMA/ispab/index.html.*

The agenda is expected to include the following items:

—Deliberations and recommendations by the Board on security and privacy issues,

—Presentation and discussion on NIST cybersecurity standards and guidelines,

—Briefings on reports specified in Executive Order 13800,

—Presentation and discussion on supply chain risk management programs,

—Briefing on small businesses use of the Cybersecurity Framework,

—Presentation and discussion on uses for blockchains,

—Presentation and opportunity for questions on cybersecurity workforce initiatives,

—Discussion on pending cybersecurity legislation, and

—Updates on NIST Information Technology Laboratory cybersecurity work.

Note that agenda items may change without notice. The final agenda will be posted on the website indicated above. Seating will be available for the public and media. Pre-registration is not required to attend this meeting.

Public Participation: The ISPAB agenda will include a period, not to exceed thirty minutes, for oral comments from the public (Thursday, June 21, 2018, between 4:30 p.m. and 5:00 p.m.). Speakers will be selected on a first-come, first-served basis. Each speaker will be limited to five minutes. Questions from the public will not be considered during this period. Members of the public who are interested in speaking are requested to contact Matthew Scholl at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2018–12006 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Certification Requirements for Distributors of NOAA Electronic Navigational Charts/NOAA Hydrographic Products

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 6, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to John Nyberg, National Ocean Service/Office of Coast Survey at (301) 847–8003 or *john.nyberg@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

NOS Office of Coast Survey manages the Certification Requirements for Distributors of NOAA Electronic Navigational Charts (NOAA ENCs®). The certification allows entities to download, redistribute, repackage, or in some cases reformat, official NOAA ENCs and retain the NOAA ENC's official status. The regulations for implementing the Certification are at 15 CFR part 995. The recordkeeping and reporting requirements of 15 CFR part 995 form the basis for this collection of

information. This information allows the Office of Coast Survey to administer the regulation, and to better understand the marketplace resulting in products to that meet the needs of the customer in a timely and efficient manner.

II. Method of Collection

Responses from the Certified ENC Distributors are all electronic and sent via email. All distributors have an Excel spreadsheet which they submit for the twice-yearly report.

III. Data

OMB Control Number: 0648–0508.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Not-for-profit institutions; business or other for-profits organizations.

Estimated Number of Respondents: 8.

Estimated Time per Response: 1 hour to provide a distribution report twice a year, 12 hours for reporting of errors in the ENC (approximately 4 per month, usually each distributor will catch the same issue).

Estimated Total Annual Burden Hours: 88.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 31, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–12026 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG053

Notice of Intent To Prepare an Environmental Impact Statement; Extension of Public Comment Period

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

ACTION: Notice of intent; extension of public comment period.

SUMMARY: NMFS is extending the public comment period for the Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS) to inform its decision of whether to determine that a resource management plan (RMP) jointly developed by the Washington Department of Fish and Wildlife (WDFW) and the Puget Sound Tribes (Tribes), collectively the co-managers, meets requirements under Limit 6 of the Endangered Species Act (ESA) 4(d) rule for the ESA-listed Puget Sound Chinook salmon Evolutionarily Significant Unit (ESU), which is listed as threatened under the ESA. The NOI was published in the **Federal Register** on Thursday, May 3, 2018. The public comment period on the NOI was originally scheduled to end June 4, 2018. NMFS is extending that comment period by 14 days and will now consider comments received through June 18, 2018.

DATES: The deadline for receipt of comments on the NOI published on May 3, 2018 (83 FR 19528), is extended to June 18, 2018. Written or electronic scoping comments must be received at the appropriate address or email mailbox (see **ADDRESSES**) on or before June 18, 2018.

ADDRESSES: Written comments should be sent to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, Attn: Emi Kondo, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232. Comments may also be sent by email to *ps2018rmp.wcr@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Emi Kondo, NMFS West Coast Region, telephone: 503–736–4739, email: *emi.kondo@noaa.gov.*

SUPPLEMENTARY INFORMATION: On Thursday, May 3, 2018, NMFS published an NOI to prepare an EIS to inform its decision of whether to determine that an RMP jointly developed by the co-managers, meets requirements under Limit 6 of the ESA 4(d) rule for the Puget Sound Chinook Salmon ESU, which is listed as threatened under the ESA. The purpose of the RMP is to manage commercial, recreational, ceremonial, and subsistence salmon fisheries potentially affecting the Puget Sound Chinook Salmon ESU within the marine and freshwater areas of Puget Sound, from the entrance of the Strait of Juan de Fuca inward, including fisheries under the jurisdiction of the Pacific Salmon Commission's Fraser River Panel. In order for NMFS to make a positive determination under Limit 6 on the RMP, NMFS must conclude that the RMP's management framework is consistent with the criteria under Limit 6. Limit 6 applies to RMPs developed jointly by the states of Washington, Oregon and/or Idaho and the tribes within the continuing jurisdiction of *United States* v. *Washington* or *United States* v. *Oregon.*

NMFS provided notice to advise other agencies and the public of our plan to analyze effects related to NMFS 4(d) determination and co-manager implementation of the RMP and to obtain suggestions and information that may be useful to the scope of issues and alternatives to include in the EIS (83 FR 19528, May 3, 2018), and requested comments be received by June 4, 2018. NMFS has decided to extend the public comment period on the NOI by 14 days to Monday, June 18, 2018, to allow opportunity for the public to review additional information on this project, available on the NMFS West Coast Region website: *http://www.westcoast.fisheries.noaa.gov/fisheries/salmon_steelhead/puget_sound_fisheries.html.*

Authority: 42 U.S.C. 4321 *et seq.;* 40 CFR 1500–1508; and Companion Manual for NOAA Administrative Order 216–6A, 82 FR 4306.

Dated: May 30, 2018.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–11971 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG094

Marine Mammals; File No. 21719

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that NMFS Northeast Fisheries Science Center, Woods Hole, MA (Responsible Party: John Hare), has applied in due form for a permit to conduct research on four species of pinnipeds.

DATES: Written, telefaxed, or email comments must be received on or before July 5, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21719 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Shasta McClenahan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests a five-year permit to take harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), harp seals (*Pagophilus groenlandicus*), and hooded seals (*Cystophora cristata*) during stock assessment research, including estimation of distribution and abundance, determination of stock structure, habitat requirements, foraging ecology, health assessment, and effects of natural and anthropogenic factors. Types of take include harassment during ground, vessel, or aerial surveys, and scat collection; and capture with tissue sampling and instrument or tag attachment. The applicant proposes to capture up to 200 harbor seals, 400 gray seals, five harp seals, and five hooded seals annually for measurement of body condition, biological sampling (*e.g.,* blood, blubber biopsy, skin, hair, swab samples, and vibrissae), and attachment of telemetry devices. Up to 27,175 harbor seals and 66,700 gray seals could be harassed annually incidental to surveys, scat collections, and capture operations. The applicant also requests research-related mortalities of up to 5 gray seals, 5 harbor seals, 1 harp seal, and 1 hooded seal per year. Permission is also sought to import and export pinniped specimen material (including soft and hard tissue, blood, extracted DNA, and whole dead animals or parts thereof) worldwide. The study area includes waters within or proximal to the U.S. EEZ from North Carolina northward to Maine, and Canadian waters in the Gulf of Maine.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 31, 2018.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–12001 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG270

Pacific Island Fisheries; Western Pacific Stock Assessment Review; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: NMFS and the Western Pacific Fishery Management Council (Council) will convene a Western Pacific Stock Assessment Review (WPSAR) of a draft 2018 benchmark stock assessment for main Hawaiian Islands Kona crab.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates and times and daily agenda.

ADDRESSES: The meeting will be held at the Western Pacific Fishery Management Council office at 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Michael Seki, Director—NMFS Pacific Islands Fisheries Science Center (PIFSC), telephone: (808) 725–5360.

SUPPLEMENTARY INFORMATION: The PIFSC conducted a draft 2018 benchmark stock assessment for main Hawaiian Islands Kona crab (*Ranina ranina*). The assessment provides the basis for management of this culturally important species. Previously, non-NOAA scientists conducted stock assessments for Kona crab in 1978 and, in collaboration with PIFSC scientists, in 2010–2011. The draft 2018 benchmark assessment incorporates data from 1948 through 2016 and uses a production model, incorporating improvements to data standardization and model assumptions. Specifically, catch per unit effort (CPUE) in the model includes new standardization coefficients split into two time series (1948–2005 and 2006–2016), due to passage of Hawaii state law prohibiting the taking of female Kona crab in 2006. The assessment model accounts for unreported catch by evaluating the use of published estimates of non-reporting ratios estimated for other fisheries in the main Hawaiian Islands, and by incorporating estimates of fishing effort specific to crustaceans from ancillary surveys. Stock status is evaluated against MSY-based reference points set in the Fishery Ecosystem Plan for the Hawaii Archipelago. Projections are provided to inform management setting of annual catch limits.

Section 301(a)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that fishery conservation and management measures be based upon the best scientific information available. Magnuson-Stevens Act Section 302(g)(1)(E) provides that the Secretary of Commerce (Secretary) and each regional fishery management council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of a fishery. Consistent with this provision, the Council, PIFSC, and the NMFS Pacific Islands Regional Office have established the WPSAR process in

an effort to improve the quality, timeliness, objectivity, and integrity of stock assessments and other scientific information used in managing fishery resources in the Pacific Islands Region.

Meeting Agenda for WPSAR Review

The meeting schedule and agenda follow. The WPSAR panel will meet from 9 a.m. to 5 p.m. each day. The agenda order may change and the meeting will run as late as necessary to complete scheduled business.

Day 1 Monday June 25, 2018

1. Welcome and introductions
2. Background information—Objectives and Terms of Reference
3. Fishery operation and management
4. History of stock assessments and reviews
5. Data
a. State of Hawaii fishery data reporting system
b. Post-release mortality and sex ratio
6. Presentation and review of stock assessment
a. Life history
b. Catch (reported and unreported)
c. Catch per unit effort
d. Assessment model
i. Base case model and priors
ii. Base case results
e. Retrospective analysis
f. Sensitivities
g. Projections

Day 2 Tuesday June 26, 2018

7. Continue presentation and review of stock assessment

Day 3 Wednesday June 27, 2018

8. Continue review of stock assessment

Day 4 Thursday June 28, 2018

9. Continue review of stock assessment
10. Public comment period
11. Panel discussions (Closed)

Day 5 Friday June 29, 2018

12. Panel discussions (Closed)
13. Panel presents recommendations (afternoon)
14. Adjourn

Special Accommodations

This meeting is physically accessible to people with disabilities. Please direct requests for sign language interpretation or other auxiliary aides to Michael Seki, Director, PIFSC, tel (808) 725–5360, fax (808) 725–5360, at least 5 days prior to the meeting date.

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

Dated: May 30, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–11977 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG249

Public Meeting on the Definition of Fish Aggregating Devices

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a public meeting to seek input on the definition of fish aggregating devices (FADs) that could be applied for conservation measures by international fishery management organizations in which the United States participates.

DATES: The meeting will be held on Friday June 29, 2018 from 9:00 a.m. to 1:00 p.m. PDT.

ADDRESSES: The meeting will be held in the Pacific Conference Room (Room 300) at NMFS, Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, California 92037–1508. Please notify Dawn Graham (see **FOR FURTHER INFORMATION CONTACT**) by June 22, 2018, if you plan to attend the meeting in person or remotely. The meeting will be accessible by webinar—instructions will be emailed to meeting participants who provide notice.

FOR FURTHER INFORMATION CONTACT: Rachael Wadsworth by email at *rachael.wadsworth@noaa.gov,* or by phone at (562) 980–4036; or Dawn Graham by email at *dawn.graham@noaa.gov,* or by phone at (858) 546–7081.

SUPPLEMENTARY INFORMATION: NMFS would like to meet with interested members of the public to discuss and receive public input on the various definitions of FADs used in regional fishery management organizations (RFMOs) in which the United States participates. This could include the effect of the definitions on the management of FAD fishing, tropical tuna stock health, and U.S. fishing interests; whether NMFS should pursue efforts to adopt a common definition of FADs that could be applied across organizations; and if so, the scope and content of that definition. Additionally, NMFS requests public input on defining non-entangling FADs and active beacons on FADs. NMFS is also interested in any public input on alternative approaches to addressing stakeholder concerns related to the management of FAD fishing, tropical tuna stock health, and U.S. fishing interests across RFMOs in which the United States participates.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Graham (see **FOR FURTHER INFORMATION CONTACT**) by June 15, 2018.

Dated: May 31, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2018–12029 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Fishery Capacity Reduction Program Buyback Requests.

OMB Control Number: 0648–0376.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 1,000.

Average Hours per Response: Implementation plan, 6,634 hours; referenda votes, bids, seller/buyer reports and annual fee collection reports, 4 hours each; completion of fish ticket, 10 minutes; monthly fee collection report, 2 hours; advising holder/owner of conflict with accepted bidders' representations, 1 hour; potentially 270 hours-state approval/review of plans.

Burden Hours: 15,579.

Needs and Uses: This request is for an extension of a current information collection.

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) established programs to reduce excess fishing capacity by paying fishermen to surrender their vessels/permits. These fishing capacity reduction programs, or buybacks, are conducted pursuant to the Magnuson-

Stevens Fishery Conservation and Management Act, and the Magnuson-Stevens Reauthorization Act (Pub. L. 109–479). The buybacks can be funded by a Federal loan to the industry or by direct Federal or other funding. Buyback regulations are at 50 CFR part 600.

The information collected by NMFS involves the submission of buyback requests by industry, submission of bids, referenda of fishery participants and reporting of collection of fees to repay buyback loans. For buybacks involving State-managed fisheries, the State may be involved in developing the buyback plan and complying with other information requirements. NMFS requests information from participating buyback participants to track repayments of the loans as well as ensure accurate management and monitoring of the loans. The recordkeeping and reporting requirements at 50 CFR parts 600.1013 through 600.1017 form the basis for the collection of information.

Affected Public: Business or other for-profit organizations; state, local or tribal government; individuals or households.

Frequency: Annually, monthly and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: May 31, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–12025 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG233

Northeast Regional Stock Assessment Workshop and Stock Assessment Review Committee Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS and the Northeast Regional Stock Assessment Workshop (SAW) will convene the 65th SAW Stock Assessment Review Committee for the purpose of reviewing stock assessments of Sea Scallop and Atlantic Herring. The Northeast Regional SAW is a formal scientific peer-review process for evaluating and presenting stock assessment results to managers for fish stocks in the offshore U.S. waters of the northwest Atlantic. Assessments are prepared by SAW working groups and reviewed by an independent panel of stock assessment experts called the Stock Assessment Review Committee, or SARC. The public is invited to attend the presentations and discussions between the review panel and the scientists who have participated in the stock assessment process.

DATES: The public portion of the Stock Assessment Review Committee Meeting will be held from June 26, 2018—June 29, 2018. The meeting will commence on June 26, 2018 at 10 a.m. Eastern Standard Time. Please see **SUPPLEMENTARY INFORMATION** for the daily meeting agenda.

ADDRESSES: The meeting will be held in the S.H. Clark Conference Room in the Aquarium Building of the National Marine Fisheries Service, Northeast Fisheries Science Center (NEFSC), 166 Water Street, Woods Hole, MA 02543.

FOR FURTHER INFORMATION CONTACT: James Weinberg, 508–495–2352; email: *james.weinberg@noaa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please visit the NEFSC website at *http://www.nefsc.noaa.gov.* For additional information about the SARC meeting and the stock assessment review, please visit the NMFS/NEFSC SAW web page at *http://www.nefsc.noaa.gov/saw/*.

Daily Meeting Agenda—SAW/SARC 65 Benchmark Stock Assessment for Sea Scallop and Atlantic Herring (Subject to Change; All times are approximate and may be changed at the discretion of the SARC Chair).

Tuesday, June 26, 2018

10 a.m.–10:30 a.m	Welcome Introductions	James Weinberg, SAW Chair; and SARC Chair (TBD).
10:30 a.m.–12:30 p.m	Scallop Assessment Presentation	Dvora Hart.
12:30 p.m.–1:30 p.m	Lunch.	
1:30 p.m.–3:30 p.m	Scallop Presentation (cont.)	Dvora Hart.
3:30 p.m.–3:45 p.m	Break	
3:45 p.m.–5:45 p.m	Scallop SARC Discussion	TBD, SARC Chair.
5:45 p.m.–6 p.m	Public Comment Period.	

Wednesday, June 27, 2018

8:30 a.m.–10:30 a.m	Herring Assessment Presentation	Jon Deroba.
10:30 a.m.–10:45 a.m	Break.	
10:45 a.m.–12:30 a.m	Herring presentation (cont.)	Jon Deroba.
12:30–1:30 p.m	Lunch.	
1:30 p.m.–3:30 p.m	Herring SARC Discussion.	
3:30 p.m.–3:45 p.m	Public comments.	
3:45 p.m.–4 p.m	Break.	
4 p.m.–6 p.m	Revisit with Presenters (Scallop).	

Thursday, June 28, 2018

8:30 a.m.–10:30 a.m	Revisit with Presenters (Herring).	
10:30 a.m.–10:45 a.m	Break.	

10:45 a.m.–12:15 p.m	Review/Edit Assessment Summary Report (Scallop).	
12:15–1:15 p.m	Lunch.	
1:15 p.m. -2:45 p.m	Review/Edit Assessment Summary Report (Scallop).	
2:45 p.m.–3 p.m	Break.	
3 p.m.–6 p.m	Review/Edit Assessment Summary Report (Herring).	

Friday, June 29, 2018

9 a.m.–5 p.m	SARC Report Writing.	

The meeting is open to the public; however, during the 'SARC Report Writing' session on Friday June 29th the public should not engage in discussion with the SARC.

Special Accommodations

This meeting is physically accessible to people with disabilities. Special requests should be directed to James Weinberg at the NEFSC, 508–495–2352, at least 5 days prior to the meeting date.

Dated: May 31, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–12058 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG059

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Demolition and Reuse of the Original East Span of the San Francisco–Oakland Bay Bridge

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

ACTION: Notice; Issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the California Department of Transportation (Caltrans) to incidentally harass, by Level B harassment only, marine mammals during the dismantling and reuse of the original East Span of the San Francisco–Oakland Bay Bridge (SFOBB) in the San Francisco Bay (SFB).

DATES: This Authorization is applicable from May 24, 2018 to May 23, 2019.

FOR FURTHER INFORMATION CONTACT: Sara Young, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS reviewed our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On January 9, 2018, NMFS received a request from Caltrans for an IHA to take marine mammals incidental to the demolition and reuse of the original East Span of the SFOBB in San Francisco Bay. Caltrans' request is for take of seven species of marine mammals, by Level B harassment. Neither Caltrans

nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued several IHAs to Caltrans for similar work, with the most recent IHA issued in 2017 (82 FR 35510). Caltrans complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHAs and information regarding their monitoring results may be found in the Effects of the Specified Activity on Marine Mammals and their Habitat and Estimated Take section. This IHA will cover one year of a larger project for which Caltrans obtained previous IHAs. The larger project involves dismantling of many piers of many remaining structures from the original east span of the bridge.

Description of Proposed Activity

Overview

Caltrans proposed to demolish and reuse portions of the original East Span of the SFOBB by mechanical dismantling and by use of controlled charges to implode two piers (Piers E19 and E20) into their open cellular chambers below the mudline. Activities associated with dismantling of the piers may potentially result in incidental take of marine mammals due to the use of highly controlled charges to dismantle the marine foundations of the piers. A public access point will incorporate existing piers (E21, E22, and E23) but requires use of pile driving to finalize the access structure. Pier E2 will also be retained for public access improvements, but does not require any in-water work.

Several previous one-year IHAs have been issued to Caltrans for pile driving/removal and construction of the new SFOBB East Span beginning in 2003. NMFS has issued 11 IHAs to Caltrans for the SFOBB Project. The first five IHAs (2003, 2005, 2007, 2009, and 2011) addressed potential impacts associated with pile driving for the construction of the new East Span of the SFOBB. IHAs issued in 2013, 2014 and July 2015 addressed activities associated with both constructing the new East Span and dismantling the original East Span, specifically addressing vibratory pile driving, vibratory pile extraction/removal, attenuated impact pile driving, pile proof testing, and mechanical dismantling of temporary and permanent marine foundations. On September 9, 2015, NMFS issued an IHA to Caltrans for incidental take associated with the demolition of Pier E3 of the original SFOBB by highly controlled explosives (80 FR 57584; September 24, 2015). On September 30, 2016, NMFS issued an IHA authorizing the incidental take of marine mammals associated with both pile driving/removal and controlled implosion of Piers E4 and E5 (81 FR 67313). On July 13, 2017, NMFS issued an IHA (82 FR 35510, July 31, 2017) to Caltrans authorizing take of marine mammals for additional dismantling the original East Span of the SFOBB using mechanical means as well as 5 to 6 implosion events to dismantle 13 piers (Piers E6–E18). This year of work will include removal of Piers E19 and E20.

Dates and Duration

Vibratory pile driving for construction of the Oakland Touchdown pedestrian bridge (OTD) and OTD access trestle may begin in June 2018. Impact pile-driving activities will be restricted from June 1 to November 30, to avoid peak salmonid migration periods. Pier implosion requiring IHA coverage is scheduled to begin in September 2018. Pier implosion will be restricted from September 1 to November 30, to minimize potential impacts on biological resources in the Bay.

Specific Geographic Region

The SFOBB project area is located in the central SFB or Bay, between Yerba Buena Island (YBI) and the city of Oakland. The western limit of the project area is the east portal of the YBI tunnel, located in the city of San Francisco. The eastern limit of the project area is located approximately 1,312 feet (400 meters) west of the Bay Bridge toll plaza, where the new and former spans of the bridge connect with land at the OTD in the city of Oakland. The approximate width of the in-water work area is 350 meters (1,148 feet). This includes all in-water areas under the original bridge and new bridge. All activities proposed under this IHA application will be confined to this area. However, other previous in-water project activities have taken place in discrete areas near both YBI and Treasure Island outside these limits.

Detailed Description of Specific Activity

Construction activities associated with both dismantling and reuse of marine foundations of the original east span bridge may result in the incidental take of marine mammals. These activities include the use of highly controlled charges to dismantle Piers E19 and E20, as well as pile-driving activities associated with construction of a public access facility that will incorporate reuse Piers E21, E22 and E23. Pier E2 will also be retained and incorporated into a public access facility. However, public access improvements at Pier E2 will not require any in-water work and will not result in incidental take of marine mammals; therefore, are not discussed further.

Removal of Piers 19 and 20

The removal of Piers E19 and E20 will be performed in three phases. The first phase will use mechanical dismantling to remove the above-water portions of the piers, which is not expected to result in take. The second phase will use controlled blasting methods for removal of the in-water portions of the piers. The third phase will include dredging of imploded rubble to specified removal limits, which is also not expected to result in take. Limits of removal will be determined at each location and will result in removal to between 0.46 and 0.91 meter (1.5 and 3 feet) below the mudline.

Piers E19 and E20 are large cellular structures through the water column, which are supported on concrete slabs and hundreds of driven timber piles encased in a concrete seal. The timber piles and concrete seal courses that are below approved removal limits will remain in place. Rubble that mounds above the determined debris removal elevation limits from the dismantling of these piers will be removed off-site for disposal; as was done during the removal of Piers E6 to E18.

A Blast Attenuation System (BAS) similar to that used for previous blast events will be used during all future controlled blasting events, to minimize potential impacts on biological resources in the Bay. The effectiveness of this minimization measure is supported by the findings from the successful removal of Piers E3 to E18.

Each pier will be removed in the following three phases:

- Pre-blasting activities, including removing the pier cap and concrete pedestals, installing and testing the BAS;
- installing charges, activating the BAS, and imploding the pier; and
- dredging of imploded rubble to specified removal limits.

Further detail on the above steps to remove the marine foundations are provided. Phase 1: Dismantling the concrete pedestals and concrete pier cap by mechanical means (including the use of torches and excavators mounted with hoe rams, drills, and cutting tools), and drilling vertical boreholes where the charges will be loaded for controlled blasting. Phase 2: The charges then will be loaded into the drilled boreholes. Controlled blasting removal will be accomplished using hundreds of small charges, with delays between individual

charges. The controlled blast sequence for each pier will last approximately 1 to 5 seconds. The controlled blast removals have been designed to remove each pier to between 0.46 and 0.91 meter (1.5 and 3 feet) below the mudline. Phase 3: Dredging of imploded rubble to specified removal limits.

Blast Attenuation System Testing, Installation, and Deployment

The BAS will be deployed around each pier being imploded and will be the same system as that successfully used for the removal of Piers E3 to E18. The BAS is a modular system of pipe manifold frames, placed around each pier and fed by air compressors to create a curtain of air bubbles. Each BAS frame is approximately 15.4 meters long by 1.8 meters wide (50.5 feet long by 6 feet wide). The BAS to be used will be the same design that was used at Piers E3 to E18 and will meet the same specifications. The BAS will be activated before and during implosion. As shown during the Pier E3 Demonstration Project and eight subsequent pier blast events by the SFOBB Project, the BAS will attenuate noise and pressure waves generated during each controlled blast, to minimize potentially adverse effects on biological resources that may be nearby.

Before installing the BAS, Caltrans will move any existing debris on the Bay floor that may interrupt or conflict with proper installation of the BAS. Each BAS frame will be lowered to the bottom of the Bay by a barge-mounted crane and will be positioned into place. Divers will assist frame placement and will the connect air hoses to the frames. Based on location around the pier, the BAS frame elements will be situated from approximately 8 to 12 meters (25 to 40 feet) from the outside edge of each pier. The frames will be situated to contiguously surround each pier. Frame ends will overlap to ensure no break in the BAS when operational. Each frame will be weighted to negative buoyancy for activation. Compressors will provide enough pressure to achieve a minimal air volume fraction of 3 to 4 percent, consistent with the successful use of BAS systems in past controlled blasting activities.

The complete BAS will be installed and tested during the weeks leading up to the controlled blast. The BAS test parameters will include checking operating levels, flow rate, and a visual check to determine that the system is operating correctly. System performance is anticipated to provide approximately 80 percent noise and pressure attenuation, based on the results from the previous SFOBB Project blast events using a similar system.

Test blasts may be conducted to ensure that the hydroacoustic monitoring equipment will be functional and triggered properly before the pier implosion event. The test blasts will be conducted within the completely installed and operating BAS. A key requirement of pier implosion will involve accurately capturing hydroacoustic information from the controlled blast. To accomplish this, a smaller test charge will be used to trigger recording instrumentation. Multiple test blasts on the same day may be required to verify proper instrument operation and calibrate the equipment for the implosion events. These same instruments and others of the same type will use high-speed recording devices to capture hydroacoustic data at both near-field and far-field monitoring locations during the implosion.

Test blasts will be scheduled to occur within two weeks of the scheduled implosion. Tests will use a charge weight of approximately 18 grains (0.0025 pound) or less and will be placed along one of the longer faces of the pier. The results from test blasts that occurred before the implosions of Pier E3 and E5 indicate that these test blasts will have minimal impacts on fish and no impacts on marine mammals (see Appendix A in application).

Piers E19 and E20 will be imploded during a single event. Before pier removal via controlled blasting, Caltrans will load the bore holes of the piers with controlled charges. Individual cartridge charges using electronic blasting caps have been selected to provide greater control and accuracy in determining the individual and total charge weights. Use of individual cartridges will allow a refined blast plan that efficiently breaks concrete while minimizing the amount of charges needed.

Boreholes will vary in diameter and depth, and have been designed to provide optimal efficiency in transferring the energy created by the controlled charges to dismantle the piers. Individual charge weights will vary from 7 to 11 kilograms (15 to 25 pounds), and the total charge weight for the Pier E19 and E20 blast event will be approximately 1,800 kilograms (4,000 pounds). The total number of individual charges to be used per pier will be approximately 100. Charges will be arranged in different levels (decks) and will be separated in the boreholes by stemming. Stemming is the insertion of inert materials (*e.g.,* sand or gravel) to insulate and retain charges in an enclosed space. Stemming allows more efficient transfer of energy into the structural concrete for fracture, and further reduces the release of potential energy into the surrounding water column. The entire detonation sequence, consisting of approximately 200 detonations, will last approximately 1 to 5 seconds for each pier; with a minimum delay time of 9 milliseconds (msec) between detonations. There will be approximately half a second delay between pier blasts to avoid overlap of pressure waves.

Piers E19 and E20 will be blasted in a single pier implosion event. These piers will be removed by blasting down through the concrete cellular structure but not through the concrete slab, seal, and timber piles below. Remaining concrete seals and timber piles below the mudline will not be removed.

Reuse of Piers E21 to E23

A pedestrian bridge and observation platforms, will be constructed near the Oakland shoreline, using the existing marine foundations as anchors for this public access facility. Construction of this facility at Piers E21 to E23 (Oakland side) will require mechanical removal of some or perhaps all of the pedestals and pier slabs to elevations required by the design. Both temporary and permanent piles will be needed for construction of this pedestrian bridge and observation platforms.

The OTD pedestrian bridge will extend from Pier E23 on the Oakland shoreline to Pier E21. It will be supported by Piers E23, E22, and E21. Observation areas also may be constructed at Piers E22 and E21. Reinforced concrete slabs may be constructed on top of Piers E22 and E21, to serve as an observation platforms. The existing pier foundations are spaced 88 meters (290 feet) apart. New intermediate piers will be constructed between the existing pier foundations to support the pedestrian bridge. These permanent intermediate piers will be pile-supported.

A temporary access trestle also may also be needed to facilitate construction of the pedestrian bridge. This temporary access trestle will be pile-supported.

Both the pedestrian bridge and temporary access trestle will be designed by the construction contractor. Because these structures will be contractor-designed, their exact nature (*e.g.,* size, type, number of piles) will not be known until construction begins. However, the Caltrans has developed a conservative estimate as to the approximate type, size, and number of piles needed for these proposed structures. Up to 200 in-water piles may be required for construction of the OTD

pedestrian bridge and temporary access trestle. Caltrans originally proposed concrete piles as a possibility but has determined concrete piles will not be used for this work and reference to concrete piles has been removed from the remainder of the document. Piles may be steel pipe piles or H-piles. The steel pipe piles will be 24 to 36 inches in diameter, or less. In-water pile driving for construction of the pedestrian bridge and temporary access trestle may result in the incidental harassment of marine mammals.

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Mitigation'' and ''Monitoring and Reporting'').

Comments and Responses

A notice of NMFS's proposal to issue an IHA to Caltrans was published in the **Federal Register** on April 12, 2018 (83 FR 15795). That notice described, in detail, Caltrans' activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission. The Marine Mammal Commission submitted the following comments to NMFS.

Comment 1: The Commission noted various errors in the proposed authorization, including errors in the description of the action and the effects analyses. The Commission recommends that NMFS review its notices more thoroughly before submitting for publication.

Response 1: NMFS thanks the Commission for pointing out the errors in the **Federal Register** Notice for the proposed authorization. To address errors in the description and effects analyses, NMFS is reprinting these sections in the **Federal Register** notice for the issuance of the authorization, with the errors corrected. NMFS makes every effort to read the notices thoroughly prior to publication and will continue this effort to publish the best possible product for public comment.

Comment 2: The Commission recommends that NMFS refrain from using a source level reduction factor for sound attenuation device implementation during impact pile driving for all relevant incidental take authorizations due to the different noise level reduction at different received ranges.

Response 2: While it is true that noise level reduction measured at different received ranges does vary, given that both Level A and Level B estimation using geometric modeling is based on noise levels measured at near-source distances (~10 m), NMFS believes it reasonable to use a source level reduction factor for sound attenuation device implementation during impact pile driving. In the case of the SFOBB impact driving isopleth estimates using an air bubble curtain for source level reduction, NMFS reviewed Caltrans' bubble curtain ''on and off'' studies conducted in San Francisco Bay in 2003 and 2004. The equipment used for bubble curtains has likely improved since 2004 but due to concerns for fish species, Caltrans has not able to conduct ''on and off'' tests recently. Based on 74 measurements (37 with the bubble curtain on and 37 with the bubble curtain off) at both near (<100 m) and far (>100 m) distances, the linear averaged received level reduction is 6 dB. If limiting the data points (a total of 28 measurements, with 14 during bubble curtain on and 14 during bubble curtain off) to only near distance measurements, the linear averaged noise level reduction is 7 dB. Based on this analysis, we conclude that there is not a significant difference of source level reduction between near and far-distance measurements. As a conservative approach, NMFS used the reduction of 7 dB of the source level for impact zone estimates.

NMFS will evaluate the appropriateness of using a certain source level reduction factor for sound attenuation device implementation during impact pile driving for all relevant incidental take authorizations when more data become available. Nevertheless at this point, we think it appropriate that a conservative 6 dB reduction is reasonable to be used as a source level reduction factor for impact pile driving using an air bubble curtain system.

Comment 3: The Commission recommends that NMFS promptly revise its draft rounding criteria and share it with the Commission.

Response 3: NMFS appreciates the Commission's ongoing concern in this matter. Calculating predicted takes is not an exact science and there are arguments for taking different mathematical approaches in different situations, and for making qualitative adjustments in other situations. We believe, however, that the methodology used for take calculation in this IHA remains appropriate and is not at odds with the 24-hour reset policy the Commission references. We look forward to continued discussion with the Commission on this matter and will share the rounding guidance as soon as it is ready for public review.

Comment 4: The Commission recommends that NMFS refrain from implementing its proposed renewal process and use abbreviated **Federal Register** notices and reference existing documents to aid in streamlining. It also recommends that NMFS provide the Commission and the public with a legal analysis supporting use of the renewal process.

Response 4: The process of issuing a renewal IHA does not bypass the public notice and comment requirements of the MMPA. The notice of the proposed IHA expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Importantly, such renewals would be limited to circumstances where: The activities are identical or nearly identical to those analyzed in the proposed IHA; monitoring does not indicate impacts that were not previously analyzed and authorized; and, the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency would consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA would be published in the **Federal Register**, as they are for all IHAs. Last, NMFS will publish on our website a description of the renewal process before any renewal is issued utilizing the new process.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 1 lists all species with expected potential for occurrence in San Francisco Bay and summarizes information related to the population or stock, including regulatory status under

the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. 2016 SARs (Carretta *et al.,* 2017). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2016 SARs (Carretta *et al.,* 2017) (available online at: *www.nmfs.noaa.gov/pr/sars/draft.htm*).

TABLE 1—MARINE MAMMAL SPECIES THAT MAY OCCUR IN THE ACTION AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-; N	20,990 (0.05, 20,125, 2011)	624	132
Family Balaenopteridae (rorquals)						
Fin Whale	*Balaenoptera physalus*	California/Oregon/Washington.	E;Y	9,029 (0.12, 8,127, 2014)	81	2
Humpback Whale	*Megaptera novaeangliae*	California/Oregon/Washington.	E;Y	1,918 (.03, 1,876, 2014)	11	6.5
Minke Whale	*Balaenoptera acutorostrata*	California/Oregon/Washington.	-; N	636 (0.72, 369, 2014)	3.5	1.3
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae						
Sperm whale	*Physeter macrocephalus*	California/Oregon/Washington.	E;Y	2,106 (0.58, 1,332, 2008)	2.7	1.7
Family Delphinidae						
Common Bottlenose Dolphin	*Tursiops truncatus*	California Coastal	-; N	453 (0.06, 346, 2011)	2.7	2
Short-Beaked Common Dolphin.	*Delphinus delphis*	California/Oregon/	-; N	969,861 (0.17, 839,325, 2014).	8,393	40
Family Phocoenidae (porpoises)						
Harbor Porpoise	*Phocoena phocoena*	San Francisco-Russian River	-; N	9,886 (0.51, 6,625, 2011)	66	0
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California Sea Lion	*Zalophus californianus*	United States	-; N	296,750 (N/A, 153,337, 2011).	9,200	389
Northern Fur Seal	*Callorhinus ursinus*	California, Eastern North Pacific.	-; N	14,050 (N/A, 7,524, 2013)	451	1.8
Steller sea lion	*Eumetopias jubatus*	Eastern	T; D	41,638 (N/A, 41,638, 2015)	2,498	108
Family Phocidae (earless seals)						
Harbor seal	*Phoca vitulina*	California	-; N	30,968 (N/A, 27,348, 2012)	1,641	43
Northern Elephant Seal	*Mirounga angustirostris*	California Breeding	-; N	179,000 (N/A, 81,368, 2010)	542	3.2

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable [explain if this is the case]

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Note: Italicized species are not expected to be taken or proposed for authorization.

All species that could potentially occur in the activity areas are included in Table 1. However, the temporal or spatial occurrence of the species italicized in Table 1 is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. San Francisco Bay would be considered extralimital and these species have not been sighted during marine mammal monitoring conducted by Caltrans under past IHAs.

Harbor Seal

Harbor seals are found from Baja California to the eastern Aleutian Islands of Alaska. The species primarily hauls out on remote mainland and island beaches and reefs, and estuary areas. Harbor seal tends to forage locally within 53 miles (85 kilometers) of haul out sites (Harvey and Goley 2011). Harbor seal is the most common marine mammal species observed in the Bay and also commonly is seen near the SFOBB east span (Department 2013b, 2013c). Tagging studies have shown that most seals tagged in the Bay remain in the Bay (Harvey and Goley 2011; Manugian 2013). Foraging often occurs in the Bay, as noted by observations of seals exhibiting foraging behavior (short dives less than 5 minutes, moving back and forth in an area, and sometimes tearing up prey at the surface).

The molt occurs from May through June. During both pupping and molt seasons, the number of seals and the length of time hauled out per day increases, with about 60.5 percent of the population hauled out during this time versus less than 20 percent in fall (Yochem *et al.,* 1987; Huber *et al.,* 2001; Harvey and Goley 2011). Mother-pup pairs spend more time on shore; therefore, the percentage of seals on shore at haul out sites increases during the pupping season (Stewart and Yochem 1994). Peak numbers of harbor seals hauling out in central California occurs during late May to early June, which coincides with the peak of their molt. Seals haul out more often and spend more time on shore to molt. Yochem *et al.* (1987) found that harbor seals at San Miguel Island only hauled out 11 to 19 percent of the time in fall, from late October through early December.

Harbor seal tends to forage at night and haul out during the day. Harbor seal predominately hauls out from 10 a.m. to 7 p.m., with a peak in the afternoon between 1 and 4 p.m. (Yochem *et al.,* 1987; Stewart and Yochem 1994; Grigg *et al.,* 2002; London *et al.,* 2012). Harbor seals in the Bay typically haul out in groups ranging from a few individuals to several hundred seals. One known haul out site is on the southern side of YBI, approximately 1,600 meters (5,250 feet) from Pier E6 and approximately 2,800 meters (9,190 feet) from Pier E18. The YBI haul out site had a daily range of zero to 109 harbor seals hauled out during September, October, and November, with the highest numbers hauled out during afternoon low tides (Department 2004b). Pile driving for the SFOBB was not audible to the monitors just above the haul out site, and no response to pile driving was observed.

Tide level also can affect haul out behavior, by exposing and submerging preferred haul out sites. Tides likely affect the maximum number of seals hauled out, but time of day and the season have the greatest influence on haul out behavior (Stewart and Yochem 1994; Patterson and Acevedo-Gutiérrez 2008).

Harbor seals in the Bay are an isolated population, although about 40 percent may move a short distance out of the Bay to forage (Manugian *et al.* 2017). The Bay harbor seals likely are accustomed to a noisy environment because of construction, vessel traffic, the Bay Area Rapid Transit (BART) Transbay Tube, and mechanical noise (*i.e.,* machinery, generators).

During 251 days of SFOBB monitoring from 2000 through 2016, 958 harbor seals were observed in the vicinity of the SFOBB east span. Harbor seals made up 90 percent of the marine mammals observed during monitoring for the SFOBB Project. In 2015 and 2016, the number of harbor seals sighted in the project area increased (8 days of monitoring and 95 sightings). Foraging near the project area was common, particularly in the coves adjacent to the YBI United States Coast Guard Station and in Clipper Cove between YBI and Treasure Island. Foraging also occurred in a shallow trench area southeast of YBI (Department 2013a, 2013b). These sites are more than 900 to 1,525 meters (3,000 to 5,000 feet) west of Pier E6. In 2015, juvenile harbor seals began foraging around Piers E2W and E2E of the new SFOBB east span, and in 2016, they extended east around Piers E3 to E5 of the new SFOBB east span. Foraging can occur throughout the Bay, and prey abundance and distribution affect where harbor seals will forage. Most of the harbor seal sightings were animals transiting the area, likely moving from haul out sites or from foraging areas.

California Sea Lion

California sea lion breeds on the offshore islands of California from May through July (Heath and Perrin 2008). During the non-breeding season, adult and sub-adult males and juveniles migrate northward along the coast, to central and northern California, Oregon, Washington, and Vancouver Island (Jefferson *et al.,* 1993). They return south the following spring (Lowry and Forney 2005; Heath and Perrin 2008). Females and some juveniles tend to remain closer to rookeries (Antonelis *et al.,* 1990; Melin *et al.,* 2008).

California sea lions have been observed occupying docks near Pier 39 in San Francisco, about 3.2 miles (5.2 kilometers) from the project area, since 1987. The highest number of sea lions recorded at Pier 39 was 1,701 individuals in November 2009 (De Rango, pers. comm., 2013). Occurrence of sea lions here typically is lowest in June (breeding season) and highest in August. Approximately 85 percent of the animals that haul out at this site are males, and no pupping has been observed here or at any other site in the Bay (Lander, pers. comm., 1999). Pier 39 is the only regularly used haul out site in the project vicinity, but sea lions occasionally haul out on human-made structures, such as bridge piers, jetties, or navigation buoys (Riedman 1990).

During monitoring for the SFOBB Project, 80 California sea lions were observed from 2000 through 2016. The number of sea lions that were sighted in the project area decreased in 2015 and 2016. Sea lions appear mainly to be transiting through the project area rather than feeding, although two exceptions have occurred. In 2004, several sea lions were observed following a school of Pacific herring that moved through the project area, and one sea lion was observed eating a large fish in 2015.

Breeding and pupping occur from mid to late May until late July. After the mating season, adult males migrate northward to feeding areas as far away as the Gulf of Alaska (Lowry *et al.,* 1992), and they remain away until spring (March–May), when they migrate back to the breeding colonies. Adult females remain near the rookeries throughout the year and alternate between foraging and nursing their pups on shore until the next pupping/breeding season.

Northern Elephant Seal

Northern elephant seal is common on California coastal mainland and island sites, where the species pups, breeds, rests, and molts. The largest rookeries are on San Nicolas and San Miguel islands in the northern Channel Islands. Near the Bay, elephant seals breed, molt, and haul out at Año Nuevo Island, the Farallon Islands, and Point Reyes National Seashore.

Northern elephant seals haul out to give birth and breed from December through March. Pups remain onshore or in adjacent shallow water through May. Both sexes make two foraging migrations each year: One after breeding and the second after molting (Stewart 1989; Stewart and DeLong 1995). Adult females migrate to the central North Pacific to forage, and males migrate to the Gulf of Alaska to forage (Robinson *et al.* 2012). Pup mortality is high when they make the first trip to sea in May, and this period correlates with the time of most strandings. Pups of the year return in the late summer and fall, to haul out at breeding rookery and small haul out sites, but occasionally they may make brief stops in the Bay.

Generally, only juvenile elephant seals enter the Bay and do not remain long. The most recent sighting near the project area was in 2012, on the beach at Clipper Cove on Treasure Island, when a healthy yearling elephant seal hauled out for approximately 1 day. Approximately 100 juvenile northern elephant seals strand in or near the Bay each year, including individual strandings at YBI and Treasure Island (less than 10 strandings per year).

Northern Fur Seal

Northern fur seal breeds on the offshore islands of California and in the Bering Sea from May through July. Two stocks of Northern fur seals may occur near the Bay, the California and Eastern Pacific stocks. The California stock breeds, pups, and forages off the California coast. The Eastern Pacific stock breeds and pups on islands in the Bearing Sea, but females and juveniles move south to California waters to forage in the fall and winter months.

Both the California and Eastern Pacific stocks forage in the offshore waters of California, but only sick, emaciated, or injured fur seals enter the Bay. The Marine Mammal Center (TMMC) occasionally picks up stranded fur seals around YBI and Treasure Island. The rare occurrence of northern fur seal near the SFOBB east span makes it unlikely that the species will be exposed to implosion activities.

Bottlenose Dolphin

This species is found within 0.6 mile (1 kilometer) of shore and occurs from northern Baja California, Mexico to Bodega Bay, with the range extending north over the last several decades related to El Niño events and increased ocean temperatures. As the range of bottlenose dolphins extended north, dolphins began entering the Bay in 2010 (Szczepaniak 2013). Until 2016, most bottlenose dolphins in the Bay were observed in the western Bay, from the Golden Gate Bridge to Oyster Point and Redwood City, although one individual was observed frequently near the former Alameda Air Station (Perlman 2017). In 2017, two individuals have been observed regularly near Alameda (Keener, pers. comm., 2017) and likely passed by the project area.

Harbor Porpoise

This species seldom is found in waters warmer than 62.6 degrees Fahrenheit (17 degrees Celsius) (Read 1990) or south of Point Conception, and occurs as far north as the Bering Sea (Barlow and Hanan 1995; Carretta *et al.,* 2009; Carretta *et al.,* 2012; Allen and Angliss 2013). The San Francisco–Russian River stock is found from Pescadero, 18 miles (30 kilometers) south of the Bay, to 99 miles (160 kilometers) north of the Bay at Point Arena (Carretta *et al.,* 2012). In most areas, harbor porpoise occurs in small groups, consisting of just a few individuals.

Harbor porpoises are seen frequently outside the Bay, and they began to re-enter the Bay in 2008. Keener *et al.* (2012) reports sightings of harbor porpoises from just inside the Bay, northeast to Tiburon and south to the SFOBB west span. In 17 years of monitoring in the project area, 24 harbor porpoises have been observed, and all occurred between 2006 and 2015; including two in 2014, five in 2015 and 15 in 2017. In 2017, the number of harbor porpoises in the project area increased significantly. However, the majority of harbor porpoise observations made during monitoring for the SFOBB Project have been at distances ranging from 2,438 to 3,048 meters (8,000 to 10,000 feet) from the work area.

Gray Whale

The eastern North Pacific population of gray whales ranges from the southern tip of Baja California, Mexico to the Chukchi and Beaufort Seas (Jefferson *et al.,* 1993). The gray whale makes a well-defined, seasonal north-south migration. Most of the population summers in the shallow waters of the northern Bering Sea, the Chukchi Sea, and the western Beaufort Sea (Rice and Wolman 1971). However, some individuals also summer along the Pacific coast, from Vancouver Island to central California (Rice and Wolman 1971; Darling 1984; Nerini 1984). In October and November, gray whales begin to migrate south and follow the shoreline to breeding grounds along the western coast of Baja California and the southeastern Gulf of California (Braham 1984). Gray whales begin heading north in late winter and early spring (Rice and Wolman 1971). The average gray whale migrates 4,660 to 6,213 miles (7,500 to 10,000 kilometers), at a rate of 91 miles/day (147 kilometers/day) (Jones and Swartz 2002). Gray whales generally calve and breed during the winter, in lagoons in Baja California (Jones and Swartz 2002), although some calves are born along the California coast during the migration south.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 hertz (Hz) and 35 kilohertz (kHz);
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members

of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.

- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. seven marine mammal species (three cetacean and four pinniped (three otariid and one phocid) species) have the reasonable potential to co-occur with the construction activities. Please refer to Table 1. Of the cetacean species that may be present, one is classified as low-frequency cetaceans (gray whale), one is classified as mid-frequency cetaceans (bottlenose dolphin), and one is classified as high-frequency cetaceans (harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

General Information on Potential Effects

Explosives are impulsive sounds, which are characterized by short duration, abrupt onset, and rapid decay. The Caltrans SFOBB work using controlled charges (*i.e.,* implosion events) could adversely affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area. Based on the nature of the other activities associated with the dismantling of Piers E6 through E18 of the original SFOBB East Span (mechanical dismantling) and measured sound levels from those activities during past monitoring associated with previous IHAs, NMFS does not expect activities other than implosion events to contribute to underwater noise levels such that take of marine mammals will potentially occur.

Exposure to high intensity sound for a sufficient duration may result in behavioral reactions and auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran *et al.,* 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is a temporary threshold shift (Southall *et al.,* 2007).

When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 decibel (dB) or reduced by 30 dB). PTS is a permanent loss within a specific frequency range.

For cetaceans, published TTS data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002, 2003, 2005, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

In addition, chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking occurs when other noises, such as those from human sources, interfere with animal detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction.

Masking occurs at the frequency band, which the animals utilize. However, lower frequency man-made noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. It may also affect communication signals when they

occur near the noise band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Foote *et al.,* 2004; Holt *et al.,* 2009).

Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than 3 times in terms of sound pressure level) in the world's ocean from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand 2009). For Caltrans' SFOBB construction activities, noises from controlled blasting is not likely to contribute to the elevated ambient noise levels in the project area in such a way as to increasing potential for or severity of masking. Baseline ambient noise levels in the Bay are very high due to ongoing shipping, construction and other activities in the Bay, and the sound associated with the controlled blasting activities will be very brief.

Finally, exposure of marine mammals to certain sounds could lead to behavioral disturbance (Richardson *et al.,* 1995), such as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul outs or rookeries).

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.,* 2007). For impulse noises (such as the controlled implosions associated with the dismantling of the original SFOBB spans), NMFS uses received levels of 165 dB SEL to predict the onset of behavioral harassment for mid-frequency cetaceans and phocid pinnipeds (bottlenose dolphins and harbor seals and northern elephant seals, respectively); 135 dB SEL for high-frequency cetaceans (harbor porpoises); and 183 dB SEL for otariid pinnipeds (California sea lions and northern fur seals).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically significant if the change affects growth, survival, and/or reproduction, which depends on the severity, duration, and context of the effects.

Potential Effects From Controlled Pier Implosion

It is expected that an intense impulse from the controlled blasting of Piers E19 and E20 have the potential to impact marine mammals in the vicinity of the activity. The majority of impacts will be startle behavioral responses and temporary behavioral modification of marine mammals. However, a few individual animals could be exposed to sound levels that may cause TTS.

The underwater explosion will send a shock wave and blast noise through the water, release gaseous by-products, create an oscillating bubble, and cause a plume of water to shoot up from the water surface. The shock wave and blast noise are of most concern to marine animals. The effects of an underwater explosion on a marine mammal depends on many factors, including the size, type, and depth of both the animal and the explosive charge; the depth of the water column; and the standoff distance between the charge and the animal, as well as the sound propagation properties of the environment. Potential impacts can range from brief effects (such as behavioral disturbance), tactile perception, physical discomfort, slight injury of the internal organs and the auditory system, to death of the animal (Yelverton *et al.,* 1973; DoN, 2001). Non-lethal injury includes slight injury to internal organs and the auditory system; however, delayed lethality can be a result of individual or cumulative sublethal injuries (DoN, 2001). Immediate lethal injury would be a result of massive combined trauma to internal organs as a direct result of proximity to the point of detonation (DoN 2001). Generally, the higher the level of impulse and pressure level exposure, the more severe the impact to an individual.

Injuries resulting from a shock wave take place at boundaries between tissues of different density. Different velocities are imparted to tissues of different densities, and this can lead to their physical disruption. Blast effects are greatest at the gas-liquid interface (Landsberg 2000). Gas-containing organs, particularly the lungs and gastrointestinal (GI) tract, are especially susceptible (Goertner 1982; Hill 1978; Yelverton *et al.,* 1973). In addition, gas-containing organs including the nasal sacs, larynx, pharynx, trachea, and lungs may be damaged by compression/expansion caused by the oscillations of the blast gas bubble. Intestinal walls can bruise or rupture, with subsequent hemorrhage and escape of gut contents into the body cavity. Less severe GI tract injuries include contusions, petechiae (small red or purple spots caused by bleeding in the skin), and slight hemorrhaging (Yelverton *et al.,* 1973).

Because the ears are the most sensitive to pressure, they are the organs most sensitive to injury (Ketten 2000). Sound-related damage associated with blast noise can be theoretically distinct from injury from the shock wave, particularly farther from the explosion. If an animal is able to hear a noise, at some level it can damage its hearing by causing decreased sensitivity (Ketten 1995). Sound-related trauma can be lethal or sublethal. Lethal impacts are those that result in immediate death or serious debilitation in or near an intense source and are not, technically, pure acoustic trauma (Ketten 1995). Sublethal impacts include hearing loss, which is caused by exposures to perceptible sounds. Severe damage (from the shock wave) to the ears includes tympanic membrane rupture, fracture of the ossicles, damage to the cochlea, hemorrhage, and cerebrospinal fluid leakage into the middle ear. Moderate injury implies partial hearing loss due to tympanic membrane rupture and blood in the middle ear. Permanent hearing loss also can occur when the hair cells are damaged by one very loud event, as well as by prolonged exposure to a loud noise or chronic exposure to noise. The level of impact from blasts depends on both an animal's location and, at outer zones, on its sensitivity to the residual noise (Ketten 1995).

The above discussion concerning underwater explosions only pertains to open water detonations in a free field. Caltrans' demolition of Piers E19 and E20 using controlled implosion uses a confined detonation method, meaning that the charges will be placed within the structure. Therefore, most energy from the explosive shock wave will be absorbed through the destruction of the structure itself, and will not propagate through the open water. Measurements and modeling from confined underwater detonation for structure removal showed that energy from shock waves and noise impulses were greatly reduced in the water column compared to expected levels from open water detonations (Hempen *et al.,* 2007;

Department 2016). Therefore, with monitoring and mitigation measures discussed below, Caltrans' controlled implosions of Piers E19 and E20 are not likely to have injury or mortality effects on marine mammals in the project vicinity. Instead, NMFS considers that Caltrans' controlled implosions in the San Francisco Bay are most likely to cause behavioral harassment and may cause TTS in a few individual of marine mammals, as discussed below.

Changes in marine mammal behavior are expected to result from acute stress, or startle, responses. This expectation is based on the idea that some sort of physiological trigger must exist to change any behavior that is already being performed, and this may occur due to being startled by the implosion events. The exception to this expectation is the case of behavioral changes due to auditory masking (increasing call rates or volumes to counteract increased ambient noise). Masking is not likely since the Caltrans' controlled implosion will only consist of five to six short, sequential detonations that last for approximately 3–4 seconds each.

The removal of the SFOBB East Span is not likely to negatively affect the habitat of marine mammal populations because no permanent loss of habitat will occur, and only a minor, temporary modification of habitat will occur due to the addition of sound and activity associated with the dismantling activities.

Project activities will not affect any pinniped haul out sites or pupping sites. The YBI harbor seal haul out site is on the opposite site of the island from the SFOBB Project area. Because of the distance and the island blocking the sound, underwater noise and pressure levels from the SFOBB Project will not reach the haul out site. Other haul out sites for sea lions and harbor seals are at a sufficient distance from the SFOBB Project area that they will not be affected. The closest recognized harbor seal pupping site is at Castro Rocks, approximately 8.7 miles (14 kilometers) from the SFOBB Project area. No sea lion rookeries are found in the Bay.

The addition of underwater sound from SFOBB Project activities to background noise levels can constitute a potential cumulative impact on marine mammals. However, these potential cumulative noise impacts will be short in duration and will not occur in biologically important areas, will not significantly affect biologically important activities, and are not expected to have significant environmental effects, as noted in the original FHWA 2001 FEIS for the SFOBB project, incorporated by reference into NMFS' 2003 EA and subsequent Supplemental EAs (2009 and 2015) for the issuance of IHAs for the SFOBB project.

Marine mammal forage on fish within SFB and pier implosions have the potential to injure or kill fish in the immediate area. During previous pier implosion and pile driving activities, Caltrans reported mortality to prey species of marine mammals, including northern anchovies and Pacific herring (Department 2016), averaging approximately 200 fish per implosion event (none of which were ESA-listed species and none of which are managed under a Fishery Management Plan). These few isolated fish mortality events are not anticipated to have a substantial effect on prey species populations or their availability as a food resource for marine mammals.

Studies on explosives also suggest that larger fish are generally less susceptible to death or injury than small fish, and results of most studies are dependent upon specific biological, environmental, explosive, and data recording factors. For example, elongated forms that are round in cross section are less at risk than deep-bodied forms; orientation of fish relative to the shock wave may also affect the extent of injury; and finally, open water pelagic fish, such as those expected to be in the project area, seem to be less affected than reef fishes.

The huge variation in fish populations, including numbers, species, sizes, and orientation and range from the detonation point, makes it very difficult to accurately predict mortalities at any specific site of detonation. Most fish species experience a large number of natural mortalities, especially during early life-stages, and any small level of mortality caused by the Caltrans' controlled implosion events will likely be insignificant to the population as a whole. This negligible effect on population levels of forage fish should ensure continued prey availability for marine mammal species in the area.

Potential Effects of Pile Driving Activities

In-water construction activities associated with the project will include impact pile driving, vibratory pile driving, and removal. The sounds produced by these activities fall into one of two general sound types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward 1997 in Southall et al., 2007). Please see Southall et al. (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI 1986; Harris 1998; NIOSH 1998; ISO 2003; ANSI 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI 1995; NIOSH 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman et al., 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards 2002; Carlson et al., 2005).

The effects of sounds from pile driving might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson et al., 1995; Gordon et al., 2003; Nowacek et al., 2007; Southall et

al., 2007). The effects of pile driving or drilling on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving or drilling sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.,* sand) will absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock), which may reflect the acoustic wave. Soft porous substrates will also likely require less time to drive the pile, and possibly less forceful equipment, which will ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada et al., 2008). Potential effects from impulsive sound sources like pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton et al., 1973). Due to the nature of the pile driving sounds in the project, behavioral disturbance is the most likely effect from the activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall et al., 2007). Based on the best scientific information available, the SPLs for the construction activities in this project are below the thresholds that could cause TTS or the onset of PTS.

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short-term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson et al., 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall et al., 2007).

Non-Auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox et al., 2006; Southall et al., 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving or removal to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, will presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall et al., 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Auditory Masking—Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving and removal is mostly concentrated at low-frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources will likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area will result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA will occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

Estimated Take

This section provides an estimate of the number of incidental takes for authorization through this IHA, which will inform both NMFS' consideration

of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will be by Level B harassment only, in the form of disruption of behavioral patterns and TTS, for individual marine mammals resulting from exposure to pile driving and controlled blasting. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures such as the use of a blast attenuation system and shutdown zones, Level A harassment is neither anticipated nor authorized for blasting. Although Caltrans has not requested Level A harassment for their construction activities in the past, in consultation with the Marine Mammal Commission, Caltrans has requested Level A take of 120 harbor seals and 2 elephant seals during pile driving activities.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals will be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonation.

Level B harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

Caltrans's activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 μPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Caltrans' activity includes the use of impulsive (impact driving) AND non-impulsive (vibratory driving) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

Explosive sources—Based on the best available science, NMFS uses the acoustic and pressure thresholds indicated in Table 2 to predict the onset of behavioral harassment, PTS, tissue damage, and mortality.

Based on the best available scientific data, NMFS' 2016 Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing includes acoustic thresholds related to PTS and TTS for impulsive sounds that are expressed as weighted, cumulative sound exposure levels (SELcum) and unweighted peak sound pressure levels (SPLPK), as presented in Table 3.

TABLE 2—NMFS TAKE THRESHOLDS FOR MARINE MAMMALS FROM UNDERWATER IMPLOSIONS

Group	Species	Level B harassment		Level A harassment	Serious injury		Mortality
		Behavioral	TTS	PTS	Gastro-intestinal tract	Lung	
Mid-freq cetacean	Bottlenose dolphin ..	165 dB SEL.	170 dB SEL or 224 dB SPL_{pk}.	185 dB SEL or 230 dB SPL_{pk}.	237 dB SPL.	$39.1M^{1/3}$ $(1+[D/10.081])^{1/2}$ Pa-sec. where: M = mass of the animals in kg, D = depth of animal in m.	$91.4M^{1/3}$ $(1+[D/10.081])^{1/2}$ Pa-sec. where: M = mass of the animals in kg, D = depth of animal in m.
High-freq cetacean	Harbor porpoise	135 dB SEL.	140 dB SEL or 196 dB SPL_{pk}.	155 dB SEL or 202 dB SPL_{pk}.			
Phocidae	Harbor seal & northern elephant seal.	165 dB SEL.	170 dB SEL or 212 dB SPL_{pk}.	185 dB SEL or 218 dB SPL_{pk}.			
Otariidae	California sea lion & northern fur seal.	183 dB SEL.	188 dB SEL or 226 dB_{pk}.	203 dB SEL or 232 dB SPL_{pk}.			

* **Note:** All dB values are referenced to 1 μPa. SPL_{pk} = Peak sound pressure level; psi = pounds per square inch.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT FOR PILE DRIVING

Hearing Group	PTS onset acoustic thresholds * (Received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1μPa, and cumulative sound exposure level (L_E) has a reference value of 1 μPa^2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighted function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

For pier removal activities, hydroacoustic monitoring was performed during the implosions of Piers E3 through E18. Results for this monitoring were used to determine distances to marine mammal threshold criteria for underwater blasting. The criterion for lung injury and mortality to marine mammals is dependent on the mass of the animal and the depth of the animal in the water column; animals smaller in mass are more susceptible to injury from impulse pressures. The criterion is an impulse metric, expressed in pascal-second or psi-msec (Table 4). The estimated mass of a juvenile fur seal (15 kilograms (33 pounds)), was used in the lung injury and mortality calculations, because this will be the smallest animal potentially to be exposed to the implosions. The depth at which the animal is exposed also affects the criterion threshold calculation. The water depth around Piers E19 and E20 is very shallow, at 3 to 4 meters (10 to 12 feet). Although implosions will take place in shallow areas, marine mammals are more likely to be present in slightly deeper waters. Therefore, an average depth for the project area of 6 meters (20 feet) was used in the threshold calculation.

Caltrans will use hydroacoustic monitoring results from the implosions of Piers E3 through E18 to estimate distances to marine mammal thresholds for the implosion of Piers E19 and E20 (Department 2015a, 2016). Measured distances from the implosion of Piers E17 to E18 (two-pier implosion event) were used to estimate distances to threshold criteria for the implosion of Piers E19 and E20. The measured distances to threshold criteria from the previous Pier E17 and E18 implosion event are shown in Tables 5 and 6. Depictions of the isopleths for all functional hearing groups is found in Figures 9–13 in the application.

TABLE 4—MEASURED DISTANCES TO UNDERWATER BLASTING THRESHOLD CRITERIA FOR LEVEL B BEHAVIORAL AND TTS AND LEVEL A PTS FROM THE PREVIOUS IMPLOSION OF PIERS E17 AND E18 IN A SINGLE EVENT AND ESTIMATED DISTANCES TO THESE THRESHOLD CRITERIA FOR THE IMPLOSION OF PIERS E19 AND E20 IN A SINGLE EVENT

Species hearing group		Behavioral (meters)	TTS [1] (meters)		PTS [1] (meters)	
Mid-Frequency Cetaceans (Dolphins).	Threshold	165 dB SELcum	224 dB Peak	170 dB SELcum	230 dB Peak	185 dB SELcum
	Piers E17–E18 Measured.	155.75	40.84	**109.42**	27.13	**37.8**
	Piers E19–E20 Estimate.	200	50	**120**	30	**40**
High-Frequency Cetaceans (Porpoises).	Threshold	135 dB SELcum	196 dB Peak	140 dB SELcum	202 dB Peak	155 dB SELcum
	Piers E17–E18 Measured.	1142.1	279.2	**802.54**	185.01	**278.28**
	Piers E19–E20 Estimate.	1,220	290	**830**	200	**290**
Phocid Pinnipeds (Seals).	Threshold	165 dB SELcum	212 dB Peak	170 dB SELcum	218 dB Peak	185 dB SELcum
	Piers E17–E18 Measured.	278.59	92.96	**195.38**	61.57	**67.36**
	Piers E19–E20 Estimate.	290	100	**200**	70	**70**

TABLE 4—MEASURED DISTANCES TO UNDERWATER BLASTING THRESHOLD CRITERIA FOR LEVEL B BEHAVIORAL AND TTS AND LEVEL A PTS FROM THE PREVIOUS IMPLOSION OF PIERS E17 AND E18 IN A SINGLE EVENT AND ESTIMATED DISTANCES TO THESE THRESHOLD CRITERIA FOR THE IMPLOSION OF PIERS E19 AND E20 IN A SINGLE EVENT—Continued

Species hearing group		Behavioral (meters)	TTS [1] (meters)		PTS [1] (meters)	
Otariid Pinnipeds (Sea Lions).	Threshold	183 dB SELcum	226 dB Peak	188 dB SELcum	232 dB Peak	203 dB SELcum
	Piers E17–E18 Measured.	75.9	.....	**53.04**	**23.47**	18.29
	Piers E19–E20 Estimate.	80	35.66 40	**60**	**30**	20

Notes:
1. For the TTS and PTS criteria thresholds with dual criteria, the largest criteria distances (*i.e.,* more conservative) are shown in **bold.**
Threshold Source: NMFS 2016.
Isopleth Distance Sources: Estimated distances to threshold criteria for the implosion of two small piers were determined based on measured distance to threshold criteria from the implosion of Piers E17 and E18.

TABLE 5—ESTIMATED DISTANCES TO UNDERWATER BLASTING THRESHOLD CRITERIA FOR LEVEL A GI TRACT AND LUNG INJURY AND MORTALITY FOR IMPLOSION OF PIER E3, TWO SMALL PIERS AND FOUR SMALL PIERS

Species		GI tract (meters)		Lung [1] (meters)	Mortality [1] (meters)
All Species	Threshold	237 dB Peak	104 psi	39.1 (15 kg)⅓ (1+[6/10.081])½ = 122 Pa-sec	91.4 (15 kg)⅓ (1+[6/10.081])½ = 285 Pa-sec
	Piers E17–E18 Measured ...	17	17	<12	<12
	Pier Implosion Estimate	27	27	<12	<12

Notes:
Lung injury and mortality threshold calculations are for a 15-kilogram (33-pound) juvenile fur seal, the smallest marine mammal with the potential to be present in the project area.
Threshold Source: Finneran and Jenkins 2012.
Isopleth Distance Sources: Estimated distances to threshold criteria for the implosion of piers were determined based on measured distance to threshold criteria from the implosions of Pier E4, Piers E17 to E18, Piers E11 to E13 and Piers E14 to E16.

For pile driving, the distance to the marine mammal threshold criteria for vibratory and impact driving were calculated based on hydroacoustic measurements collected during previous pile-driving activities for the SFOBB Project and other projects, involving similar activities under similar conditions. Measured sound pressure levels from other projects came from Caltrans' Compendium of Pile Driving Sound Data (Department 2007), which provides information on sound pressures resulting from pile driving measured throughout Northern California. Sound exposure levels for 36 inch concrete piles were derived from the Mukilteo Ferry Test Pile Project. Distances to marine mammal threshold criteria were calculated for all pile types and installation methods listed above. These distances were calculated using the NMFS-provided companion User Spreadsheet.

TABLE 6—NMFS USER SPREADSHEET INPUT VALUES FOR PILE DRIVING

	H-Pile (vibratory)	24 inch steel (vibratory)	36 inch steel (vibratory)
Vibratory Driving of Steel Piles:			
Spreadsheet Tab Used	(A) Non-Impulsive, Cont.	(A) Non-Impulsive, Cont.	(A) Non-Impulsive, Cont.
Source Level (RMS SPL)	150	165	170.
Weighting Factor Adjustment (kHz)	2.5	2.5	2.5.
(a) Activity Duration (h) within 24-h period	0.5	1	1.333333.
Propagation (xLogR)	15	15	15.
Distance of source level (meters) *	10	10	10.
Other factors.			
	H-Pile (impact)	**24 inch steel (impact)**	**36 inch steel (impact)**
Impact Driving of Steel Piles:			
Spreadsheet Tab Used	(E.1) Impact pile driving.	(E.1) Impact pile driving.	(E.1) Impact pile driving.
Source Level (Single Strike/shot SEL)	160	170 *	173 *.
Weighting Factor Adjustment (kHz)	2	2	2
(a) Number of strikes in 1 h	200	450	600
(a) Activity Duration (h) within 24-h period	6	4	4
Propagation (xLogR)	15	15	15
Distance of source level (meters) *	10	10	10
Other factors		Using Bubble Curtain *	Using Bubble Curtain *.

TABLE 6—NMFS USER SPREADSHEET INPUT VALUES FOR PILE DRIVING—Continued

Pile Proofing (Impact):			
Spreadsheet Tab Used	(E.1) Impact pile driving.	(E.1) Impact pile driving.	(E.1) Impact pile driving.
Source Level (Single Strike/shot SEL)	160	177	180.
Weighting Factor Adjustment (kHz)	2	2	2.
(a) Number of strikes in 1 h	20	20	20.
(a) Activity Duration (h) within 24-h period	2	2	2.
Propagation (xLogR)	15	15	15.
Distance of source level (meters) *	10	10	10.
Other factors.			

* Attenuated value—Bubble curtain is assumed to provide 7dB reduction.

For calculation of SELcum threshold distances, the following assumptions were made:

- Only one type/size of pile will be installed on the same day;
- One type of hammer to be used at a given time;
- Only one pile installation method, impact or vibratory, will be performed on the same day;
- A maximum of four steel pipe piles will be installed (impact driving or vibratory) on the same day;
- A maximum of six H-piles will be installed (impact or vibratory) on the same day; and
- A maximum of two pile will be proof-tested with an impact hammer on the same day; administering a maximum of 20 strikes per pile.

The distances to the marine mammal threshold criteria for these pile driving and pile removal activities are shown in Table 7.

TABLE 7—DISTANCES TO LEVELS A AND B HARASSMENT THRESHOLD CRITERIA FOR IMPACT AND VIBRATORY PILE DRIVING AND PILE REMOVAL

Parameters				Level B ZOI radii (meters)		Level A ZOI radii (meters)				
Pile size and type	Drive method	Piles per day	Attenuation system	160 dB RMS	120 dB RMS	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
H-Pile	Vibratory	6	None	NA	1,000	1	1	2	1	1
24 inch steel	Vibratory	4	None	NA	Calculated 10,000 Practical 2,000	13	1	19	8	1
36 inch steel	Vibratory	4	None	NA	Calculated 21,544 Practical 2,000	33	3	49	20	1
H-Pile	Impact	6	None	100	NA	33	1	39	18	1
24 inch steel	Impact	4	Bubble Curtain	215	NA	201	7	239	107	8
36 inch steel	Impact	4	Bubble Curtain	541	NA	386	14	459	206	15
H-Pile	Proof Testing	2	None	100	NA	3	0	4	2	0
24 inch steel	Proof Testing	2	None	1,000	NA	46	2	55	25	2
36 inch steel	Proof Testing	2	None	2,512	NA	74	3	88	39	3

Sources: Sound levels from the Department's Compendium of Pile Driving Sound Data (Department 2007). Distances were calculated using the NMFS-provided companion User Spreadsheet, available at *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

The distance to the 120 dB rms Level B Zone of Influence (ZOI) threshold for vibratory pile driving was calculated to be 10,000 meters for 24-inch (0.61-meter) diameter steel pipe piles and 21,544 meters for 36-inch (0.91-meter) diameter steel pipe piles. Previous monitoring for the SFOBB Project has shown background sound levels in the active portions of the Bay, near the project area, to range from 110 to 140 dB rms, with typical background levels in the range of 110 to 120 dB rms (Department 2015). During previous hydroacoustic monitoring for the SFOBB Project, it has not been possible to detect or distinguish sound from vibratory pile driving beyond 1,000 to 2,000 meters (3,280 to 6,562 feet) from the source (Rodkin 2009). Under all previous IHAs for the SFOBB Project, which included vibratory pile driving, the ZOI for this activity has been set at 2,000 meters (6,562 feet) or less (NOAA 2016). Furthermore, it unlikely that marine mammals in the Bay will detect or show response to this sound at distances greater than 2,000 meters (6,562 feet), because of the background sound levels in the Central Bay. Therefore, the practical, applied ZOI for the vibratory driving of 24-inch (0.61-meter) and 36-inch (0.91-meter) diameter steel pipe piles has been set at 2,000 meters (6,562 feet), as shown in Table 6.

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources pile driving, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it will not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below in Table 7.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

No systematic line transect surveys of marine mammals have been performed in the Bay. Therefore, the in-water densities of harbor seals, California sea lions, and harbor porpoises were calculated based on 17 years of observations during monitoring for the SFOBB construction and demolition. Care was taken to eliminate multiple observations of the same animal, although this can be difficult and is likely that the same individual may have been counted multiple times on the same day. The amount of monitoring performed per year varied, depending on the frequency and duration of construction activities with the potential to affect marine mammals. During the 257 days of monitoring from 2000 through 2017 (including 15 days of baseline monitoring in 2003), 1,029 harbor seals, 83 California sea lions, and 24 harbor porpoises were observed in waters in the project vicinity in total. In 2015, 2016, and 2017, the number of harbor seals in the project area increased significantly. In 2017, the number of harbor porpoise in the project area also increased significantly. Therefore, a harbor seal density estimate was calculated for 2015–2017, and a harbor porpoise density estimate was calculated for 2017, which may better reflect the current use of the project area by these animals. These observations included data from baseline, pre-, during, and post-pile driving, mechanical dismantling, on-shore blasting, and off-shore implosion activities.

Insufficient sighting data exist to estimate the density of bottlenose dolphins. However, a single bottlenose dolphin has been observed regularly, south of the SFOBB east span since fall 2016. During monitoring performed in 2017 for the SFOBB, two bottlenose dolphins were observed south of the SFOBB.

Insufficient sighting data exist to estimate elephant seal densities in the Bay. Generally, only juvenile elephant seals enter the Bay and do not remain long. The most recent sighting near the project area was in 2012, on the beach at Clipper Cove on Treasure Island, when a healthy yearling elephant seal hauled out for approximately 1 day. Approximately 100 juvenile northern elephant seals strand in or near the Bay each year, including individual strandings at YBI and Treasure Island (less than 10 strandings per year).

Insufficient sighting data exist to estimate northern fur seal densities in the Bay. Only two to four northern fur seals strand in the Bay each year, and they are unlikely to occur in the project area.

The size of the areas monitored for marine mammals has increased over the 17 years of observations. The majority of pinniped monitoring has been focused within a 610-meter (2,000-foot) radius of the work area. Although some pinniped observations have been recorded at greater distances, in part because of recent monitoring of larger areas for harbor porpoise zones during pier implosion, a 2-square-kilometer area, corresponding with a 610-meter (2,000-foot) radial distance, was used for density calculations. Harbor porpoise sightings in the Bay have increased in recent years; however, the majority of harbor porpoise observations made during monitoring for the SFOBB Project have been at distances ranging from 2,438 to 3,048 meters (8,000 to 10,000 feet) from the work area. Therefore, harbor porpoise densities were calculated based on a 15-square-kilometer area, corresponding with a 2,438-meter (8,000-foot) radial distance, with land areas subtracted from the area. Numbers used for density calculations are shown in Table 8. In the cases where densities were refined to capture a narrower range of years to be conservative, bold densities were used for take calculations.

TABLE 8—ESTIMATED IN-WATER DENSITY OF MARINE MAMMAL SPECIES IN SFOBB AREA

Species observed	Area of monitoring zone (square kilometer)	Days of monitoring	Number of animals observed	Density animals/square kilometer
Harbor Seals 2000–2017	2	257	1029	2.002.
Harbor Seals 2015–2017	2	47	372	**3.957**.
California Sea Lions 2000–2017	2	257	83	**0.161**.
Bottlenose Dolphins 2017	2	6	2	Insufficient sighting data exists to estimate density.
Harbor Porpoise 2000–2017	3	257	24	0.031.
Harbor Porpoise 2017	15	6	15	**0.167**.
Elephant Seal 2000–2017	2	257	0	Insufficient sighting data exists to estimate density.
Northern Fur Seal 2000–2017	2	257	0	Insufficient sighting data exists to estimate density.
Gray Whale 2000–2017	2	257	0	Insufficient sighting data exists to estimate density.

Notes:
Densities for Pacific harbor seals, California sea lions, and harbor porpoises are based on monitoring for the east span of the SFOBB from 2000 to 2017.
A second set of Pacific harbor seal densities were calculated from the increase in sightings recorded from 2015 to 2017.
A second set of harbor porpoise densities were calculated for the increase in sightings that were recorded in 2017.
Bold densities were used for take calculations.
Sources: Department 2001, 2004b, 2013b, 2013c, 2014, 2015b, 2016, 2017; Perlman 2017.

For species without enough sightings to construct a density estimate, Caltrans uses information based on group size and frequency of sightings from previous years of work to inform the number of animals estimated to be taken, which is detailed in the Take Estimation section below.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Take From Pier Implosion

The numbers of harbor seals, sea lions and harbor porpoise that may be taken by implosion of Piers E19 and E20 were calculated based on distances to the marine mammal threshold criteria, duration of the activity, and the estimated density of these species in the ZOI.

The numbers of elephant seals, northern fur seals and bottlenose dolphin that may be taken by implosion of Piers E19 and E20 were determined based on distances to the marine mammal threshold criteria, duration of the activity, and sightings and occurrence of these species in the Bay, specifically near the project area. Distances to marine mammal threshold criteria were calculated based on the highest sound pressure levels generated during the previous pier implosion of Piers E17 and E18 (two-pier implosion event). Gray whales were not considered for pier implosion activities as those activities will occur in late fall and early winter, when gray whales are not found in the Bay area.

The number of exposures of each species was calculated over the entire area of each Level A, Level B, and mortality threshold criteria zone for the pier implosion event (Tables 9 through 12).

TABLE 9—LEVEL A PTS TAKE CALCULATIONS FOR IMPLOSION OF PIERS E19 AND E20

Species	Species density (animals/ square kilometer)	Species density (animals/ square meters)	Level A ZOI radii (meters)	Level A PTS ZOI Area (square meters)	Level A PTS take	Number of implosion events	Level B take calculated
Harbor Seal	3.957	3.96E–06	70	29,462.347	0.1166	1	0.1166
Sea Lion	0.161	1.61E–07	30	9,118.458	0.0015	1	0.0015
Harbor Porpoise	0.167	1.67E–07	290	315,798.484	0.0527	1	0.0527
Bottlenose Dolphin	NA	NA	40	5,026.548	NA	1	NA
Elephant Seal	NA	NA	70	15,393.804	NA	1	NA
Fur Seal	NA	NA	30	2,827.43	NA	1	NA

TABLE 10—LEVEL B TTS TAKE CALCULATIONS FOR IMPLOSION OF PIERS E19 AND E20

Species	Species density (animals/ square kilometer)	Species density (animals/ square meters)	Level B ZOI radii (meters)	Level B TTS ZOI area (square kilometers)	Level B TTS Take	Number of pier implosion events	Level B take calculated
Harbor Seal	3.957	3.96E–06	200	0.17	0.6528	1	0.6528
Sea Lion	0.161	1.61E–07	60	0.023	0.0038	1	0.0038
Harbor Porpoise	0.167	1.67E–07	830	2.09	0.3483	1	0.3483
Bottlenose Dolphin	NA	NA	120	0.045	NA	1	NA
Elephant Seal	NA	NA	200	0.13	NA	1	NA
Fur Seal	NA	NA	60	0.011	NA	1	NA

TABLE 11—LEVEL B BEHAVIORAL TAKE CALCULATIONS FOR IMPLOSION OF PIERS E19 AND E20

Species	Species density (animals/ square kilometer)	Species density (animals/ square meters)	Level B ZOI radii (meters)	Level B behavioral ZOI area (square kilometers)	Level B behavioral take	Number of pier implosion events	Level B take calculated
Harbor Seal	3.957	3.96E–06	290	0.32	1.2496	1	1.2496
Sea Lion	0.161	1.61E–07	80	0.036	0.0058	1	0.0058
Harbor Porpoise	0.167	1.67E–07	1,220	4.26	0.7109	1	0.7109
Bottlenose Dolphin	NA	NA	200	0.13	NA	1	NA
Elephant Seal	NA	NA	290	0.26	NA	1	NA
Fur Seal	NA	NA	80	0.02	NA	1	NA

TABLE 12—COMBINED ESTIMATED EXPOSURES OF MARINE MAMMALS TO THE PIER IMPLOSIONS FOR LEVELS A AND B, AND MORTALITY THRESHOLD CRITERIA

Species	Level B exposures for all implosions		Level A exposures [1]			Mortality [1]
	Behavioral response	Temporary threshold shift	Permanent threshold shift	Gastro-intestinal track injury	Slight lung injury	
Pacific Harbor Seal	1	1	0	0	0	0
California Sea Lion	0	0	0	0	0	0
Northern Elephant Seal	0	0	0	0	0	0
Northern Fur Seal	0	0	0	0	0	0

TABLE 12—COMBINED ESTIMATED EXPOSURES OF MARINE MAMMALS TO THE PIER IMPLOSIONS FOR LEVELS A AND B, AND MORTALITY THRESHOLD CRITERIA—Continued

Species	Level B exposures for all implosions		Level A exposures [1]			Mortality [1]
	Behavioral response	Temporary threshold shift	Permanent threshold shift	Gastro-intestinal track injury	Slight lung injury	
Bottlenose Dolphin	0	0	0	0	0	0
Harbor Porpoise	1	0	0	0	0	0
Total	2	1	0	0	0	0

Note: [1] No implosion will occur if any marine mammal is within the Level A or mortality threshold criteria zones.

Based on the distances to the marine mammal threshold criteria and estimated species density, it is not expected that GI tract, lung injury, or mortality could occur from the pier implosion event. Approximately two harbor seals (one by behavioral response and one by TTS) and one harbor porpoise (by behavioral response) may be taken by Level B harassment during the implosion Piers E19 and E20 (Table 11). No take of any other species is anticipated.

The estimated number of marine mammals to be exposed to implosion SPLs for each threshold criteria (Table 12) are based on current density estimates or occurrence of marine mammals in the project area (Table 8 through 11). However, the number of marine mammals in the area at any given time is highly variable. Animal movement depends on time of day, tide levels, weather, and availability and distribution of prey species. Therefore, Caltrans requests the following number of allowable harassment takes for each Level B harassment criteria threshold (Table 13).

TABLE 13—AMOUNT OF LEVEL B HARASSMENT TAKE REQUESTED FOR THE IMPLOSIONS OF PIERS E19 AND E20.

Species	Level B harassment take [1]	
	Behavioral response	Temporary threshold shift
Pacific Harbor Seal	20	10
California Sea Lion	4	3
Northern Elephant Seal	2	1
Northern Fur Seal	2	1
Harbor Porpoise	5	5
Bottlenose Dolphin	4	2
Total	42	25

Note: [1] Pier implosion will be delayed if any marine mammals are detected within any of the Level A or mortality threshold criteria exclusion zones.

Pacific Harbor Seal: As discussed above, harbor seal is the most numerous marine mammal in the Bay. However, take calculated based on species density and the distances to the marine mammal threshold criteria indicated that only two harbor seals will be exposed to sound pressure levels that can result in Level B harassment (Table 12). One of those exposures may be within the Level B monitoring zone, and one may be within the TTS zone (Table 12). Based on previous monitoring the number of harbor seals in the water can vary greatly, depending on weather conditions or the availability of prey. For example, during Pacific herring runs further north in the Bay (near Richardson Bay) in February 2014, very few harbor seals were observed foraging near YBI or transiting through the project area for approximately 2 weeks. Sightings went from a high of 27 harbor seal individuals foraging or in transit in one day to no seals per day in transit or foraging through the project area (Department 2014). In 2015 and 2016, the number of harbor seal sighting in a single day in the project area increased up to 41 seals (Department 2015b, 2016). Because of this high degree of variability, and the observation of up to 41 seals in the project area in a single day Caltrans are requesting authorization for the take of 30 harbor seals by Level B harassment (20 by Level B behavioral response and 10 by Level B TTS) (Table 13).

California Sea Lion: As discussed above, California sea lion is the second most numerous marine mammal species in the Bay, after the harbor seal. However, take calculated based on species density and the distances to the marine mammal threshold criteria indicated that no sea lions will be exposed to sound pressure levels that can result in Level B harassment (Table 12). Based on previous monitoring the number of sea lions transiting through or foraging in the project area can vary greatly. Because of the high degree of variability, regular observation of sea lions in the project area, and because this species may travel in groups Caltrans are requesting authorization for the take of seven sea lions (four by Level B behavioral response and three by Level B TTS) (Table 11).

Harbor Porpoises: Based on the calculated density estimates and the distances to the marine mammal threshold criteria, one harbor porpoise (by behavioral response) may be taken by Level B harassment during the implosion of Piers E19 and E20 (Table 12). However the number of harbor porpoise in the Bay and their foraging range appears to be steadily increasing. This high-frequency cetacean has a large ZOI, because of its sensitivity to anthropogenic sound. Further, this species generally travels in either calf cow pairs or small pods of four to five porpoises. For these reasons Caltrans are

requesting authorization for the take of 10 harbor porpoise (five by Level B behavioral response and five by Level B TTS) (Table 13).

Northern Elephant Seal: As discussed above, because of the infrequent observation of this species in the Bay, Caltrans estimates that no elephant seals will be exposed to SPLs that can result in Level B harassment (Table 12). However, the number of elephant seals that may enter and or strand in the Bay in a given year is highly variable; dependent on changes in oceanographic conditions, effecting water temperature and prey availability. Caltrans wants to ensure that the project has coverage for the incidental take of any species with the potential to be present in the project area. Therefore, Caltrans are requesting authorization for the take of three elephant seals (two by Level B behavioral response and one by Level B TTS) (Table 13).

Northern Fur Seal: As discussed above, northern fur seals are found infrequently in the Bay and are unlikely to be in the vicinity of the pier implosion. However, the number of fur seals that may enter and or strand in the Bay in a given year is highly variable; dependent on changes in oceanographic conditions, effecting water temperature and prey availability. Caltrans wants to ensure that the project has coverage for the incidental take of any species with the potential to be present in the project area. Therefore, they are requesting authorization for the take of three northern fur seals (two by Level B behavioral response and one by Level B TTS) (Table 13).

Bottlenose Dolphin: As discussed above, only small numbers of bottlenose dolphin occur in the project vicinity. Based on the low number of individuals in the Bay and the distances to the marine mammal threshold criteria Caltrans anticipates that no bottlenose dolphins will be exposed to SPLs that can result in Level B harassment. However, as discussed in Chapter 4, until 2016, most bottlenose dolphins in the Bay were observed in the western Bay, from the Golden Gate Bridge to Oyster Point and Redwood City, although one individual was observed frequently near the former Alameda Air Station (Perlman 2017). As of 2017, the same two individuals have been observed regularly near Alameda (Keener, pers. comm., 2017) and likely pass by the project area. If additional individuals begin using this eastern area of the Bay, the number of bottlenose sightings near the project area will likely increase. Caltrans wants to ensure that the project has coverage for the incidental take of any species with the potential to be present in the project area. Therefore, they are requesting authorization for the take of six bottlenose dolphins (four by Level B behavioral response and two by Level B TTS) (Table 13).

Take From Pile Driving

The numbers of marine mammals by species that may be taken by pile driving were calculated based on distance to the marine mammal threshold criteria, days of driving, and the estimated density of each species in the ZOI, for the species that density could be determined. The distances to the relevant Level A and B zones are listed above in Table 7. Because the sizes of piles, types of piles, or installation methods to be used are unknown at this time, the take estimate has been prepared based on a worst case scenario. The Level B take estimate is based on 60 days of pile driving to install 200 piles, 36 inches (0.91 meters) in diameter, with a vibratory hammer, as this results in the largest Level B zone for a precautionary approach. The Level A take estimate is based on 60 days of pile driving to install 200 piles, 36 inches (0.91 meters) in diameter, with an impact hammer, which has a larger Level A zone than vibratory driving, using of an air bubble curtain sound attenuation system. The take of each species was calculated based on species density (Table 8), for the species that density could be determined, over the entire area of each threshold criteria zone as shown in Figures 14 and 15 in the application. The numbers used for take calculation are shown in Table 14.

TABLE 14—ESTIMATED TAKE OF MARINE MAMMALS FROM PILE DRIVING AND PILE REMOVAL ACTIVITIES

Species	Species density (animals/square kilometer)	Species density (animals/square meters)	Level B ZOI radii (meters)	Level B ZOI area (square kilometers)	Per day take level B	Days of pile driving	Level B take calculated	Level B take requested
Harbor Seal	3.96	3.96E–06	2,000	9.10	36.01	60	2,160.77	2161
Sea Lion	0.16	1.61E–07	2,000	9.10	1.47	60	87.92	88
Harbor Porpoise	0.17	1.67E–07	2,000	9.10	1.52	60	91.19	91
Bottlenose Dolphin	NA	NA	2,000	9.10	NA	60	NA	30
Elephant Seal	NA	NA	2,000	9.10	NA	60	NA	12
Gray Whale	NA	NA	2,000	9.10	NA	60	NA	4
Fur Seal	NA	NA	2,000	9.10	NA	60	NA	6
Total Level B Take								2,392
Species	**Species density (animals/square kilometer)**	**Species density (animals/square meters)**	**Level A ZOI radii (meters)**	**Level A ZOI area (square kilometers)**	**Per day take level A**	**Days of pile driving**	**Level A take calculated**	**Level A take requested [1]**
Harbor Seal	3.96	3.96E–06	206	0.163	0.65	60	38.69	120
Sea Lion	0.16	1.61E–07	15	0.007	0.001	60	0.065	0
Harbor Porpoise	0.17	1.67E–07	459	0.70	0.119	60	6.71	0
Bottlenose Dolphin	NA	NA	15	0.007	NA	60	NA	0
Elephant Seal	NA	NA	206	0.163	NA	60	NA	2
Gray Whale	NA	NA	386	0.488	NA	60	NA	0
Fur Seal	NA	NA	15	0.007	NA	60	NA	0
Total Level A Take [1]								122

[1] Impact pile driving will not begin if a marine mammal other than phocid pinnipds are within PTS, Level A, shutdown zone. Therefore, only phocids will be taken by Level A harassment.

Caltrans estimates a maximum of 2,392 instances of take by Level B harassment may occur to seven stocks of marine mammal during pile-driving activities (Table 14). These individuals will be exposed temporarily to continuous (vibratory pile driving and removal) sounds greater than 120 dB rms and impulse (impact driving) sounds greater than 160 dB rms. The majority of the animals taken by Level B harassment will be harbor seals (Table 14), the most numerous marine mammals in the project area. Although Level A take of marine mammals was calculated based on distances to the threshold, density of the species, and duration of the activity, Caltrans did not anticipate any individuals will be taken by Level A harassment. However, based on correspondence from the Marine Mammal Commission, NMFS is authorizing Level A take of 120 harbor seals and two elephant seals. This increase in potential Level A take is based upon an assumed take of two harbor seals per day with 60 days of pile driving. To make sure mitigation and monitoring zones are clear and practicable, Caltrans will use one monitoring zone for both phocid species, and therefore also requested Level A take of two elephant seals. With monitoring and establishment of shutdown zones, discussed in the Mitigation section below, Caltrans plans to avoid, and NMFS did not authorize, Level A harassment of other marine mammal species.

The number of takes requested, and authorized, by Caltrans are based on a calculation of marine mammal density multiplied by the daily isopleth multiplied by the number of days of pile driving. However, due to variability in sightings of northern elephant seal, northern fur seal, bottlenose dolphin, and gray whale, take estimates were adjusted using species specific monitoring data detailed below.

Northern Elephant Seal: Based on low number of elephant seal sightings in the project area, Caltrans anticipates that very few if any elephant seals will be exposed to continuous sounds greater than 120 dB rms and impulse sounds greater than 160 dB rms during pile driving. No elephant seals have been observed in the immediate project vicinity. However, the number of elephant seals that may enter and or stand in the Bay in a given year is highly variable; dependent of changes in oceanographic conditions, effecting water temperature and prey availability. Further, the size of the Level B harassment zone is large, extending 2,000 meters (6,562 feet) from the pile driving site. Pile driving may take place for up to 60 days and many of the driving days will be consecutive. This 60 day window also includes removal of temporary piles through vibratory removal or cutting off piles below the mudline. Should an elephant seal or multiple elephant seals be in the vicinity of the project area for multiple days they could be taken several times. To ensure Caltrans has coverage for the incidental take of any species with the potential to be present in the project area, we are proposing to authorize take of 12 elephant seals by Level B harassment during pile driving activities (Table 14). This equates to the take of one elephant seal during 20 percent of the driving days.

Northern fur seal: No fur seals have been observed in the immediate project vicinity. Should a fur seal or multiple fur seals be in the vicinity of the project area for multiple days they could be taken several times. To ensure Caltrans has necessary coverage for occasion fur seals in the area, we propose to authorize take of up to six northern fur seals by Level B harassment during pile driving activities (Table 14). This equates to the take of one elephant seal during 10 percent of the driving days.

Bottlenose dolphin: Only small numbers of bottlenose dolphin occur in the project vicinity. Until 2016, most bottlenose dolphins in the Bay were observed in the western Bay, from the Golden Gate Bridge to Oyster Point and Redwood City, although one individual was observed frequently near the former Alameda Air Station (Perlman 2017). As of 2017, the same two individuals have been observed regularly near Alameda (Keener, pers. comm., 2017) are likely pass by the project area. If additional individuals begin using this eastern area of the Bay, the number of bottlenose dolphin sightings near the project area will likely increase. It is possible that the same two resident bottlenose dolphins and or additional individuals could be taken multiple times during the up to 60 days of pile driving. Therefore, Caltrans is requesting authorization for the take of 90 bottlenose dolphins by Level B harassment during pile driving activities. This equates to the take of 1.5 bottlenose dolphins during each day of pile driving.

Gray whale: No gray whales have been observed within 2,000 meters (6,562 feet) of the project area, but they have been observed just north of Treasure Island and southwest of Oakland Middle Harbor. According to TMMC, two to six gray whales enter the Bay each year in late winter through spring (February through April), presumably to feed. Caltrans wants to ensure that the project has coverage for the incidental take of any species with the potential to be present in the project area. Therefore, Caltrans is requesting authorization for the take of 4 grey whales by Level B harassment during pile driving activities.

TABLE 15—COMBINED TOTAL TAKE REQUESTED FOR PIER IMPLOSION AND PILE-DRIVING ACTIVITIES

Species	Pier implosion Level B harassment take		Pile driving Level B harassment take	Total Level B harassment Take	Total Level A take	Requested take as percent of stock abundance
	Behavioral response	Temporary threshold shift				
Pacific Harbor Seal	20	10	2,161	2,191	120	7.5
California Sea Lion	4	3	88	95	0	.03
Northern Elephant Seal	2	1	12	15	2	.01
Northern Fur Seal	2	1	6	9	0	.06
Harbor Porpoise	10	8	91	109	0	1.1
Bottlenose Dolphin	4	2	30	36	0	8
Gray Whale	0	0	4	4	0	.02

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation for Marine Mammals and Their Habitat

Pier Implosions—The decision to combine two smaller piers into single, sequential blast events will further reduce potential impacts on marine mammals. This will allow faster completion of the project and will reduce the total number of pier implosion events (days where pier implosions occur).

BAS—As described previously in this document, a BAS will be used around both piers during the implosion. Based on the results of acoustic monitoring for the previous pier implosions, BAS performance is anticipated to provide approximately 70 to 80 percent attenuation of implosion-related pressure waves.

Implosion shutdown zone—During the implosion of Piers E19 and E20, a project-specific monitoring plan will be implemented to avoid the potential for individual exposure to Level A harassment, and to document the number and species potentially exposed to Level B harassment. This plan will be similar to the Marine Foundation Removal Project Final Biological Monitoring Program, previously approved by NMFS, that was implemented during the implosions of Piers E6 to E18. In particular, monitors will observe the shutdown zone and will delay the implosion if any individuals are within this zone. The same procedure was implemented successfully for the implosions of Piers E3 through E18, and no marine mammals were exposed to SPLs above the Level A or mortality threshold criteria. This project-specific monitoring plan will be transmitted to NMFS before the implosions, for review and concurrence.

Pile driving—All steel pipe piles initially will be installed with a vibratory hammer. The vibratory hammer will be used to drive the majority of the total pile lengths. In the event that a pipe pile is installed entirely with a vibratory hammer, it still will be subject to final proof testing with an impact hammer. A maximum of 10 percent of the piles installed completely with a vibratory hammer may be proof-tested with an impact hammer, without the use of a marine pile-driving energy attenuator. Proofing of piles will be limited to a maximum of two piles per day, for less than 1 minute per pile, administering a maximum of 20 blows per pile. Although both vibratory and impact pile driving have the potential to affect marine mammals, impact driving is expected to generate higher SPLs. Requiring the use of the vibratory hammer will reduce the duration of impact driving and potential exposure to higher SPLs.

Pile driving energy attenuator—Use of a marine pile-driving energy attenuator (*i.e.,* air bubble curtain system), or other equally effective sound attenuation method (*e.g.,* dewatered cofferdam), will be required by Caltrans during impact driving of all steel pipe piles (with the exception of pile proof-testing). Requiring the use of sound attenuation will reduce SPLs and the size of the ZOIs for Level A and Level B harassment.

Pile Driving Shutdown Zone—Before the start of impact pile-driving activities, the shutdown zones will be established. The shutdown zones are intended to include all areas where the underwater SPLs are anticipated to equal or exceed thresholds for injury for species other than harbor seals—PTS Level A harassment thresholds for the specific species hearing groups, shown in Table 3. The shutdown zone for phocid pinnipeds, for which Level A take is requested, is 25 meters. NMFS-approved observers will survey the shutdown zones for 30 minutes before pile-driving activities start. If marine mammals are found within the shutdown zones, pile driving will be delayed until the animal has moved out of the shutdown zone, either verified through sighting by an observer or by waiting until enough time has elapsed without a sighting, 15 minutes for pinnipeds and small cetaceans (harbor porpoise and bottlenose dolphin), and 30 minutes for gray whale, to be able to assume that the animal has moved beyond the zone. With implementation of this avoidance and minimization measure, exposure of marine mammals to SPLs that can result in PTS Level A harassment will be avoided for all species except harbor seals and elephant seals. Due to the resident nature of harbor seals, and their ability to appear undetected in close range to construction activities, Caltrans is requesting Level A take of 120 harbor seals and two elephant seals.

A 10 meter shutdown zone for all marine mammals will also be implemented for in-water heavy machinery work that is not pile driving or pier implosion. Similarly, if a marine mammal for which take is not authorized is seen within the monitoring zone, operations will cease until the animal is seen leaving the zone or until 15 minutes have passed.

Based on our evaluation of the applicant's proposed measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that

requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Marine Mammal Observations

Caltrans will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All protected species observers (PSOs) will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. A minimum of two PSOs will be required for all pile driving activities. Caltrans will establish shutdown zones, similar to those detailed in Table 7, as well as a monitoring zone of 2,000 meters for all marine mammals. Caltrans will monitor the shutdown zone and monitoring zone 30 minutes before, during, and 30 minutes after pile driving, with observers located at the best practicable vantage points. For implosion activities, Caltrans will monitor the area for 60 minutes after implosions. Caltrans also plans to conduct post-implosion surveys on shore and by vessel immediately after implosion events and for the following two days to search for any dead or injured marine mammals. Based on our requirements, Caltrans will implement the following procedures:

- PSOs will be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible;
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals;
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity will be halted; and
- The shutdown zone and observable portion of the monitoring zone around the pile will be monitored for the presence of marine mammals 30 min before, during, and 30 min after any pile driving activity.

Data Collection

We require that observers use approved data forms. Among other pieces of information, Caltrans will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, Caltrans will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel, and if possible, the correlation to SPLs;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

Reporting

A draft report will be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are

incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and pier implosion activities associated from the Caltrans project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (TTS and behavioral disturbance), from underwater sounds generated from pier implosions and pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving or implosion occurs. A few marine mammals could experience TTS if they occur within the Level B TTS zone. However, TTS is a temporary loss of hearing sensitivity when exposed to loud sound, and the hearing threshold is expected to recover completely within minutes to hours. Therefore, it is not considered an injury. In addition, even if an animal receives a TTS, the TTS will be a one-time event from a brief impulse noise (about 5 seconds), making it unlikely that the TTS will lead to PTS. If an animal undergoes a TTS from pier implosion, it is likely to recover quickly as there is only one implosion event planned. Finally, there is no critical habitat or other biologically important areas in the vicinity of Caltrans' controlled implosion areas (Calambokidis *et al.,* 2015).

No serious injury or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, Caltrans will use a blast attenuation system for the pier implosion, which it has previously used successfully. For pile driving activities, vibratory and impact hammers will be the primary methods of pier installation. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact driving is necessary, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious. Caltrans will use a minimum of two PSOs stationed strategically to increase detectability of marine mammals, enabling a high rate of success in implementation of shutdowns to avoid injury for all species except harbor seal.

Caltrans' activities are localized and of relatively short duration (June to November). This duration does not overlap with breeding, pupping, or other biologically significant events for marine mammal species in the area. The project area is also very limited in scope spatially, as all work is concentrated on the edges of a single bridge expanse. These localized and short-term noise exposures may cause short-term behavioral modifications in seven marine mammal species. Moreover, the mitigation and monitoring measures are expected to further reduce the likelihood of injury, as it is unlikely an animal will remain in close proximity to the sound source with small Level A isopleths. While the project area is known to be frequented by harbor seals and California sea lions, it is not an established breeding ground for local populations.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities and the relatively small area of the habitat that may be affected, and the decreased potential of prey species to be in the Project area during the construction work window, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to temporary reactions such as increased swimming speeds, increased surfacing time, flushing, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006; Lerma 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving and implosions. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus will not result in any adverse impact to the stock as a whole. For some stocks, such as harbor seal, more animal presence has increased in recent years, despite Caltrans' work in the area.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- No more than 10 individuals per species are expected to incur TTS during pier implosion. No TTS is expected to occur during pile driving. The size of the zones in which TTS is expected to occur are small and will be heavily monitored per the measures outlined above in the Monitoring section;
- Level B harassment may consist of temporary modifications in behavior (*e.g.,* temporary avoidance of habitat or changes in behavior);
- The lack of important feeding, pupping, or other biologically significant areas in the action area during the construction window;
- The small impact area relative to species range size;
- Mitigation is expected to minimize the likelihood and severity of the level of harassment; and
- The small percentage of the stock that may be affected by project activities (< eight percent for all stocks).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 15 above details the number of individuals that could be exposed to received noise levels that could cause TTS or Level B harassment for the work at the project site relative to the total stock abundance. The numbers of animals authorized to be taken for all species will be considered small relative to the relevant stocks or populations even if each estimated instance of take occurred to a new individual. The total percent of the population (if each instance was a separate individual) for which take is requested is less than eight percent for all stocks (Table 15). Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Region Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that consultation under Section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to Caltrans for the harassment of small numbers of marine mammals incidental to the dismantling and reuse of the original East Span of the San Francisco–Oakland Bay Bridge in the San Francisco Bay provided the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: May 31, 2018.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–12043 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 180124068–8068–01]

RIN 0660–XC041

International internet Policy Priorities

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of inquiry.

SUMMARY: Recognizing the vital importance of the internet and digital communications to U.S. innovation, prosperity, education, and civic and cultural life, the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce has made it a top priority to encourage growth and innovation for the internet and internet-enabled economy. Towards that end, NTIA is seeking comments and recommendations from all interested stakeholders on its international internet policy priorities for 2018 and beyond. These comments will help inform NTIA to identify priority issues and help NTIA effectively leverage its resources and expertise to address those issues.

DATES: Comments are due on or before 5 p.m. Eastern Time on July 2, 2018.

ADDRESSES: Written comments may be submitted by email to *iipp2018@ntia.doc.gov*. Comments submitted by email should be machine-readable and should not be copy-protected. Written comments also may be submitted by mail to the National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4725, Attn: Fiona Alexander, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Fiona Alexander, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4706, Washington, DC 20230; telephone (202) 482–1866; email *falexander@ntia.doc.gov*. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002, or at *press@ntia.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background: Within the U.S. Department of Commerce, the National Telecommunications and Information Administration (NTIA) is the Executive Branch agency responsible for advising the President on telecommunications and information policy.[1] NTIA was established in 1978 in response to the growing national consensus that ''telecommunications and information are vital to the public welfare, national security, and competitiveness of the United States,'' and that, ''rapid technological advances being made in the telecommunications and information fields make it imperative that the United States maintain effective national and international policies and programs capable of taking advantage of continued advancements.''[2]

In the 40 years since its inception, NTIA has made growth and innovation in communications technologies—most recently internet communications—a cornerstone of its mission. The Administration's 2017 National Security Strategy reaffirmed that ''[t]he flow of data and an open, interoperable internet are inseparable from the success of the U.S. economy,'' and stated unequivocally that, ''the United States will advocate for open, interoperable communications, with minimal barriers to the global exchange of information and services.''[3]

NTIA's Office of International Affairs: The Office of International Affairs (OIA) leads NTIA's overseas work. It plays a central role in the formulation of the U.S. Government's international information and communications technology policies, particularly with respect to the internet and the internet-enabled economy. OIA's diverse policymaking efforts include protecting and promoting an open and interoperable internet, advocating for the free flow of information, and strengthening the global marketplace for American digital products and services.

OIA advances these and related priorities at such global venues as the International Telecommunication Union (ITU), the internet Governance Forum (IGF), the Asia-Pacific Economic Cooperation (APEC) forum, the Organization of American States (OAS) the Organization for Economic Cooperation and Development (OECD),

[1] 47 U.S.C. 902(b)(2)(D).

[2] 47 U.S.C. 901(b)(1–6).

[3] Executive Office of the President, *The National Security Strategy of the United States of America* (Dec. 2017), *https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf.*

the G7 and G20 forums, as well as through international trade negotiations and bilateral and multilateral dialogues. In addition, OIA leads NTIA's role as the expert Executive Branch agency responsible for issues related to the internet's Domain Name System (DNS). In this regard, OIA oversees legal agreements related to the management of the .us and .edu top-level domain names, and represents the U.S. Government in its interactions with the internet Corporation for Assigned Names and Numbers (ICANN), the not-for-profit corporation that coordinates the DNS, including serving as the official U.S. representative to the Governmental Advisory Committee (GAC).[4]

Through this Notice, NTIA is soliciting comments and recommendations from stakeholders on its international internet policy priorities. These comments will help NTIA and the U.S. Government identify the most important issues facing the internet globally. They will also help NTIA leverage its resources and policy expertise most effectively to respond to stakeholders' priorities and interests. Comments are welcomed from all interested stakeholders—including the private sector, the technical community, academia, government, civil society, and interested individuals.

For the purposes of this notice of inquiry, OIA has organized questions into four broad categories: (1) The free flow of information and jurisdiction; (2) the multistakeholder approach to internet governance; (3) privacy and security; and (4) emerging technologies and trends. NTIA seeks public input on any and/or all of these four categories.

The Free Flow of Information and Jurisdiction: NTIA tracks and responds to global developments pertaining to free flow of information and internet-related jurisdictional issues. The free flow of information is critical not only to the protection of free speech online, but to the continued growth of the global economy. Certain governments, however, are increasingly imposing restrictions on the free movement of data. These restrictions may be put in place for legitimate reasons—such as concerns about privacy, taxation, and law enforcement access to data—but they are often undertaken for far less valid reasons, such as domestic surveillance and protectionism. In either case, restrictions on the free flow of information are jeopardizing the economic, social, and educational opportunities provided by the internet.

Perhaps even more importantly, the free flow of information on the internet enables basic human rights, such as the freedom of expression. Yet here there is similarly an emerging trend of repressive governments restricting access to information that they deem to be politically or socially objectionable. This is pursued through various means, such as by blocking certain applications, impeding the use of Virtual Private Networks (VPNs), or through the total shutdown of internet communications within national territories. These actions often violate internet users' rights to freedom of expression, association, and peaceful assembly.

Relatedly, there is an emerging trend of national courts issuing judgments on internet-related court cases that risk forcing American companies to globally remove information hosted online. Problematically, what may be censored information in one country could be protected speech in other countries, including the United States. Such jurisdictional disputes illustrate the tension between a global, borderless internet and national sovereignty. NTIA is seeking input from all stakeholders on potential responses to these, and related, jurisdictional challenges.

Multistakeholder Approach to internet Governance: NTIA has strongly advocated for the multistakeholder approach to internet governance and policy development. NTIA's advocacy of the multistakeholder approach is reflected in its support of organizations and forums utilizing the approach, including ICANN, the Internet Engineering Task Force (IETF), Regional Internet Registries (RIRs), the IGF, and others. In addition to these bodies and forums, NTIA strives to build support for the approach within multilateral institutions, such as the ITU, and through bilateral engagement.

One of NTIA's primary initiatives in the area of multistakeholder internet governance was the privatization of the management of the DNS. This was completed in October 2016 when the contract between NTIA and ICANN for the performance of the Internet Assigned Names and Numbers (IANA) functions expired.[5] NTIA seeks public input from all stakeholders on what U.S. priorities should be now within ICANN and broader DNS policy.

Another area of emphasis for NTIA has been the promotion of the IGF, which serves as a global platform for multistakeholder dialogues on internet-related public policy issues. Unlike other United Nations processes, the IGF program is organized by the multistakeholder community, not by governments alone. NTIA has been involved in the IGF since its inception, having served as a lead negotiator at the UN World Summit on the Information Society (WSIS), as well as serving a member of the IGF Multistakeholder Advisory Group and its intercessional work.[6] NTIA seeks public input from all stakeholders on opportunities for IGF improvement.

Privacy and Security: NTIA, as an agency within the U.S. Department of Commerce, approaches cybersecurity from a commercial perspective. This means that NTIA's policy work is grounded in the belief that cybersecurity risks should be viewed not exclusively as a national security threat, but as a threat to economic growth and innovation. As the 2017 National Security Strategy notes, a ''strong, defensible cyber infrastructure fosters economic growth, protects our liberties, and advances our national security.''[7] Internationally, OIA approaches cybersecurity with an understanding that the cyber threat is a global problem that requires international coordination. Accordingly, OIA has worked within the OECD, APEC, the IGF, and elsewhere, to promote strong, industry-led cybersecurity risk-management practices.[8]

In the area of privacy and data protection, NTIA has worked overseas to advocate for smart and non-discriminatory privacy rules. While different countries are going to take different approaches to protecting citizens' privacy, NTIA argues that these differences need not impede global commerce. NTIA works with colleagues from the International Trade Administration (ITA) and the Federal Trade Commission (FTC) to advance interoperable privacy regimes and mechanisms, such as the APEC Cross-

[4] More information about ICANN and the GAC are available on ICANN's website at *www.icann.org.*

[5] The IANA functions include the coordination and allocation of domain names, internet protocol and autonomous system numbers, and other internet protocol resources.

[6] The IGF organizes various types of Intercessional Work during the year, the outputs from which are discussed during the event. Best Practice Forums, Dynamic Coalitions, and National and Regional Initiatives, amongst other efforts, constitute the IGF's Intercessional Work. Further information is available at: *https://intgovforum.org/multilingual/content/intercessional-work.*

[7] 2017 National Security Strategy, supra n. 4.

[8] For example, at the IGF2017, OIA engaged in an Open Forum session on cybersecurity and multistakeholder processes. The transcript and video from this meeting is available at *https://www.intgovforum.org/multilingual/content/igf-2017-day-3-room-ix-of70-cybersecurity-20-leveraging-the-multistakeholder-model-to.*

Border Rules (CBPRs) and the E.U.-U.S. Privacy Shield Arrangement.[9]

Emerging Technologies and Trends: NTIA also advocates for policies that enable entrepreneurs and innovators to take risks and to find global markets for new digital products and services. This advocacy often draws NTIA into discussions about access to broadband internet service, digital literacy, intellectual property, and technological standardization. Over the last decade, these discussions have intensified, as many countries have invested greater resources into developing national innovation strategies, and have increasingly brought those ideas into international forums, such as APEC and the OECD. Over the coming years, these discussions will increasingly focus on issues such as the economic and social impacts of artificial intelligence, the workforce changes brought on by automation and new internet-enabled business models, and the growth of blockchain applications, to name a few. NTIA welcomes comments on how OIA should participate in international discussions of these issues, as well as other issues related to emerging technologies and trends.

Request for Comments

Instructions for Commenters: NTIA invites comments on the full range of questions presented by this Notice, including issues that are not specifically raised. Commenters are encouraged to address any or all of the following questions. Comments that contain references to specific court cases, studies, and/or research should include copies of the referenced materials with the submitted comments. Commenters should include the name of the person or organization filing the comment, as well as a page number on each page of their submissions. All comments received are a part of the public record and will generally be posted on the NTIA website, *http://www.ntia.doc.gov/,* without change. All personal identifying information (for example, name or address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

I. The Free Flow of Information and Jurisdiction

A. What are the challenges to the free flow of information online?

B. Which foreign laws and policies restrict the free flow of information online? What is the impact on U.S. companies and users in general?

C. Have courts in other countries issued internet-related judgments that apply national laws to the global internet? What have been the practical effects on U.S. companies of such judgements? What have the effects been on users?

D. What are the challenges to freedom of expression online?

E. What should be the role of all stakeholders globally—governments, companies, technical experts, civil society and end users—in ensuring free expression online?

F. What role can NTIA play in helping to reduce restrictions on the free flow of information over the internet and ensuring free expression online?

G. In which international organizations or venues might NTIA most effectively advocate for the free flow of information and freedom of expression? What specific actions should NTIA and the U.S. Government take?

H. How might NTIA better assist with jurisdictional challenges on the internet?

II. Multistakeholder Approach to Internet Governance

A. Does the multistakeholder approach continue to support an environment for the internet to grow and thrive? If so, why? If not, why not?

B. Are there public policy areas in which the multistakeholder approach works best? If yes, what are those areas and why? Are there areas in which the multistakeholder approach does not work effectively? If there are, what are those areas and why?

C. Are the existing accountability structures within multistakeholder internet governance sufficient? If not, why not? What improvements can be made?

D. Should the IANA Stewardship Transition be unwound? If yes, why and how? If not, why not?

E. What should be NTIA's priorities within ICANN and the GAC?

F. Are there any other DNS related activities NTIA should pursue? If yes, please describe.

G. Are there barriers to engagement at the IGF? If so, how can we lower these barriers?

H. Are there improvements that can be made to the IGF's structure, organization, planning processes, or intercessional work programs? If so, what are they?

I. What, if any, action can NTIA take to help raise awareness about the IGF and foster stakeholder engagement?

J. What role should multilateral organizations play in internet governance?

III. Privacy and Security

A. In what ways are cybersecurity threats harming international commerce? In what ways are the responses to those threats harming international commerce?

B. Which international venues are the most appropriate to address questions of digital privacy? What privacy issues should NTIA prioritize in those international venues?

IV. Emerging Technologies and Trends

A. What emerging technologies and trends should be the focus of international policy discussions? Please provide specific examples.

B. In which international venues should conversations about emerging technology and trends take place? Which international venues are the most effective? Which are the least effective?

C. What are the current best practices for promoting innovation and investment for emerging technologies? Are these best practices universal, or are they dependent upon a country's level of economic development? How should NTIA promote these best practices?

For any response, commenters may wish to consider describing specific goals and actions that NTIA, the Department, or the U.S. Government in general, might take (on its own or in conjunction with the private sector) to achieve those goals; the benefits and costs associated with the action; whether the proposal is agency-specific or interagency; the rationale and evidence to support it; and the roles of other stakeholders.

Dated: May 31, 2018.

David J. Redl,

Assistant Secretary for Communications and Information.

[FR Doc. 2018–12075 Filed 6–4–18; 8:45 am]

BILLING CODE 3510–60–P

[9] *See* Department of Commerce, *Fact Sheet: Overview of the EU-U.S. Privacy Shield Framework* (Feb. 29, 2106), *https://www.commerce.gov/news/fact-sheets/2016/02/fact-sheet-overview-eu-us-privacy-shield-framework; see also* Department of Commerce, Press Release, *Joint Press Statement from Secretary Ross and Commissioner Jourova on the Privacy Shield Review* (Sept. 20, 2017), *https://www.commerce.gov/news/press-releases/2017/09/joint-press-statement-secretary-ross-and-commissioner-jourova-privacy.*

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2018–0006]

Draft Guidelines for Determining Age Appropriateness of Toys; Notice of Extension of Comment Period

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) published a notice of availability (NOA) in the **Federal Register**, announcing the availability of a draft document titled, ''Guidelines for Determining Age Appropriateness of Toys,'' on March 27, 2018. The Commission invited the public to submit comments on the draft guidelines; the comment period, as set in the NOA, ends on June 11, 2018. The Commission is extending the comment period until July 31, 2018.

DATES: Submit comments by July 31, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2018–0006, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through: *http://www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov* and insert the Docket No. CPSC–2018–0006 into the ''Search'' box and follow the prompts.

SUPPLEMENTARY INFORMATION:

On March 27, 2018, the Commission published an NOA in the **Federal Register**, announcing the availability of a draft document titled, ''Guidelines for Determining Age Appropriateness of Toys'' (83 FR 13121). The Commission invited the public to submit comments on the draft guidelines, and the comment period, as set in the NOA, ends on June 11, 2018. The Commission received a request to extend the comment period until the end of July 2018. The Commission is extending the comment period until July 31, 2018, to allow additional time for public comment on the draft guidelines.

Alberta E. Mills,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2018–11994 Filed 6–4–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0031]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Undersecretary for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 6, 2018.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24 Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy), ATTN: MAJ Kevin Bentz, 1500 Defense Pentagon, Washington, DC 20301–1500 or call (703) 695–5527.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Report of Medical History; DD Forms 2807–1 and 2807–2; OMB Control Number 0704–0413.

Needs and Uses: The information collection requirement is necessary per Title 10 U.S.C. Chapter 31: Sections 504 and 505, and Chapter 33, Section 532, which requires applicants to meet accession medical standards prior to enlistment into the Armed Forces, including the Coast Guard. If applicants' medical history reveals a medical condition that does not meet the accession medical standards, they are medically disqualified for military entrance. This form also will be used by all service members not only in their initial medical examination but also for periodic medical examinations.

Affected Public: Individuals or households.

Annual Burden Hours: 128,833 hours.

Number of Respondents: 773,000.

Responses per Respondent: 1.

Annual Responses: 773,000.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

These forms obtain medical information which affects entrance physical examinations, routine in-service physical examinations, separation physical examinations, and other medical examinations as required. The respondents are all applicants for enlistment, induction or commissioning, or service members. The respondents complete the medical history information recorded on the form. Medical professionals complete the remaining sections, and the information collected provides the Armed Services with the medical

history of applicants. The DD Forms 2807–1 and 2807–2 are the method of collecting and verifying medical data on applicants applying for entrance, as well as for service members for medical evaluation purposes.

Dated: May 29, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–11887 Filed 6–4–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Federal Commission on School Safety; Listening Sessions

AGENCY: Office of the Deputy Secretary, Department of Education.

ACTION: Notification of listening session.

SUMMARY: The Department of Education (Department) is hosting listening sessions to gather information from the public on how schools, districts, institutions of higher education, and other local and State government agencies can improve school safety. In this notice, we announce the details of a listening session on June 6, 2018, at which interested parties may provide input.

DATES: The listening sessions will be held from 9:30 a.m. to 4:30 p.m., local time on June 6, 2018.

FOR FURTHER INFORMATION CONTACT: Monica Bates, U.S. Department of Education, 400 Maryland Ave. SW, Information Resource Center, Washington, DC 20202. Telephone: 800–USA–LEARN. Email: *safety@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 12, 2018, in the wake of the shooting at Marjory Stoneman Douglas High School in Parkland, Florida, President Donald Trump announced his intent to establish a Federal Commission on School Safety (Commission). The Commission has been charged with quickly providing meaningful and actionable recommendations and best practices to keep students safe at school. The Commission is comprised of department heads whose agencies have jurisdiction over key school safety issues: Secretary of Education Betsy DeVos (Commission Chair), Attorney General Jeff Sessions, Secretary of Health and Human Services Alex Azar II, and Secretary of Homeland Security Kirstjen Nielsen.

The members of the Commission are gathering information from students, parents, teachers, school safety personnel, administrators, law enforcement officials, mental health professionals, school counselors, security professionals, and others.

On March 28, 2018, the Commission held an organizational meeting to begin planning its work, and decided to host a series of meetings, site visits, and listening sessions over the next several months. Formal Commission meetings will provide a forum for presentations from subject matter experts, individuals affected by school violence, and other key stakeholders. Field visits will involve travel to schools and other sites to observe and learn first-hand about current best practices in school safety. Listening sessions will occur in several regions of the country and provide an opportunity for the general public to be heard and provide recommendations to the Commission.

Commission Chair Betsy DeVos hosted a meeting and discussion on May 17, 2018, to learn from survivors and family members affected by the mass shootings at Columbine High School, Virginia Tech University, Sandy Hook Elementary School, and Marjory Stoneman Douglas High School, in addition to authors of official reports following incidents of school violence.

The first field visit occurred on May 31, 2018, at Frank Hebron-Harman Elementary School in Hanover, MD. Commission members and their representatives heard from administrators, principals, teachers, students, and a national expert about Positive Behavioral Interventions and Supports (PBIS), a framework designed to improve social, emotional, and academic outcomes for all students.

Generally, as the Commission gathers information, it will focus on different aspects of school safety, including the prevention of school violence, the protection of students and teachers, and the mitigation of threats of school violence.

The information received will inform the Commission's recommendations and best practices final report. Further information on meetings, site visits, and listening sessions will be posted on the Commission's website which will be hosted on the Department's website. This notice provides information about the first of four listening sessions.

Listening Sessions

The Commission will hold four listening sessions. The first will take place on June 6, 2018, at the Lyndon Baines Johnson Building (U.S. Department of Education Headquarters), Barnard Auditorium, 400 Maryland Avenue SW, Washington, DC 20202. The other three listening sessions will be held in other regions of the country, with dates and locations to be determined. *See www.ed.gov* for further details.

The listening sessions will be held from 9:30 a.m. to 4:30 p.m., local time.

Individuals who would like to either speak or listen/observe at the listening sessions must register at the following link: *http://www.cvent.com/d/qgqw2w/4W.* If you need reasonable accommodations, you will be able to identify those when registering. Speakers will be assigned slots within two blocks of time: Morning session (9:30 a.m.–12:30 p.m.) and Afternoon session (1:30 p.m.–4:30 p.m.). We will attempt to accommodate each speaker's preference, but, if we are unable to do so, we will make the determination on a first-come, first-served basis, based on the time and date the registration was received. At least 24 hours prior to the meeting, we will notify you by email of your scheduled speaking session and the required time of arrival. Each speaker will be limited to five minutes. An individual may make no more than one presentation at the listening session. If we receive more registrations than we are able to accommodate, the Commission reserves the right to rescind the registration of an entity or individual that is affiliated with an entity or individual that is already scheduled to speak, and to select among registrants to ensure that a broad range of entities and individuals presents comments. The Commission will accept walk-in registrations for speaking or listening/observing on a first-come, first-served basis, starting at 9:45 a.m. for the morning session and 1:45 p.m. for the afternoon session until capacity is reached. Those who have pre-registered will be given priority over a walk-in registration. For those who would like to submit written comments, please submit them to *safety@ed.gov.* You may also submit them in person at the Department's on-site registration table. Please limit comments to 50 pages.

The Commission will post transcripts of the listening sessions to *www.ed.gov.* The Commission will live-stream the listening session on June 6, 2018 at the following link: *https://edstream.ed.gov/webcast/Play/522e37827d7a4f69a3126f428ba7bba81d.*

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) or register to present comments by

contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 1, 2018.

Mitchell Zais,

Deputy Secretary.

[FR Doc. 2018–12171 Filed 6–4–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Expanding Opportunity Through Quality Charter Schools Program (CSP)—National Dissemination Grants

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2018 for CSP—National Dissemination Grants, Catalog of Federal Domestic Assistance (CFDA) number 84.282T.

DATES:

Applications Available: June 5, 2018.

Date of Pre-Application Webinar: Thursday, June 7, 2018, 1:00 p.m., Washington, DC time.

Deadline for Transmittal of Applications: July 9, 2018.

Deadline for Intergovernmental Review: September 4, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Hans Neseth, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W224, Washington, DC 20202–5970. Telephone: (202) 401–4125. Email: *hans.neseth@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The major purposes of the CSP are to expand opportunities for all students, particularly traditionally underserved students, to attend public charter schools (as defined in this notice) and meet challenging State academic standards; provide financial assistance for the planning, program design, and initial implementation of charter schools; increase the number of high-quality charter schools (as defined in this notice) available to students across the United States; evaluate the impact of charter schools on student achievement, families, and communities; share best practices between charter schools and other public schools; encourage States to provide facilities support to charter schools; and support efforts to strengthen the charter school authorizing process. Through CSP National Dissemination Grants (CFDA number 84.282T), the Department provides funds on a competitive basis to support efforts by eligible entities to support the charter school sector and increase the number of high-quality charter schools available to our Nation's students by disseminating best practices regarding charter schools.

Background: This notice invites applications from eligible applicants to disseminate best practices regarding charter schools consistent with the authority in section 4305(a)(3)(B) of the Elementary and Secondary Education of 1965, as amended by the Every Student Succeeds Act (ESEA). This notice contains a priority, definitions, and selection criteria from the ESEA and Department regulations, as well as priorities and application requirements that we are establishing in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

The priorities included in this notice are consistent with the statutory purposes of the CSP and are intended to ensure that projects funded under CSP National Dissemination Grants address key national policy issues.

Specifically, the priorities require eligible applicants to propose to disseminate best practices for strengthening charter school authorizing and oversight or for improving charter school access to facilities and facility financing, and target funds on projects designed to help increase educational choice (as defined in this notice) for students with disabilities (as defined in this notice), English learners (as defined in this notice), and other traditionally underserved student groups. We encourage applicants to propose projects that enhance collaboration among charter schools, traditional public schools, and other stakeholders.

Priorities: This notice includes two absolute priorities and two competitive preference priorities—one that is within Absolute Priority 1 and one that applies to both Absolute Priority 1 and Absolute Priority 2. We are establishing the two absolute priorities and the competitive preference priority within Absolute Priority 1 for the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). The competitive preference priority applicable to both Absolute Priority 1 and Absolute Priority 2 is from the Department's notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities).

Absolute Priorities: These priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one of these priorities. An application must clearly identify the specific absolute priority that the proposed project addresses. An application must address either Absolute Priority 1 or Absolute Priority 2, but not both, in order to be considered for funding.

These priorities are:

Absolute Priority 1—Strengthening Charter School Authorizing and Oversight

Background

One of the primary statutory purposes of the CSP is to support efforts to strengthen the charter school authorizing process to improve performance management, including transparency, oversight and monitoring (including financial audits) and evaluation of charter schools. In addition, the CSP State Entities program has a strong focus on authorizing, including a requirement that grantees

reserve a portion of funds to provide technical assistance to charter school authorizers and developers (as defined in this notice) and work with authorizers to improve authorizing quality. This priority supports that emphasis by prioritizing projects that propose to develop, identify, or expand, and disseminate information on, best practices in authorizing and the oversight of charter schools by public chartering agencies.

Authorizers are responsible for conducting rigorous application reviews to ensure new charter schools can be of high quality and for establishing clear and consistent policies to hold schools accountable for meeting their academic, financial, and operational performance goals and for complying with all applicable laws, including civil rights laws requiring equal access. Through this priority, the Department expects the implementation of strong authorizing practices will spread and improve the quality of the charter school sector.

Through a competitive preference priority for applications that address this absolute priority, we encourage applicants to focus their efforts on authorized public chartering agencies or States in which there is a need to build capacity in the authorizing process, including States that have recently enacted charter school laws, authorized public chartering agencies with relatively small portfolios of schools, and authorized public chartering agencies whose chartered school or schools are failing to meet performance or compliance requirements.

Priority

Projects that are designed to develop, identify, or expand, and disseminate information on, best practices in authorizing and the oversight of charter schools by public chartering agencies, including in one or more of the following areas:

(i) Conducting charter school application reviews;

(ii) Establishing governance standards and practices for charter schools;

(iii) Promoting and monitoring the compliance of charter schools and authorized public chartering agencies (as defined in this notice) with Federal, State, or local, academic, financial, operational (including school safety), or other applicable requirements;

(iv) Evaluating the performance of charter schools or authorized public chartering agencies;

(v) Facilitating the replication and expansion of high-quality charter schools;

(vi) Improving the academic, financial, or operational performance of charter schools; or

(vii) Closing persistently underperforming charter schools.

To meet this priority, an applicant must propose to disseminate best-practices information widely in more than one State with a charter school law.

Within this absolute priority, we give competitive preference to applications that address the following priority.

Competitive Preference Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending on how well the application meets this priority.

In order to receive points under this priority, an applicant must identify its response to the priority in the project narrative section of its application and provide documentation supporting its response. If the applicant fails to clearly identify its response to the priority, the Department will not award points under the competitive preference priority.

This priority is:

Building Capacity in the Authorizing Process for Educational Agencies with the Most Need (Up to 5 points).

Projects that propose to target one or more of the following: States that have enacted laws in the last five years allowing charter schools to open; authorized public chartering agencies (as defined in this notice) with fewer than ten charter schools; and authorized public chartering agencies that authorize a significant number of charter schools experiencing significant low performance or non-compliance with academic, financial, governance, or operational (including school safety) requirements.

Absolute Priority 2—Improving Charter School Access to Facilities and Facility Financing

Background

Limited access to adequate facilities and to funding for facilities, including per-pupil facilities aid, remains a significant issue impacting growth in the number of charter schools available to our Nation's students. To help address this issue, this priority supports projects that develop, identify, or expand, and disseminate information on, best practices in supporting charter schools in accessing and financing facilities.

Priority

Projects that are designed to develop, identify, or expand, and disseminate information on, best practices in supporting charter schools in accessing and financing facilities, including in one or more of the following areas:

(i) Access to public and private (including philanthropic) funding for facilities;

(ii) Access to public facilities, including the right of first refusal;

(iii) Access to per-pupil facilities aid to charter schools to provide the schools with funding that is dedicated solely to charter school facilities;

(iv) Access to credit enhancements and other subsidies;

(v) Access to bonds or mill levies by charter schools, or by other public entities for the benefit of charter schools;

(vi) Access to interest in a facility by purchase, lease, donation, or otherwise, including an interest held by a third party, for the benefit of a charter school; or

(vii) Planning for facility acquisition by charter schools, including comprehensive analysis of facility needs.

To meet this priority, an applicant must propose to disseminate best-practices information widely in more than one State with a charter school law.

Competitive Preference Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending on how well the application meets this priority.

In order to receive points under this priority, an applicant must identify its response to the priority in the project narrative section of its application and provide documentation supporting its response. If the applicant fails to clearly identify its response to the priority, the Department will not award points under the competitive preference priority.

This priority is:

Competitive Preference Priority—Empowering Families and Individuals To Choose a High-Quality Education That Meets Their Unique Needs (Up to 5 points).

Background

One of the statutory purposes of the CSP is to expand opportunities for children with disabilities (as defined in this notice), English learners, and other traditionally underserved students to

attend charter schools and meet challenging State academic standards. This priority is intended to target funding on projects that help provide educational choice to these underserved student groups, which include students who are Indians and students served by rural local educational agencies (as defined in this notice).

An applicant addressing this priority is invited to discuss how its proposed project is designed to increase access to educational choice for one or more of these groups. An applicant might address this priority, for instance, through its plan to develop, identify, or expand best practices related to serving students in one or more of these underserved groups, through disseminating best practices in areas with high concentrations of one or more of these student groups, or by targeting its project work in areas in which students in one or more of the student groups are at risk of educational failure or otherwise in need of special assistance or support.

Priority:

Projects that are designed to address increasing access to educational choice for one or more of the following groups of children or students:

(i) Children or students with disabilities.

(ii) English learners.

(iii) Students who are Indians, as defined in section 6151 of the ESEA.

(iv) Children or students in communities served by rural local educational agencies.

Definitions

The following definitions, as indicated in a parenthetical following the definitions, are from 34 CFR 75.225 and 77.1, the ESEA, and the Supplemental Priorities.

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target (as defined in this notice), whether a performance target is ambitious depends upon the context of the relevant performance measure (as defined in this notice) and the baseline (as defined in this notice) for that measure. (34 CFR 77.1)

Authorized public chartering agency means a State educational agency (SEA), local educational agency (LEA), or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school. (ESEA section 4310(1))

Baseline means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

Charter school means a public school that—

(a) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this definition;

(b) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(c) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(d) Provides a program of elementary or secondary education, or both;

(e) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(f) Does not charge tuition;

(g) Complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), section 444 of GEPA (20 U.S.C. 1232g) (commonly referred to as the ''Family Educational Rights and Privacy Act of 1974''), and part B of the Individuals with Disabilities Education Act (IDEA);

(h) Is a school to which parents choose to send their children, and that—

(1) Admits students on the basis of a lottery, consistent with section 4303(c)(3)(A) of the ESEA, if more students apply for admission than can be accommodated; or

(2) In the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in paragraph (1);

(i) Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(j) Meets all applicable Federal, State, and local health and safety requirements;

(k) Operates in accordance with State law;

(l) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(m) May serve students in early childhood educational programs or postsecondary students. (ESEA section 4310(2))

Charter school support organization means a nonprofit, nongovernmental entity that is not an authorized public chartering agency and provides, on a statewide basis—

(a) Assistance to developers during the planning, program design, and initial implementation of a charter school; and

(b) Technical assistance to operating charter schools. (ESEA section 4310(4))

Children or students with disabilities means children with disabilities as defined in IDEA or individuals defined as having a disability under Section 504 of the Rehabilitation Act of 1973 (Section 504) (or children or students who are eligible under both laws). (Supplemental Priorities)

Demonstrates a rationale means a key project component (as defined in this notice) included in the project's logic model (as defined in this notice) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in this notice). (34 CFR 77.1)

Developer means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out. (ESEA section 4310(5))

Early childhood education program means (A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 *et seq.*), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding; (B) a State licensed or regulated child care

program; or (C) a program that (i) serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and (ii) is (I) a State prekindergarten program; (II) a program authorized under section 619 or part C of the IDEA; or (III) a program operated by an LEA. (ESEA section 8101(16))

Educational choice means the opportunity for a child or student (or a family member on their behalf) to create a high-quality personalized path for learning that is consistent with applicable Federal, State, and local laws; is in an educational setting that best meets the child's or student's needs; and, where possible, incorporates evidence-based activities, strategies, or interventions. Opportunities made available to a student through a grant program are those that supplement what is provided by a child's or student's geographically assigned school or the institution in which he or she is currently enrolled and may include: Public educational programs or courses including those offered by traditional public schools, public charter schools, public magnet schools, public online education providers, or other public education providers. (Supplemental Priorities)

English learners means individuals who are English learners as defined in section 8101(20) of the ESEA, or individuals who are English language learners as defined in section 203(7) of the Workforce Innovation and Opportunity Act. (Supplemental Priorities)

High-quality charter school means a charter school that—

(a) Shows evidence of strong academic results, which may include strong student academic growth, as determined by a State;

(b) Has no significant issues in the areas of student safety, financial and operational management, or statutory or regulatory compliance;

(c) Has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the charter school; and

(d) Has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, except that such demonstration is not required in a case in which the number of students in a group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. (ESEA section 4310(8))

Indian means an individual who is—

(a) A member of an Indian Tribe or band, as membership is defined by the Tribe or band, including—

(i) Any Tribe or band terminated since 1940; and

(ii) Any Tribe or band recognized by the State in which the Tribe or band resides;

(b) A descendant, in the first or second degree, of an individual described in subparagraph (a);

(c) Considered by the Secretary of the Interior to be an Indian for any purpose;

(d) An Eskimo, Aleut, or other Alaska Native; or

(e) A member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America's Schools Act of 1994. (ESEA section 6151)

Logic model (also referred to as theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1)

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance. (34 CFR 77.1)

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project. (34 CFR 77.1)

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1)

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1)

Rural local educational agency means an LEA that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title V, Part B of the ESEA. Eligible applicants may determine whether a particular LEA is eligible for these programs by referring to information on the Department's website at *www2.ed.gov/nclb/freedom/local/reap.html.* (Supplemental Priorities)

Application Requirements: Applications for CSP National Dissemination Grants funds must address the following application requirements, which we establish for FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). An applicant may choose to respond to these requirements in the context of its responses to the selection criteria in section V.1 of this notice.

(a) Provide a project plan, which includes a logic model, that describes the purpose of the project based on the absolute priority (*e.g.,* ''to strengthen charter school authorizing''); includes clearly specified, measurable project objectives that are aligned with the project purpose; and includes the specific strategies and initiatives that will be implemented to accomplish project objectives. For each project objective, the project plan must include—

(i) *Inputs and Resources:* Identification of the specific costs that will be allocated to the proposed project. These costs must represent the inputs and resources (*e.g.,* personnel, contracted services, supplies, and equipment) that are necessary to generate and support grant project activities, and are necessary to produce project outputs. Applicants must ensure that the total project costs, as identified in this section, are consistent with the budget form 524 B and response to selection criterion (c);

(ii) *Project Activities:* Identification of the specific activities proposed to be funded under the grant; the estimated cost of those activities under the grant project; and how these activities are linked to the target grant project outputs and outcomes;

(iii) *Project Outputs:* Identification of the specific project deliverables, work products, and other outputs of the proposed project, including the cost of those outputs. Examples of outputs include—

(1) Best practice publications and products;

(2) Evaluation reports; and

(3) Presentation of a session at a conference delivering best practices for stakeholders.

(iv) *Project Outcomes:* Identification of the anticipated project outcomes or effects as a result of the proposed project.

(b) Provide a management plan that describes clearly defined

responsibilities, timelines, and milestones for executing the project and achieving project outcomes.

(c) Provide a dissemination plan that includes the number and description of States, charter schools, or authorized public chartering agencies to which best-practices information will be disseminated, as well as a description of the mechanisms the applicant will use to disseminate information on its proposed projects.

(d) Provide an evaluation plan that includes performance measures that are aligned to the project purpose, project objectives, and project outcomes as well as to the intended outcomes of the proposed project.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, selection criteria, definitions, and requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 4305(a)(3) of the ESEA, and, therefore, this competition qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities, requirements, definitions, and selection criteria in this notice in accordance with section 437(d)(1) of GEPA. These priorities, requirements, definitions, and selection criteria will apply to grants awarded under this competition in FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Program Authority: Section 4305(a)(3)(B) of the ESEA, 20 U.S.C. 7221d.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $4,500,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2019 from the list of unfunded applications from this competition.

Estimated Range of Awards: $500,000–$800,000 per year.

Estimated Average Size of Awards: $650,000 per year.

Estimated Number of Awards: 5–9.

Note: The Department is not bound by any estimates in this notice. The estimated range and average size of awards are based on a single 12-month budget period. We may use FY 2018 funds to support multiple 12-month budget periods for one or more grantees.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* We are establishing the eligible entities for this competition in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). Eligible applicants include: SEAs; State charter school boards; State Governors; charter school support organizations (as defined in this notice); authorized public chartering agencies; and public and private nonprofit organizations that operate, manage, or support charter schools.

Eligible applicants may apply as a partnership or consortium and, if so applying, must comply with the requirements for group applications set forth in 34 CFR 75.127–129.

Public and private nonprofit organizations that operate, manage, or support charter schools must apply in partnership with one or more SEAs, State charter school boards, State Governors, charter school support organizations, or authorized public chartering agencies.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Subgrants:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the National Dissemination Grants competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* Grant funds may be used only for activities that are related to the development, identification, expansion, and dissemination of information on best practices regarding the absolute priority to which the applicant is responding and that are included in the grantee's approved application. Grantees are expected to identify the specific costs associated with each included activity.

Grantees may not use grant funds to conduct charter school authorizing activities, or to open new charter schools.

Grantees may not use grant funds to acquire or finance the acquisition of a charter school facility, including through credit enhancement, direct lending, or subgrants.

Grantees may not use grant funds for general organizational operating support beyond the costs associated with this grant project.

In accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1), we establish that no more than 5 percent of grant funds may be used for direct administration of the grant project.

Costs for Evaluation: In accordance with 34 CFR 75.590, CSP National Dissemination Grants funds may be used to cover post-award costs associated with an evaluation described

in response to Selection Criterion (e) of this notice, provided that such costs are reasonable and necessary to meet the objectives of the approved project.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the priorities, selection criteria, and application requirements that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 60 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Pre-Application Webinar:* The Department will hold a pre-application meeting via webinar for prospective applicants on Thursday, June 7, at 1:00 p.m., Washington, DC time. Individuals interested in attending this meeting are encouraged to pre-register by emailing their name, organization, and contact information with the subject heading ''PRE-APPLICATION MEETING'' to *CharterSchools@ed.gov.* There is no registration fee for attending this meeting.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum possible score for addressing all of the criteria in this section is 100 points. The maximum possible score for addressing each criterion is indicated in parentheses following the criterion.

In evaluating an application, the Secretary considers the following criteria:

(a) *Significance of the proposed project (35 points).* The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The potential for generalizing from the findings or results of the proposed project;

(2) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies;

(3) The likelihood that the proposed project will result in system change or improvement; and

(4) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of the project design (30 points).*

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the proposed project demonstrates a rationale (as defined in 34 CFR 77.1(c));

(2) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(3) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition; and

(4) The mechanisms the applicant will use to broadly disseminate information on its project so as to support further development or replication.

(c) *Quality of the management plan and adequacy of resources (15 points).*

The Secretary considers the quality of the management plan and adequacy of resources for the proposed project. In determining the quality of the management plan and adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project; and

(3) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(d) *Quality of the project personnel (10 points).*

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability;

(2) The qualifications, including relevant training and experience, of the project director or principal investigator; and

(3) The qualifications, including relevant training and experience, of key project personnel.

(e) *Quality of the project evaluation (10 points).*

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by

applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee under this competition must have a plan to disseminate these public grant deliverables. For additional information on the open licensing requirements please refer to 2 CFR 3474.20(c).

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) All grantees must provide to the Department their most recent available independent audits of their organization's financial statements prepared in accordance with generally accepted accounting principles, and all grantees must continue to provide available independent, annual audits of their financial statements prepared in accordance with generally accepted accounting principles each year of the grant. (GEPA exemption)

(c) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

(d) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:*

Project-Specific Performance Measures. Applicants must propose project-specific performance measures and performance targets consistent with the objectives of the proposed project and the project outcomes identified in the logic model. The project-specific performance measures should be sufficient to gauge progress throughout the grant period, at least on an annual basis, and to show results by the end of the grant period. Applicants must provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) *Performance measures.* How each proposed performance measure would accurately measure the performance of the project and how the proposed performance measure would be consistent with the performance measures established for the program funding the competition.

(2) *Baseline data.* (i) Why each proposed baseline is valid; or (ii) If the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(3) *Performance targets.* Why each proposed performance target is ambitious (as defined in this notice) yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

(4) *Data collection and reporting.* (i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and (ii) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

All grantees must submit an annual performance report with information that is responsive to these performance measures.

For technical assistance in developing effective performance measures, applicants are encouraged to review information provided by the Department's Regional Educational Laboratories (RELs). The RELs seek to build the capacity of States and school districts to incorporate data and research into education decision-making. Each REL provides research support and technical assistance to its region but makes learning opportunities available to educators everywhere. For example, the REL Northeast and Islands has created the following resource on

logic models: *https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf*.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

7. *Project Director's Meeting:* Applicants approved for funding under this competition must attend a two-day meeting for project directors at a location to be determined in the continental United States during each year of the project. Applicants may include the cost of attending this meeting in their proposed budgets.

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 31, 2018.

Margo Anderson,

Acting Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2018–12068 Filed 6–4–18; 8:45 am]

BILLING CODE 4000–01–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 website 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	5–14–2018	Williams Northeast Supply Enhancement Supporters.
2. CP17–101–000	5–14–2018	Pipeliners Local 798 Supporters.
3. CP17–101–000	5–14–2018	Pennsylvania Power Plant Services Group, LLC.
4. CP17–101–000	5–17–2018	G.W. Gunner.
Exempt		
1. CP15–554–000	5–11–2018	U.S. Congressman G.K. Butterfield.
2. CP15–554–000	5–14–2018	U.S. Congresswoman Alma S. Adams.
3. CP17–101–000	5–15–2018	U.S. Congressman Frank Pallone, Jr.
4. CP17–458–000	5–16–2018	FERC Staff.[1]
5. CP17–40–000	5–17–2018	U.S. Senator Richard J. Durbin.

[1] Record of 5–8–18 conference call with Environmental Resources Management, Inc., Midship Pipeline, LLC, and TRC Solutions.

Dated: May 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–11992 Filed 6–4–18; 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: EC18–96–000.
Applicants: ID Solar 1, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Consideration and Confidential Treatment of ID Solar 1, LLC.
Filed Date: 5/30/18.
Accession Number: 20180530–5198.
Comments Due: 5 p.m. ET 6/20/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1819–018; ER10–1817–016; ER10–1818–015; ER10–1820–021.
Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation, Public Service Company of Colorado, Southwestern Public Service Company.
Description: Notice of Change in Status of Northern States Power Company, a Minnesota corporation, et al.
Filed Date: 5/29/18.
Accession Number: 20180529–5235.
Comments Due: 5 p.m. ET 6/19/18.

Docket Numbers: ER17–1498–004.
Applicants: Rockford Power II, LLC.
Description: Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 6/1/2017.
Filed Date: 5/30/18.
Accession Number: 20180530–5208.
Comments Due: 5 p.m. ET 6/20/18.

Docket Numbers: ER17–1499–004.
Applicants: Rockford Power, LLC.
Description: Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 6/1/2017.
Filed Date: 5/30/18.
Accession Number: 20180530–5209.
Comments Due: 5 p.m. ET 6/20/18.

Docket Numbers: ER18–622–003.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2018–05–29_Compliance filing regarding Order No. 831 Energy Offer Caps to be effective 12/31/9998.
Filed Date: 5/29/18.
Accession Number: 20180529–5228.
Comments Due: 5 p.m. ET 6/19/18.

Docket Numbers: ER18–1528–000.
Applicants: PJM Interconnection, L.L.C.
Description: Report Filing: Errata to Pending Filing in Docket No. ER18–1528–000 RE: Attachment C to be effective N/A.
Filed Date: 5/7/18.
Accession Number: 20180507–5075.
Comments Due: 5 p.m. ET 6/11/18.

Docket Numbers: ER18–1695–000.
Applicants: Puget Sound Energy, Inc.
Description: Petition of Puget Sound Energy, Inc. for Limited Waiver of Tariff Provisions, et al.
Filed Date: 5/29/18.
Accession Number: 20180529–5249.
Comments Due: 5 p.m. ET 6/19/18.

Take notice that the Commission received the following electric reliability filings

Docket Numbers: RD18–6–000.
Applicants: North American Electric Reliability Corporation.
Description: Errata Filing of the North American Electric Reliability Corporation to the Implementation Plan for the Revised Definition of ''Remedial Action Scheme''.
Filed Date: 5/30/18.
Accession Number: 20180530–5038.
Comments Due: 5 p.m. ET 6/29/18.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR18–6–000.
Applicants: North American Electric Reliability Corporation.
Description: North American Electric Reliability Corporation's Report of Comparisons of Budgeted to Actual Costs for 2017 for NERC and the Regional Entities.
Filed Date: 5/30/18.
Accession Number: 20180530–5196.
Comments Due: 5 p.m. ET 6/20/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–11989 Filed 6–4–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2246–065—California]

Yuba County Water Agency; Notice of Availability of the Draft Environmental Impact Statement for the Yuba River Development Project

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Yuba River Development Project (FERC No. 2246) and has prepared a draft environmental impact statement (EIS) for the project. The project is located on the Yuba River, North Yuba River, Middle Yuba River, and Oregon Creek in Yuba, Sierra, and Nevada Counties, California, and occupies 4,416.7 acres of federal lands administered by the Forest Service and 16.1 acres administered by the U.S. Army Corps of Engineers.

The draft EIS contains staff's evaluations of the applicant's proposal and the alternatives for relicensing the Yuba River Development Project. The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

A copy of the draft EIS is available for review in the Commission's Public Reference Branch, Room 2A, located at 888 First Street NE, Washington, DC 20426. The draft EIS also may be viewed on the Commission's website at *http://www.ferc.gov* under the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by July 30, 2018.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2246–065.

Anyone may intervene in this proceeding based on this draft EIS (18 CFR 380.10). You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

Commission staff will hold two public meetings for the purpose of receiving comments on the draft EIS. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization comments, while the evening meeting is primarily for receiving input from the public. All interested individuals and entities will be invited to attend one or both of the public meetings. A notice detailing the exact date, time, and location of the public meetings will be forthcoming.

For further information, please contact Alan Mitchnick at (202) 502–6074 or at *alan.mitchnick@ferc.gov.*

Dated: May 30, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–11986 Filed 6–4–18; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the internet in lieu of paper. See the previous discussion on filing comments electronically.

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: RP18–839–000.
Applicants: White River Hub, LLC.
Description: Annual Report of Fuel Gas Reimbursement Percentage for 2018 of White River Hub, LLC.
Filed Date: 5/23/18.
Accession Number: 20180523–5230.
Comments Due: 5 p.m. ET 6/4/18.

Docket Numbers: RP18–840–000.
Applicants: Questar Southern Trails Pipeline Company.
Description: Annual Report of Fuel Gas Reimbursement Percentage for 2018 of Questar Southern Trails Pipeline Company.
Filed Date: 5/23/18.
Accession Number: 20180523–5231.
Comments Due: 5 p.m. ET 6/4/18.

Docket Numbers: RP18–841–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: § 4(d) Rate Filing: Non-conforming Agreement Cleanup Filing to be effective 6/29/2018.
Filed Date: 5/29/18.
Accession Number: 20180529–5028.
Comments Due: 5 p.m. ET 6/11/18.

Docket Numbers: RP18–842–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Update Filing (APS June 18) to be effective 6/1/2018.
Filed Date: 5/29/18.
Accession Number: 20180529–5065.
Comments Due: 5 p.m. ET 6/11/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–11990 Filed 6–4–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–791–001.
Applicants: Cheniere Corpus Christi Pipeline, LP.
Description: Tariff Amendment: Amendment to Negotiated Rate (physical contract) to be effective 6/1/2018.
Filed Date: 5/24/18.
Accession Number: 20180524–5186.
Comments Due: 5 p.m. ET 6/1/18.

Docket Numbers: RP18–836–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: § 4(d) Rate Filing: Duke Energy Progress K410104 Neg Rate eff 11–1–2018 to be effective 11/1/2018.
Filed Date: 5/25/18.
Accession Number: 20180525–5039.
Comments Due: 5 p.m. ET 6/6/18.

Docket Numbers: RP18–837–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 052518 Negotiated Rates—Castleton Commodities Merchant Trading R–4010–06 to be effective 5/25/2018.
Filed Date: 5/25/18.
Accession Number: 20180525–5044.
Comments Due: 5 p.m. ET 6/6/18.

Docket Numbers: RP18–838–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: PCB Adjustment Period Extension through 2020 to be effective 7/1/2018.
Filed Date: 5/25/18.
Accession Number: 20180525–5105.
Comments Due: 5 p.m. ET 6/6/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but

intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 29, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–12015 Filed 6–4–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR18–26–000]

Sunrise Pipeline LLC; Notice of Petition for Declaratory Order

Take notice that on May 25, 2018, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2)(2017), Sunrise Pipeline LLC filed a petition for a declaratory order seeking confirmation of the terms of service and overall rate structure of the Sunrise Pipeline system, which will originate at Conan terminal in Loving County, Texas and transport crude oil to Cushing, Oklahoma, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on June 25, 2018.

Dated: May 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–11991 Filed 6–4–18; 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: EC15–159–001.

Applicants: Pinnacle West Capital Corporation, 4C Acquisition, LLC.

Description: Request of Pinnacle West Capital Corporation, *et al.* for Confirmation of Validity of Prior Authorization Under Section 203 of the FPA, *et al.*

Filed Date: 5/25/18.

Accession Number: 20180525–5251.

Comments Due: 5 p.m. ET 6/15/18.

Docket Numbers: EC18–95–000.

Applicants: Innovative Solar 31, LLC, Innovative Solar 47, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Consideration and Confidential Treatment of Innovative Solar 31, LLC, *et al.*

Filed Date: 5/29/18.

Accession Number: 20180529–5094.

Comments Due: 5 p.m. ET 6/19/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1789–006; ER10–1768–005; ER10–1770–005; ER10–1771–005; ER10–1793–005; ER12–1250–005; ER16–1924–003; ER16–1925–003; ER16–1926–003; ER16–2725–003; ER17–2426–001.

Applicants: PSEG Energy Resources & Trade LLC, PSEG Energy Solutions LLC, PSEG Fossil LLC, PSEG New Haven LLC, PSEG Nuclear LLC, PSEG Power Connecticut LLC, Pavant Solar II LLC, Bison Solar LLC, San Isabel Solar LLC, Public Service Electric and Gas Company, PSEG Keys Energy Center LLC.

Description: Notice of Non-Material Change in Status of the PSEG Affiliates.

Filed Date: 5/25/18.

Accession Number: 20180525–5240.

Comments Due: 5 p.m. ET 6/15/18.

Docket Numbers: ER18–500–003.

Applicants: AEP Southwestern Transmission Company, Inc.

Description: Tariff Amendment: Bentonville PSA to be effective 1/1/2018.

Filed Date: 5/25/18.

Accession Number: 20180525–5152.

Comments Due: 5 p.m. ET 6/4/18.

Docket Numbers: ER18–1693–000.

Applicants: GridLiance West Transco LLC.

Description: § 205(d) Rate Filing: GridLiance West Incentives Filing to be effective 7/25/2018.

Filed Date: 5/25/18.

Accession Number: 20180525–5232.

Comments Due: 5 p.m. ET 6/15/18.

Docket Numbers: ER18–1694–000.

Applicants: Consolidated Edison Company of New York, Inc., New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Section 205 LGIA No. 2407—Con Edison and Cogen Linden to be effective 5/30/2018.

Filed Date: 5/29/18.

Accession Number: 20180529–5128.

Comments Due: 5 p.m. ET 6/19/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 29, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–12014 Filed 6–4–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0716; FRL–9978–06]

Certain New Chemical Substances; Receipt and Status Information for February 2018

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA Section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application under 40 CFR part 725 (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from February 1, 2018 to February 28, 2018.

DATES: Comments identified by the specific case number provided in this document must be received on or before July 5, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0716, and the specific case number for the chemical substance related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Rahai, Information Management Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from February 1, 2018 to February 28, 2018. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that

you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (See the **Federal Register** of May 12, 1995, (60 FR 25798) (FRL–4942–7). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs received by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices received by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS RECEIVED FROM 2/1/2018 TO 2/28/2018

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–16–0397A	6	2/23/2018	CBI	(G) Contained use in a closed process.	(G) Zirconium salt.
P–16–0544A	3	2/13/2018	Guardian Industries Corp.	(S) Additive to influence melting temperature of raw materials and physical characteristics of the final product during the manufacture of flat glass.	(S) Flue dust, glass-manufg. desulfurization, calcium hydroxide-treated.
P–16–0581A	2	2/12/2018	CBI	(S) Polymer Additive; Paper Coating Component; Composite Component; Fiber Additive.	(G) Alpha 1,3-polysaccharide.
P–17–0253A	2	2/16/2018	CBI	(G) The polymer will be sold to the customer in liquid form. Customers will then blend the polymer to achieve their desired formulation properties.	(G) Oxirane, 2-methyl-, polymer with oxirane, methyl 2-(substituted carbomonocycle isoquinolin-2(3H)-yl) propyl ether.
P–17–0400A	4	2/16/2018	CBI	(G) Rubber products	(G) Terpolymer of Vinylidene fluoride, Tetrafluoroehylene and 2,3,3,3-Tetrafluoropropene.
P–18–0015A	2	2/12/2018	CBI	(G) Industrial inks and coatings	(G) Dialkylamine, reaction products with polyalkylene glycol ether with alkylolalkane acrylate.
P–18–0049A	2	2/1/2018	Solvay Fluorides LLC	(G) Coating component/processing aid.	(G) Mixed metal halide.
P–18–0062A	3	2/20/2018	IMKorus, Inc.	(G) Open, non-dispersive use in coatings specifically for the electronics fields.	(S) Oxirane, 2,2′-[cyclohexylidenebis(4,1-phenyleneoxymethylene)]bis-.
P–18–0084	2	2/6/2018	ShayoNano USA, Inc.	(S) Additive for paints and coatings	(S) Silicon zinc oxide.
P–18–0092A	3	2/6/2018	Shell Chemical LP—Martinez Catalyst Plant.	(G) The TBPMI chemical is used as a catalyst, the catalyst is imported and used in the manufacture of monoethlyene glycol (MEG).	(S) Phosphonium, tributylmethyl-, iodide (1:1).

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 2/1/2018 TO 2/28/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0102A	2	2/5/2018	Allnex USA, Inc	(G) UV Curable Coating Resin	(G) Alkanoic acid, ester with [oxybis (alkylene)]bis[alkyl-substituted alkanediol], polymer with alkylcarbonate, alkanediols, substituted alkanoic acid and isocyanate and alkyl substituted carbomonocycle, sodium salt.
P–18–0103	2	2/5/2018	CBI	(S) Intermediate for Amine Manufacture.	(G) Alkylnitrile imidazole.
P–18–0105	1	2/1/2018	Reagens USA, Inc	(S) This product is used in rigid and flexible PVC processing as a booster of PVC stabilizers. It improves long term stability, initial color and the weathering performance of end products.	(S) Phosphorous acid, triisotridecyl ester.
P–18–0106	2	2/8/2018	CBI	(S) Process aid	(G) Perfluoro[(alkenyl)oxy] alkane-, manuf. of, by-products from, distn. residues.
P–18–0107	1	2/6/2018	Lanxess Corporation	(S) Hydrolysis stabilizer	(G) Alcohol capped polycarbodiimide from diethyldiisocyanatobenzene.
P–18–0108	1	2/12/2018	CBI	(G) Ionic salt of a polyamic acid for coatings, open, non-dispersive use.	(G) Aromatic anhydride polymer with bisalkylbiphenylbisamine compound with alkylaminoalkyl acrylate ester.
P–18–0109	1	2/16/2018	CBI	(G) Additive, open, non-dispersive use.	(G) 2-Alkenoic acid, 2-alkyl-, alkyl ester, polymer with 2-(dialkylamino)alkyl 2-alkyl-2-alkenoate, alkyl 2-alkyl-2-alkenoate and -(2-alkyl-1-oxo-2-alken 1-yl)-¿-alkoxypoly(oxy-1,2-alkanediyl), [(1-alkoxy-2-alkyl-1-alken-1-yl)oxy]trialkylsilane-initiated.
P–18–0110	1	2/16/2018	CBI	(G) Open dispersive use. Component in liquid paint coating.	(G) Formaldehyde, polymer with arylylpolyamine, 2-(chloromethyl) oxirane and phenol.
P–18–0111	1	2/16/2018	CBI	(G) Component in liquid paint coating.	(G) Formaldehyde, polymer with arylylpolyamine, 2-(chloromethyl) oxirane and phenol.
P–18–0112	1	2/18/2018	CBI	(G) Corrosion inhibitor	(S) 3,5,5-trimethylhexanoic acid, compound with 2-aminoethanol (1:1).
P–18–0113	1	2/18/2018	CBI	(G) Corrosion inhibitor	(S) 3,5,5-trimethylhexanoic acid, compound with 2,2′,2″-nitrilotris(ethanol) (1:1).
P–18–0112A	2	2/20/2018	CBI	(G) Corrosion inhibitor	(S) 3,5,5-trimethylhexanoic acid, compound with 2-aminoethanol (1:1).
P–18–0113A	2	2/20/2018	CBI	(G) Corrosion inhibitor	(S) 3,5,5-trimethylhexanoic acid, compound with 2,2′,2″-nitrilotris(ethanol) (1:1).
P–18–0114	1	2/19/2018	Miwon North America, Inc.	(S) Resins for industrial coating	(G) Propanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, polymer with 1,6-diisocyanatoalkane and poly[oxy(alkyl-alkanediyl)] ether with alkyl (hydroxyalkyl)-alkanediol, 2-propenoate (ester), lithium salt, glycerol monoacrylate 1-neodecanoate- and alkylene glycol monoacrylate-blocked.
P–18–0116	1	2/27/2018	CBI	(G) Intermediate for industrial chemical.	(G) Fatty acid oil reaction product with fatty acid oil.
P–18–0118	1	2/26/2018	H.B. Fuller Company	(G) Industrial adhesive	(G) Oxirane, 2-methyl-, polymer with methoxirane homopolymer, 1,1′-methylenebis[4-isocyanatobenzene], and glycerol-propylene oxide polymer.
P–18–0119	1	2/26/2018	H. B. Fuller Company	(G) Industrial adhesive	(G) Oxirane, 2-methyl-, polymer with methoxirane homopolymer, 1,1′-methylenebis[isocyanatobenzene], and glycerol-propylene oxide polymer.
P–18–0120	1	2/26/2018	Designer Molecules, Inc.	(G) Adhesive component	(S) Amines, C36-Alkylenedi, maleated.
P–18–0121	1	2/27/2018	Kyodo Yushi USA, Inc.	(G) Additive for Lubricating Grease	(S) Benzene, 1,1′-oxybis-, branched eicosyl derivs.
SN–17–0005A	3	2/7/2018	Domino Amjet, Inc.	(S) Raw material for use as component in UV curable coatings and printing inks..	(S) 2-Propenoic acid, 1,1′-(3-methyl-1,5-pentanediyl) ester.

TABLE I—PMN/SNUN/MCANS RECEIVED FROM 2/1/2018 TO 2/28/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
SN–18–0002	1	2/16/2018	CBI	(G) Flame retardant for textile	(G) Phosphoramidic acid, carbomonocyclic-, diphenylester (accession number 261553).
J–18–0002	1	2/12/2018	CBI	(G) Ethanol production	(G) Biofuel producing Saccharomyces cerevisiae modified, genetically stable.
J–18–0003	1	2/12/2018	CBI	(G) Ethanol production	(G) Biofuel producing Saccharomyces cerevisiae modified, genetically stable.

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II— NOCS RECEIVED FROM 2/1/2018 TO 2/28/2018

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–03–0458	2/19/2018	1/23/2018		(S) 2-Propenoic acid, 2-methyl-, methyl ester, polymer with butyl 2-propenoate, ethyl 2-propenoate, zinc bis(2-methyl-2-propenoate) and zinc di-2-propenoate, 2,2′-azobis[2-methylbutanenitrile]-and 2,2′-azobis[2-methylpropanenitrile]- initiated.
P–07–0391	2/21/2018	10/25/2007		(S) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with dimethyl carbonate, 1,2-ethanediamine, 1,6-hexanediol, α-hydro-∞-hydroxypoly(oxy-1,4-butanediyl) and 1,1′-methylenebis[4-isocyanatocyclohexane]compd. With *N,N*-diethylethanamine.
P–07–0403	2/6/2018	5/1/2007		(G) Adipic carbamate.
P–07–0448	2/1/2018	10/16/2007		(G) Secondary Amine Adduct.
P–09–0124	2/20/2018	2/28/2011		(S) Methanone, (4-chlorophenyl) (4-hydroxyphenyl)-, Homopolymer.
P–12–0020	2/16/2018	1/28/2014		(S) Propanoic aid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 2-oxepanone, comp. with N,N-diethylethanamine.
P–12–0034	2/16/2018	1/28/2014		(S) 2-Propenoic acid, 2-methyl-, polymer with butyl 2-propenoate, ethyl 2-propenoate, methyl 2-methyl-2-propenoate and 2-methyl-2-propenamide.
P–12–0172	2/2/2018	9/13/2012		(G) 1,4-Benzenedicarboxylic acid, polymer with hexanedioic acid, 1, 6-hexanediol, 1,1′-methylenebis[4-isocyanatobenzene], and substituted[(alkylidene)-di-4,1-phenylene] bis[-hydroxypoly[oxy(methyl-1,2-ethanediyl)]].
P–12–0374	2/13/2018	1/29/2018		(S) 1,6-Hexanediaminium, N1, N6-bis(2-hydroxymethylethyl)-N1,N1,N6,N6-tetramethyl-, hydroxide (1:2).
P–13–0047	2/26/2018	2/8/2018		(G) Fatty acid amide.
P–13–0074	2/26/2018	2/12/2018		(G) Fatty acid amide hydrochloride.
P–13–0325	2/8/2018	1/22/2018		(G) Castor oil dehydrated, polymer with di-alkyl carbonate, alkyl diamine, alkyl diol, dihydroxyalkyl carboxylic acid and methylenebis [isocyanatocycloalkane]-, compd. with triakylamine.
P–13–0570	2/20/2018	3/26/2015		(S) 1,4-Benzinedicarbonyl dichloride, Polymer with 1,1′ Oxybis [benzene].
P–13–0572	2/20/2018	3/27/2015		(S) Benzoic acid, 3,4-diamino-, Homopolymer.
P–13–0886	2/6/2018	1/19/2015		(G) Fluoroelastomer.
P–13–0924	2/9/2018	3/9/2014		(G) Phosphated mono- and diglycerides (PMDG).

TABLE II— NOCS RECEIVED FROM 2/1/2018 TO 2/28/2018—Continued

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–14–0301	2/7/2018	1/29/2018		(G) Alkanedioic acid, polymer with alkanediol, hydroxy-(hydroxymethyl)-2-alkylcarboxylic acid, methylenebis[isocyanatocycloalkane] and alkyl-2-alkylalkenoate, compd. with alkyl morpholine.
P–14–0304	2/7/2018	1/30/2018		(G) alkanedioic acid, polymer with N-(1,1-dimethyl-3-oxobutyl)-2-propenamide, 1,6-hexanediol, hydroxy-(hydroxymethyl)-2-alkyl carboxylic acid, methylenebis[isocyanatocycloalkane] and alkyl-2-alkyl-alkenoate, compd. With N,N-dialkylalkylamine.
P–14–0627	2/5/2018	2/1/2018		(S) 1-Butylpyrrolidin-2-one.
P–15–0134	2/8/2018	1/1/2018		(G) Cashew, nutshell liq., polymer with formaldehyde and amines.
P–15–0134A	2/28/2018	1/1/2018	Specific Name	(G) Cashew, nutshell liq., polymer with formaldehyde and amines.
P–15–0277	2/28/2018	2/5/2018		(S) 1,3-Butanediol, 3-methyl-, acetate.
P–15–0383	2/2/2018	1/29/2018		(S) Butanedioic acid, 2-methylene-, telomer with sodium phosphinate (1:1), sodium salt, decarboxylated.
P–15–0428	2/20/2018	2/20/2018		(G) Alkyl pyridinium bromide.
P–15–0439	2/20/2018	2/8/2018		(S) 1,4-Dioxane-2,5-dione, 3,6-dimethyl-, (3S,6S)-, polymer with 2-oxepanone.
P–16–0044	2/1/2018	4/7/2017		(G) Isocyanate functional urethane prepolymer.
P–16–0516	2/6/2018	1/26/2018		(S) 2-Pyridinecarboxylic acid, 4-amino-6-(4-chloro-2-fluoro-3-methoxyphenyl)-5-fluoro-, phenylmethyl ester, hydrochloride (1:1).
P–16–0573	2/27/2018	2/7/2018		(G) Polyamine polyacid adducts.
P–17–0228	2/22/2018	1/18/2018		(G) 2′-fluoro-4″-alkyl-4-propyl-1,1′:4′,1″-terphenyl.
P–17–0229	2/22/2018	1/18/2018		(G) 4-ethyl-2′-fluoro-4″-alkyl-1,1′:4′,1″-terphenyl.
P–17–0257	2/27/2018	1/31/2018		(S) Single Walled Carbon Nanotube.
P–17–0308	2/20/2018	1/10/2018		(S) 2-Pentanone, O,O′,O″-(ethenylsilylidyne)trioxime.
P–17–0308A	2/28/2018	1/10/2018	Specific Name	(S) 2-Pentanone, 2,2′,2″-[O,O′,O″-(ethenylsilylidyne)trioxime].
P–17–0309	2/20/2018	1/10/2018		(S) 2-Pentanone, 2,2′,2″-[O,O′,O″-(methylsilylidyne)trioxime]

In Table III. of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information received by EPA during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 2/1/2018 TO 2/28/2018

Case No.	Received date	Type of test information	Chemical substance
P–87–1436	2/28/2018	QSAR Assessment Report on Vinyl Laurate; Skin Sensitization; Sub-Chronic (13 Week) Oral Toxicity Study; Aquatic Toxicity—Daphnia; Aquatic Toxicity—Daphnia Reproductive, Aquatic Toxicity—Algal Growth; Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test (OECD 422); Chromosome Aberration Test (OECD 473); Gene Mutation Assay (OECD 476); Micronucleus Test (OECD 474); Prenatal Developmental Toxicity Study (OECD 414); Ready Biodegradability (OECD 301); Dermal Irritation/Corrosion (OECD 404); Bacterial Reverse Mutation Assay (Ames Test) (OECD 471); Fish Acute Toxicity (OECD 203); Activated Sludge Test (OECD 209); Acute Oral Toxicity (OECD 401); Eye Irritation (OECD 405); Acute Dermal Toxicity (OECD 402).	(S) Dodecanoic acid, ethenyl ester.
P–14–0321	2/7/2018	Quarterly Ambient Air Monitoring Report	(S) 2-Chloro-1,1,1,2-Tetrafluoropropane(244bb).
P–14–0323	2/7/2018	Quarterly Ambient Air Monitoring Report	(S) 1-Propene, 2-chloro-3,3,3-trifluoro-.
P–15–0054	2/19/2018	Test Plan for 2018—physical characteristics of the CNT (TEM; SEM; AFM; Surface Area; XRD; Raman; XPS; EDS; ICP; Zeta Potential & ZDS).	(G) Carbon Nanotube.

TABLE III—TEST INFORMATION RECEIVED FROM 2/1/2018 TO 2/28/2018—Continued

Case No.	Received date	Type of test information	Chemical substance
P–16–0393	2/20/2018	Report for Fish, Juvenile Growth Test of CBI (OECD 211); Report for Daphnia sp., Reproduction Test (OECD 215).	(G) Di-substituted benzenedicarboxylic acid ester.
P–16–0543	2/28/2018	January 2018 Exposure Monitoring Results	(G) Halogenophosphoric acid metal salt.
P–17–0193	2/26/2018	Reproductive/Developmental Data on Potential Hydrolysis Products	(G) Pentaerythritol Ester of Mixed Linear and Branched Carboxylic Acids, Dipentaerythritol Ester of Mixed Linear and Branched Carboxylic Acids.
P–17–0329	2/12/2018	90-day Repeated Dose Oral Toxicity (OECD 408); Activated Sludge Respiration Inhibition (OECD 209); Acute Dermal Irritation (OECD 404); Acute Dermal Toxicity(OECD 402); Acute Eye Irritation (OECD 405); Acute Inhalation Toxicity (OECD 436); Acute Oral Toxicity (OECD 423); Acute Toxicity in Fish (OECD 203); Adsorption-Desorption (OECD 106); Algae Growth Inhibition (OECD 201); Bacterial Reverse Mutation Assay (OECD 471); Bioaccumulation Study (OECD 305); Chronic Toxicity in Fish (OECD 212); Daphnia magna Reproduction (OECD 211); Daphnia sp. Acute Immobilization (OECD 202); Density Test (OECD 109); Flammability; Earthworm Acute Toxicity (OECD 207); Glove Permeation Testing; Hydrolysis as a function of pH (OECD 111); In Vitro Mammalian Chromosomal Aberration (OECD 473); Inherent Biodegradability (OECD 302); Laser Particle Size Distribution; Melting Point (OECD 102); Mouse Bone Marrow Polychromatic Erythrocyte Micronucleus (OECD 474); N-octanol-water Partition Coefficient (OECD 117); Oral Prenatal Developmental Toxicity (OECD 414); Ready Biodegradability (OECD 301); Seed Germination-Root Elongation (OECD 299); Skin Sensitization in Guinea Pig (OECD 406); Solid Relative Self-Ignition Temperature; HPLC/MS/IR/NMR Spectral Test Report; Two Generation Reproduction Study in Rats; Water Solubility (OECD 105); Whole-course Toxicokinetics (OECD 417).	(G) Substituted haloaromatic trihaloalkyl-aromatic alkanone.
P–17–0364	2/22/2018	Dynamic Data for Particle Size Distribution	(G) Dicyloalkyl-alkane-diisocyanate homopolymer, alkyl alcohol and polyalkyl glycol mono-alkyl-ether-blocked.
P–18–0009	2/13/2018	Reproduction/Development Toxicity Screening Test (OECD 421)	(G) Phosphonic acid, dimethyl ester, polymer with alkyl diols.
P–18–0047	2/13/2018	90-day oral toxicity in rodents (OECD 408) and Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test (OECD 422).	(S) 1,2-Ethanediol, 1,2-dibenzoate.
P–18–0093	2/13/2018	Particle Size Analysis	(G) Pentacyclo[9.5.1.13,9.15,15.17,13]octasiloxane, 1,3,5,7,9,11,13,15-octakis (polyfluoroalkyl)-

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: May 15, 2018.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2018–12059 Filed 6–4–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receiverships

Notice is Hereby Given that the Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for the institutions listed below, intends to terminate its receivership for said institutions.

Fund	Receivership name	City	State	Date of appointment of receiver
10096	Peoples Community Bank	West Chester	OH	7/31/2009
10204	First Lowndes Bank	Fort Deposit	AL	3/19/2010
10266	Home Valley Bank	Cave Junction	OR	7/23/2010
10520	First Cornerstone Bank	King of Prussia	PA	5/6/2016

The liquidation of the assets for each receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of any of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and be sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of the above-mentioned receiverships will be considered which are not sent within this time frame.

Dated at Washington, DC, on June 1, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–12139 Filed 6–4–18; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS18–08]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of Special Meeting.

Description: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for a Special Meeting:

Location: Via teleconference.

Date: June 8, 2018.

Time: 10:00 a.m.

Status: Open.

Action and Discussion Item:

State Requests for Extension of Implementation Period to establish AMC Program

How to Attend and Observe this Special ASC meeting: If you would like to listen to this Meeting, we ask that you send an email to *meetings@asc.gov* by noon on June 7th and the dial-in information will be sent to you. The use of any audio tape recording device, or any other electronic or mechanical device designed for similar purposes is prohibited.

Dated: May 31, 2018.

James R. Park,

Executive Director.

[FR Doc. 2018–12052 Filed 6–4–18; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 21, 2018.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Catherine L. Cattle, Seward, Nebraska, as trustee of multiple family trusts, to retain shares of Cattle Crossing, Inc., Seward, Nebraska, and thereby retain shares of Cattle Bank & Trust, Seward, Nebraska; Additionally, the following persons applied to retain shares of Cattle Crossing, Inc. and thereby become members of the Cattle Family Group, which acting in concert controls shares of Cattle Crossing, Inc.: Roger D. Cattle, Lincoln, Nebraska, John T. Cattle, Overland Park, Kansas, Whitney M. Cattle, St. Joseph, Missouri, Clarke D. Ralston, Chicago, Illinois, Kylie M. Dews, Lincoln, Nebraska, Connor V. Dews, Lincoln, Nebraska, Calvin P. Schneider, Isanti, Minnesota, Elsie G. Schneider, Isanti, Minnesota, Ellis V. Ralston, Chicago, Illinois, the WMC Irrevocable Trust, Seward, Nebraska, the Roger D. Cattle Irrevocable Trust, Seward, Nebraska and the John T. Cattle Irrevocable Trust, Seward, Nebraska.*

Board of Governors of the Federal Reserve System, May 31, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–12042 Filed 6–4–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC); Correction

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC); June 19, 2018, 8:30 a.m.–5:15 p.m., EDT and June 20, 2018, 8:30 a.m.–12:30 p.m., EDT, which was published in the **Federal Register** on May 14, 2018 Volume 83, Number 93, pages 22263–22264. The **SUMMARY** should read as follows:

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC). This meeting is open to the public limited only by the space and ports available. The meeting room accommodates 70 participants and there will be 125 ports available. Due to the limited accommodations by phone ports and room size, we are encouraging the public to please register using the link *https://www.surveymonkey.com/r/CMNSX73.* There will be a public comment period from 11:10 a.m.–11:40 a.m., on June 19, 2018, and from 11:30 a.m.–11:45 a.m., on June 20, 2018. All public comments will be limited to two-minutes per speaker.

FOR FURTHER INFORMATION CONTACT: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, GA 30341, Telephone (770) 488–1430, Email address: *NCIPCBSC@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–11976 Filed 6–4–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Community Living

Availability of Program Application Instructions for MIPPA Program Funds

AGENCY: Administration for Community Living, HHS.

Title: Medicare Improvements for Patients and Providers Act: State Plans for Medicare Savings Program, Low Income Subsidy & Prescription Drug Enrollment Outreach and Assistance.

Announcement Type: Initial.

Funding Opportunity Number: CIP–MI–18–001.

Statutory Authority: The Medicare Improvements for Patients and Providers Act of 2008—Section 119, Public Law (Pub. L.) 110–275 as amended by the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), reauthorized by the American Taxpayer Relief Act of 2012 (ATRA), reauthorized by section 110 of the Protecting Access to Medicare Act of 2014 and reauthorized by the Medicare Access and CHIP Reauthorization Act of 2015, and was reauthorized for two years under the Bipartisan Budget Act of 2018 (Pub. L. 115–123, BBA of 2018).

Catalog of Federal Domestic Assistance (CFDA) Number: 93.071.

Dates: The deadline for the submission of MIPPA Program State Plans is 11:59 p.m. EST August 3, 2018.

I. Funding Opportunity Description

The purpose of MIPPA funding is to enhance state efforts to provide assistance to Medicare beneficiaries through statewide and local coalition building focused on intensified outreach activities to beneficiaries likely to be eligible for the Low Income Subsidy program (LIS) or the Medicare Savings Program (MSP) and in assisting those beneficiaries in applying for benefits. ACL will provide MIPPA program funding to State Health Insurance Assistance Programs (SHIPs), Area Agencies on Aging (AAAs), and Aging and Disability Resource Center programs (ADRCs), to inform Medicare beneficiaries about available Medicare program benefits. ACL seeks plans from states that will describe how the MIPPA program funds will be used for beneficiary outreach, education, and one-on-one application assistance over the next two years.

ACL requests that states submit a two (2) year state plan with specific project strategies to expand, extend, or enhance their one-on-one assistance, education, and group outreach efforts to Medicare beneficiaries on Medicare and assistance programs for those with limited incomes. States should describe how the SHIP, AAA, and ADRC efforts will be coordinated to provide outreach to beneficiaries with limited incomes statewide. States that are eligible to apply are asked to review previous MIPPA plans and update these plans to reflect successes achieved to date and direct their efforts to enhance and expand their MIPPA outreach activities. State agencies may prepare either one statewide plan or separate plans for each eligible State agency. Program Instructions will be available to applicants through ACL. ACL will also host an applicant teleconference on Tuesday, June 19th, 2018 at 2:00 p.m. Eastern. Call in number: 202–774–2300. Meeting Number: 998 701 573.

II. Award Information

1. Funding Instrument Type

These awards will be made in the form of grants to State Agencies for each MIPPA Priority Area:

Priority Area 1—Grants to State Agencies (the State Unit on Aging or the State Department of Insurance) that administer the State Health Insurance Assistance Program (SHIP) to provide enhanced outreach to eligible Medicare beneficiaries regarding their benefits, enhanced outreach and application assistance to individuals who may be eligible for the Medicare Low Income Subsidy (LIS) or the Medicare Savings Program (MSP), and for the purposes of conducting outreach activities aimed at preventing disease and promoting wellness.

Priority Area 2—Grants to State Units on Aging for Area Agencies on Aging to provide enhanced outreach to eligible Medicare beneficiaries regarding their Medicare benefits, enhanced outreach and one-on-one application assistance to individuals who may be eligible for the LIS or the MSP, and for the purposes of conducting outreach activities aimed at preventing disease and promoting wellness.

Priority Area 3—Grants to State Units on Aging that administer the Aging and Disability Resource Centers to provide outreach to individuals regarding their Medicare Part D benefits, benefits available under the LIS and MSP, and for the purposes of conducting outreach activities aimed at preventing disease and promoting wellness.

2. Anticipated Total Priority Area Funding per Budget Period

ACL intends to make available, under this program announcement, grant awards for the three MIPPA priority areas. Funding will be distributed through a formula as identified in statute. ACL will fund total project periods of up to two (2) years, contingent upon availability of federal funds.

Priority Area 1—SHIP: Up to $13 million in Fiscal Year (FY) 2018 and $13 million in FY 2019 for state agencies that administer the SHIP Program.

Priority Area 2—AAA: Up to $7.5 million in FY 2018 and $7.5 million in FY 2019 for State Units on Aging for Area Agencies on Aging and for Native American programs. Funding for Native American Programs ($270,000) is deducted from Priority 2 and is being allocated through a separate process.

Priority Area 3—ADRC: Up to $5 million in FY 2018 and $5 million in FY 2019 for State Agencies that received an ACL, CMS, VHA Aging and Disability Resource Center (ADRC)/No Wrong Door System (NWD) grant at any point in time to support the development of their ADRC/NWD Systems.

III. Eligibility Criteria and Other Requirements

1. Eligible Applicants MIPPA Priority Areas 1, 2 and 3: Awards made under this announcement, by statute, will be made only to agencies of State Governments.

Priority Area 1: Only existing SHIP grant recipients are eligible to apply.

Priority Area 2: Only State Units on Aging are eligible to apply.

Priority Area 3: Only State Agencies that received an ACL, CMS, VHA Aging and Disability Resource Center (ADRC)/No Wrong Door System (NWD) grant to support the development of their ADRC/NWD Systems at any point in time are eligible for MIPPA funding under this priority area.

Eligibility may change if future funding is made available.

2. Cost Sharing or Matching is not required.

3. DUNS Number

All grant applicants must obtain and keep current a D–U–N–S number from Dun and Bradstreet. It is a nine-digit identification number, which provides unique identifiers of single business entities. The D–U–N–S number can be obtained from: *https://iupdate.dnb.com/iUpdate/viewiUpdateHome.htm.*

4. Intergovernmental Review

Executive Order 12372, Intergovernmental Review of Federal Programs, is not applicable to these grant applications.

IV. Reporting

1. MIPPA Grantees will be required to report data in the SHIP Tracking and Reporting System (STARS). STARS is the nationwide, web-based data system that facilitates reporting of activities completed by SHIP and MIPPA Grantees. All required data must be submitted accurately, completely, and on time, and in the format specified by ACL. All reports shall be completed according to instructions distributed by ACL for grantees. States using proprietary systems (and all proprietary agencies operating within a state) must submit data into a fully compliant data system reflecting STARS Data System specifications, with no unresolved errors as a condition of eligibility for continued MIPPA funding.

2. *Financial Reporting Requirements:* ACL requires the submission of the SF–425 (Federal Financial Report) semi-annually. The reporting cycle will be reflected in the Notice of Award. The annual SF–425 is due 30 days after the end of each semi-annual reporting period. The final SF–425 report is due 90 days after the end of the project period for each priority area. Grantees are required to complete the federal cash transactions portion of the SF–425 within the Payment Management System (PMS) for each priority area as identified in their award documents for the calendar quarters ending 3/31, 6/30, 9/30. And 12/31 through the life of their award. In addition, the fully completed SF–425 will be required as denoted in the Notice of Award terms and conditions.

3. *MIPPA Performance Reporting Requirements:* All successful applicants must submit a MIPPA narrative progress report twice a year to ACL. The reports shall include: A description of the progress make toward meeting each of the MIPPA objectives outlined in the funding opportunity announcement. As part of the narrative progress reports, the grantee must provide details of how the program expects to meet the goals described in their state plan submission. The narrative progress reports must be uploaded through *www.grantsolutions.gov* for each priority area. The narrative progress reports cover the following periods and due dates annually: (a) September 30 through March 31—due April 30; (b) April 1 through September 29—due October 31.

4. A final narrative report will be due at the end of the grant period. This final report will replace the last semi-annual narrative and must cover the entire life of the grant. The final narrative report is due 90 days after the end of the award (December 31, 2020).

V. Submission Information

1. Application Kits

Application kits/Program Instructions are available at *www.grantsolutions.gov*. Instructions for completing the application kit will be available on the site. For help in locating this information contact the ACL Agency Contact identified below. Note: Applicants must submit a separate SF–424 for each priority area with their application packages. Additional detailed instructions will be available in the Application Kit.

2. Submission Dates and Times

To receive consideration, applications must be submitted by 11:59 p.m. Eastern time on August 1, 2018, through *www.GrantSolutions.gov*.

VI. Agency Contacts

Direct inquiries regarding programmatic issues to U.S. Department of Health and Human Services, Administration for Community Living, Office of Healthcare Information and Counseling, Washington, DC 20201, attention: Katie Glendening or by calling 202–795–7350 or by email *Katherine.Glendening@acl.hhs.gov*.

Dated: May 30, 2018.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2018–12046 Filed 6–4–18; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1922]

Formal Meetings Between the Food and Drug Administration and Sponsors or Applicants of Biosimilar User Fee Act Products; Draft Guidance for Industry; 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 a draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of BsUFA Products.'' This draft guidance provides recommendations to industry on formal meetings between FDA and sponsors or applicants relating to the development and review of biosimilar or interchangeable biological products regulated by the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER). The previous guidance for industry entitled ''Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants,'' issued on November 18, 2015, has been withdrawn.

DATES: Submit either electronic or written comments on the draft guidance by September 4, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any 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–2018–D–1922 for ''Formal Meetings Between the Food and Drug Administration and Sponsors or Applicants of Biosimilar User Fee Act Products; Draft Guidance for Industry; 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)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or 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 requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Neel Patel, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6468, Silver Spring, MD 20993–0002, 301–796–0970; 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 draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of BsUFA Products.'' This draft guidance provides recommendations to industry on formal meetings between FDA and sponsors or applicants relating to the development and review of biosimilar or interchangeable biological products regulated by CDER or CBER. This draft guidance does not apply to meetings associated with the development of products intended for submission in, or review of, new drug applications or abbreviated new drug applications under section 505 of the Federal Food, Drug, and Cosmetic Act (FD&C Act), biologics license applications under section 351(a) of the Public Health Service Act, or submissions for devices under the FD&C Act. For the purposes of this draft guidance, formal meeting includes any meeting that is requested by a sponsor or applicant following the procedures provided in this draft guidance and includes meetings conducted in any format (*i.e.,* face to face, teleconference/videoconference, written response only).

The Biosimilar User Fee Act of 2012 (BsUFA I) added sections 744G and 744H to the FD&C Act, authorizing FDA to collect user fees for a 5-year period for biosimilar biological products. BsUFA was reauthorized for a 5-year period in 2017 under Title IV of the FDA Reauthorization Act of 2017 (BsUFA II), enacted on August 18, 2017. In conjunction with that reauthorization, FDA agreed to specific performance goals and procedures described in the document, ''Biosimilar Biological Product Reauthorization Performance Goals and Procedures Fiscal Years 2018 Through 2022'' (BsUFA II goals letter available at *https://www.fda.gov/downloads/forindustry/userfees/biosimilaruserfeeactbsufa/ucm521121.pdf*). The BsUFA II goals letter includes meeting management goals for formal meetings that occur between the FDA and sponsors or applicants.

In the BsUFA II goals letter, FDA committed to issuing this draft guidance. This draft guidance discusses the principles of good meeting management practices and describes standardized procedures for requesting, preparing, scheduling, conducting, and documenting formal meetings between FDA and sponsors or applicants of BsUFA products.

The previous guidance for industry entitled ''Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants,'' issued on November 18, 2015, has been withdrawn.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on formal meetings between the FDA and sponsors or applicants of BsUFA products. 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.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information referred to in the guidance for industry entitled ''Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants'' have been approved under OMB control number 0910–0802. The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014 and collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm*, or *https://www.regulations.gov.*

Dated: May 31, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–12027 Filed 6–4–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; The Maternal, Infant, and Early Childhood Home Visiting Program Performance Measurement Information System, OMB No. 0906–0017—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. A 60-day **Federal Register** Notice was published in the **Federal Register** on February 9, 2018 (83 FR 5791). There were 23 public comments. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than July 5, 2018.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: The Maternal, Infant, and Early Childhood Home Visiting Program Performance Measurement Information System.

OMB No. 0906–0017—Revision.

Abstract: This clearance request is for continued approval of the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program Performance Measurement Information System. The MIECHV Program, administered by HRSA in partnership with the Administration for Children and Families, supports voluntary, evidence-based home visiting services during pregnancy and to parents with young children up to kindergarten entry. States, certain non-profit organizations, and Tribal entities are eligible to receive funding from the MIECHV Program and have the flexibility to tailor the program to serve the specific needs of their communities. After taking into consideration public comments in response to the 60-day Notice published in the **Federal Register** on February 9, 2018 (83 FR 5791), HRSA is proposing final revisions to the data collection forms for the MIECHV Program by making the following changes:

- *Form 1:* Update Tables 4–14, 16, and 18–20 to include specific guidance to account for and report missing data.
- *Form 1, Tables 1 and 2:* Update table titles to reflect ''participants served by MIECHV.''
- *Form 1, Table 5:* Update to reflect correct age categories of ''<1 year,'' ''1–2 years,'' ''3–4 years,'' ''5–6 years,'' and ''Unknown/Did not Report.''
- *Form 1, Table 8:* Revise the category of ''Never Married'' to read ''Never Married (excluding not married but living together with partner).''
- *Form 1, Table 10:* Delete.
- *Form 1, Table 18:* Delete.
- *Form 1, Table 22:* Revise to only include children greater than or equal to 12 months of age. Title will be updated to ''Index Children (≥12 months of age) by Usual Source of Dental Care.''
- *Form 1, Notes:* Revise to include Table-specific notes.
- *Form 1, Definition of Key Terms:* Update definitions for Tables 1, 3, 5, 12, 13, 15, 20, 21, and 22.
- *Form 2:* Update all measures to include specific guidance to account for and report missing data.
- *Form 2, Measure 3:* Update denominator to reflect correct inclusion criteria.
- *Form 2, Measure 7:* Update numerator to read ''. . . without bed sharing and without soft bedding.''
- *Form 2, Measure 8:* Update numerator to clarify that nonfatal injury-related visits to the ED must have occurred within the reporting period.
- *Form 2, Measure 9:* Update numerator to clarify that investigated cases of maltreatment must have occurred within the reporting period.
- *Form 2, Measure 13:* Update numerator and denominator to clarify that only postnatal home visits should be included.
- *Form 2, Measure 14:* Update measure to reflect current terminology and the timing within which screenings should be reported.
- *Form 2, Measure 15:* Update measure and numerator to include primary caregivers enrolled in middle school.
- *Form 2, Measure 17:* Update denominator to reflect correct inclusion criteria.
- *Form 2, Measure 19:* Update denominator to reflect correct inclusion criteria.
- *Form 2, Definitions of Key Terms:* Update definitions for measures 1, 2, 4, 5, 18, and 19.

HRSA is also requesting an extension of this information collection request through November 30, 2021.

Need and Proposed Use of the Information: HRSA uses performance information to demonstrate program accountability with legislative and programmatic requirements and continuously monitor and provide oversight to MIECHV Program awardees. The information is also used to provide quality improvement guidance and technical assistance to awardees and help inform the development of early childhood systems at the national, state, and local level. HRSA is seeking to revise demographic, service utilization, and select clinical indicators for participants enrolled in home visiting services. In addition, HRSA will collect a set of standardized performance and outcome indicators that correspond with the statutorily identified benchmark areas.

In the future, HRSA anticipates that MIECHV funding decisions may be allocated, in part, based on awardee performance, including on benchmark performance areas.

Likely Respondents: MIECHV Program awardees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to 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; to train personnel and to be able to respond to

a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Form 1: Demographic, Service Utilization, and Select Clinical Indicators	56	1	56	560	31,360
Form 2: Performance Indicators and Systems Outcome Measures	56	1	56	200	11,200
Total	56		56		42,560

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–12007 Filed 6–4–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Office of the Advancement of Telehealth Outcome Measures, OMB No. 0915–0311—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. This proposed information collection was previously published in the **Federal Register** on January 10, 2018 (83 FR 1264), and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than July 5, 2018.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Office for the Advancement of Telehealth Outcome Measures, OMB No. 0915–0311—Revision.

Abstract: In order to help carry out its mission, the Office for the Advancement of Telehealth (OAT) created a set of performance measures that grantees can use to evaluate the effectiveness of their services programs and monitor their progress through the use of performance reporting data.

Need and Proposed Use of the Information: As required by the Government Performance and Results Act of 1993, all federal agencies must develop strategic plans describing their overall goal and objectives. OAT has worked with its grantees to develop performance measures used to evaluate and monitor the progress of the grantees. Grantee goals are to improve access to needed services, reduce rural practitioner isolation, improve health system productivity and efficiency, and improve patient outcomes.

In each of these categories, specific indicators were designed to be reported through a performance monitoring website. New measures are being added to the Telehealth Network Grant Program and all measures speak to OAT's progress toward meeting the goals, specifically telehealth services delivered through rural schools.

Likely Respondents: Telehealth Network Grantees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to 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; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Performance Improvement Measurement System (PIMS)	21	1	21	7	147
Total	21		21		147

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–12005 Filed 6–4–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: The Secretary's Advisory Committee on Heritable Disorders in Newborns and Children's Public Health System Assessment Surveys OMB No. 0906–0014, Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than August 6, 2018.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N–39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: The Secretary's Advisory Committee on Heritable Disorders in Newborns and Children's Public Health System Assessment Surveys OMB No. 0906–0014—Revision.

Abstract: The purpose of the public health system assessment surveys is to inform the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children (Committee) on states' ability to add newborn screening for particular conditions, including the feasibility, readiness and overall capacity to screen for a new condition.

The Committee was established under Section 1111 of the Public Health Service Act, 42 U.S.C. 300b-10, as amended in the Newborn Screening Saves Lives Reauthorization Act of 2014. The Committee is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of advisory committees. The purpose of the Committee is to provide the Secretary with recommendations, advice, and technical information regarding the most appropriate application of technologies, policies, guidelines, and standards for: (a) Effectively reducing morbidity and mortality in newborns and children having, or at risk for, heritable disorders; and (b) enhancing the ability of state and local health agencies to provide for newborn and child screening, counseling, and health care services for newborns and children having, or at risk for, heritable disorders. Specifically, the Committee makes systematic evidence-based recommendations on newborn screening for conditions that have the potential to change the health outcomes for newborns.

The Committee tasks an external workgroup to conduct systematic evidence-based reviews for conditions being considered for addition to the Recommended Uniform Screening Panel, and their corresponding newborn screening test(s), confirmatory test(s), and treatment(s). Reviews also include an analysis of the benefits and harms of newborn screening for a selected condition at a population level and an assessment of state public health newborn screening programs' ability to implement the screening of a new condition.

Need and Proposed Use of the Information: The surveys are administered by the Committee's Evidence Review Group to collect data from state newborn screening programs in the United States. The surveys have been developed to capture the following: (1) Readiness of state public health newborn screening programs to expand newborn screening to include the target condition; (2) specific requirements of screening for a condition that could hinder or facilitate implementation in each state; and (3) estimated timeframes needed for each state to complete major milestones toward full implementation of newborn screening for the condition.

The data gathered informs the Committee on the following: (1) Feasibility of implementing population-based screening for the target condition; (2) readiness of state newborn screening programs to adopt screening for the condition; (3) gaps or limitations related to the feasibility or readiness of states to screen for a condition; and (4) areas of technical assistance and resources needed to facilitate screening for conditions with low feasibility or readiness.

HRSA anticipates the following revisions will be made to the surveys: (1) Editing and adding response choices as needed, to provide more informative options; (2) revising language throughout the survey to ensure the survey can accommodate different types of conditions that may be nominated; (3) reorder current questions as needed; and (4) add new questions as needed.

Likely Respondents: The respondents to the survey will be state and territorial newborn screening programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to 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; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden Hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
INITIAL Survey of the Secretary's Discretionary Advisory Committee on Heritable Disorders in Newborns and Children's Public Health System Assessment [1]	59	1	59	10	590
FOLLOW–UP Survey of the Secretary's Discretionary Advisory Committee on Heritable Disorders in Newborns and Children's Public Health System Assessment	[2] 30	1	30	2	60
Total	89		89		650

[1] The respondents to the survey will be State and territorial newborn screening programs.
[2] Up to 30 States and/or Territories will be asked to complete a follow-up survey.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–12019 Filed 6–4–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Secretary, Office of the Assistant Secretary for Health, Office of HIV/AIDS and Infectious Disease Policy, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) announces the sixth meeting of the Tick-Borne Disease Working Group (Working Group) on June 21, 2018, from 9:30 a.m. to 6:00 p.m., Eastern Time. The sixth meeting will be an on-line meeting held via webcast. The Working Group will focus on subcommittee findings and will review and provide input on the content of the five chapters that will be submitted into the Working Group Congressional Report.

DATES: The on-line meeting will be held on June 21, 2018, from 9:30 a.m. to 6:00 p.m. Eastern Time.

ADDRESSES: This will be an on-line meeting that is held via webcast. Members of the public may attend the meeting via webcast. Instructions for attending this virtual meeting will be posted prior to the meeting at: *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/index.html.*

FOR FURTHER INFORMATION CONTACT: James Berger, Office of HIV/AIDS and Infectious Disease Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services; via email at *tickbornedisease@hhs.gov* or by phone at 202–795–7697.

SUPPLEMENTARY INFORMATION: The Working Group invites public comment on issues related to the Working Group's charge. Comments may be provided over the phone during the meeting or in writing. Persons who wish to provide comments by phone should review directions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/index.html* before submitting a request via email at *tickbornedisease@hhs.gov* on or before June 18, 2018. Phone comments will be limited to three minutes each to accommodate as many speakers as possible. A total of 30 minutes will be allocated to public comments. If more requests are received than can be accommodated, speakers will be randomly selected. The nature of the comments will not be considered in making this selection. Public comments may also be provided in writing. Individuals who would like to provide written comment should review directions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/index.html* before sending their comments to *tickbornedisease@hhs.gov* on or before June 18, 2018.

During the meeting, the Working Group will review and discuss the content of the five draft chapters that will be part of the Report to Congress. Persons who wish to receive the draft document should email the *tickbornedisease@hhs.gov* and request a copy. The document will be available prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with section 2062 of the *21st Century Cures Act,* and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review all HHS, DoD and VA efforts related to tick-borne diseases to help ensure interagency coordination and minimize overlap, examine research priorities, and identify and address unmet needs. In addition, the Working Group is required to submit a report to the Secretary and Congress on their findings and any recommendations for improving the federal response to tick-borne disease prevention, treatment and research, and addressing gaps in those areas.

Dated: May 31, 2018.

James Berger,

Office of HIV/AIDS and Infectious Disease Policy, Designated Federal Officer, Tick-Borne Disease Working Group.

[FR Doc. 2018–12045 Filed 6–4–18; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Findings of research misconduct have been made on the part of Shiladitya Sen, former graduate student, Department of Chemistry and Biochemistry, The Ohio State University (OSU). Mr. Sen engaged in research misconduct in research supported by National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH), grant R01 GM083114. The administrative actions, including debarment for a period of three (3) years, were implemented beginning on May 16, 2018, and are detailed below.

FOR FURTHER INFORMATION CONTACT: Wanda K. Jones, Dr.P.H., Interim Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Shiladitya Sen, The Ohio State University: Based on the report of an investigation conducted by OSU and analysis conducted by ORI in its oversight review, ORI found that Mr. Shiladitya Sen, former graduate student, OSU, engaged in research misconduct in research supported by NIGMS, NIH, grant R01 GM083114.

ORI found that Respondent engaged in research misconduct by knowingly and intentionally falsifying and/or fabricating data reported in the following published paper, his Ph.D. thesis, a poster presentation, and his mentor's grant applications submitted to NIGMS, NIH:

- *PNAS* 110(11):4261–4266, 2013 (hereafter referred to as ''*PNAS* 2013''); retracted in: *PNAS* 114(37):E7855, 2017 Sep
- Sen, S. ''Engineering Proteins for Enhanced Stability using High-Throughput and Combinatorial Methods.'' OSU Doctoral Dissertation, 2013 (hereafter referred to as ''thesis'')
- poster presented at the Annual Symposium of the Protein Society in 2012 (hereafter referred to as ''Poster 2012'')
- R01 GM083114 and R01 GM083114–A1

ORI found that Respondent knowingly and intentionally falsified and/or fabricated gene sequencing and high throughput thermal scanning (HTTS) data for sequence-stability relationship of Rop protein variants in nineteen (19) figures, ten (10) tables, and related text included in a poster presentation, his Ph.D. thesis, and two (2) NIH grant applications.

Specifically, Respondent knowingly and intentionally falsified and/or fabricated:

- Unique sequences and stability data for 1017 active Rop variants in Table 3.1 and provided additional analyses purportedly from those active Rop variants in Table 3.2 and Figures 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, and 3.9 in his thesis and in Figures 6, 7, 17, and 20 in two (2) grant applications
- unique sequences and stability data for active Rop loop variants from four separate mutant libraries, X_4, LX_4, X_4-I, LX_4-I in Tables 5.2, 5.3, 5.4, and 5.5, respectively, and presented additional analyses purportedly from those active Rop loop variants in Figures 5.3, 5.4, 5.5, 5.6, and 5.9 and Table 5.1 in his thesis and in Figure 6 in two (2) grant applications
- figures entitled ''analysis of more than 1000 active (folded) core variants,'' ''Loop Library: How does loop affect stability?'' and ''Detailed characterization of loop variants'' in Poster 2012
- list of oligonucleotides included in Tables 9.2, 9.3, and 9.4 in his thesis

ORI also found that Respondent knowingly and intentionally falsified and/or fabricated HTTS data for thermodynamic effects of somatic mutation in antibodies 93F3 and OKT3 in ten (10) figures, two (2) tables, and related text included in *PNAS* 2013 and his thesis.

Specifically, Respondent knowingly and intentionally falsified and/or fabricated HTTS data:

- In Figures 6.2A, 6.2C, 6.3, and 6.6 and Tables 6.2 and 6.3 in his thesis
- also included as Figures 2A, 2C, S2, and S5 and Tables S3 and S4 in *PNAS* 2013

Mr. Sen entered into a Voluntary Exclusion Agreement and voluntarily agreed for a period of three (3) years, beginning on May 16, 2018:

(1) To exclude himself voluntarily from any contracting or subcontracting with any agency of the United States Government and from eligibility for or involvement in nonprocurement programs of the United States Government referred to as ''covered transactions'' pursuant to HHS' Implementation (2 CFR part 376) of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension, 2 CFR part 180 (collectively the ''Debarment Regulations'');

(2) to exclude himself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

Wanda K. Jones,

Interim Director, Office of Research Integrity.

[FR Doc. 2018–12047 Filed 6–4–18; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Psychosocial Risk and Disease Prevention.

Date: June 12, 2018.

Time: 8:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Risk Prevention and Health Behavior AREA Review.

Date: June 19, 2018.

Time: 12:00 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 (Virtual Meeting).

Contact Person: John H Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Atherosclerosis, Inflammation, Molecular and Cellular Hematology.

Date: June 25, 2018.

Time: 1:00 p.m. to 3:00 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: Katherine M Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Integrative Neuroscience.

Date: June 25, 2018.

Time: 12:30 p.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: Ying-Yee Kong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5185, Bethesda, MD 20892, *ying-yee.kong@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel:

Developing and Testing Interventions for Health-Enhancing Physical Activity.

Date: June 26, 2018.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: June 27, 2018.

Time: 10:30 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: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Interdisciplinary Molecular Sciences Training Member Conflict.

Date: June 27, 2018.

Time: 11:00 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 (Telephone Conference Call).

Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046B, MSC 7892, Bethesda, MD 20892, 301–408–9655, *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Nephrology.

Date: June 27, 2018.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Acute Brain Injury and Recovery.

Date: June 27, 2018.

Time: 1:00 p.m. to 3:00 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: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892–7846, 301–435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pain and Somatosensory Topics.

Date: June 27, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 4214 MSC 7814, Bethesda, MD 20892–7814, 301–435–1787, *borzanj@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 31, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–12016 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–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: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.

Date: June 26, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005.

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–827–7238, *zhaow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: June 27–28, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Clara M. Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1041, *chengc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Aging and Development, Auditory, Vision and Low Vision Technologies.

Date: June 28–29, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Hotel, DC, 1127 Connecticut Ave. NW, Washington, DC 20036.

Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892 (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR: Selected Topics in Transfusion Medicine.

Date: June 28–29, 2018.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Gene Regulatory Networks and Interactomes.

Date: June 28, 2018.

Time: 1:00 p.m. to 2:30 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: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301–827–7088, *methode.bacanamwo@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics on Metabolism and Disease.

Date: June 28, 2018.

Time: 12:00 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 (Virtual Meeting).
Contact Person: Liliana N Berti-Mattera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4215, Bethesda, MD 20892, 301–827–7609, *liliana.berti-mattera@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Addictions, Depression, Bipolar Disorder, and Schizophrenia.
Date: June 29, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.
Date: June 29, 2018.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Cambria Suites and Hotel, 1 Helen Heneghan Way, Rockville, MD 20850.
Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Bacterial Pathogenesis Study Section.
Date: June 29, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center. 5701 Marinelli Road, Bethesda, MD 20852.
Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Urology and Urogynecology Application Review.
Date: June 29, 2018.
Time: 10:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Ganesan Ramesh, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182 MSC 7818, Bethesda, MD 20892, 301–827–5467, *ganesan.ramesh@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Health Disparities in and Caregiving for Alzheimer's Disease.
Date: June 29, 2018.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Gabriel B Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Accelerating the Pace of Drug Abuse Research Using Existing Data.
Date: June 29, 2018.
Time: 11:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 17–199 and PAR 17–200: Development of Pediatric Formulations and Drug Delivery Systems.
Date: June 29, 2018.
Time: 11:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Sharon S Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 5104, Bethesda, MD 20892–5104, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomaterials, Delivery, and Nanotechnology.
Date: July 2–3, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Virology.
Date: July 2, 2018.
Time: 9:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–2306, *kaushikbasun@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Psychosocial Risks and Disease Prevention.
Date: July 2, 2018.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 30, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11955 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board.
Date: June 21–22, 2018.
Time: June 21, 2018, 1:00 p.m. to 5:00 p.m.
Agenda: Evaluate sleep and circadian research activities; discuss plans for the proposed revision of the NIH Sleep Disorders Research Plan, and potential opportunities for the inter-agency coordination activities.
Place: National Institutes of Health, Two Rockledge Center, Conference Room 9112–9116, 6701 Rockledge Drive, Bethesda, MD 20892.

Time: June 22, 2017, 8:00 a.m. to 3:00 p.m.

Agenda: Evaluate sleep and circadian research activities; discuss plans for the proposed revision of the NIH Sleep Disorders Research Plan, and potential opportunities for the inter-agency coordination activities.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9100–9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Michael J. Twery, Ph.D., Director, National Center on Sleep Disorders Research, Division of Lung Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 10170, Bethesda, MD 20892–7952, 301–435–0199, *twerym@nhlbi.nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/committees/sdrab/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 30, 2018.

Michelle D. Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11959 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; 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: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Drug Development and Therapeutics.

Date: June 18–19, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@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: May 30, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11956 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the joint meeting of the National Cancer Advisory Board (NCAB) and NCI Board of Scientific Advisors (BSA).

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

A portion of the National Cancer Advisory Board 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 Cancer Advisory Board; *Ad Hoc* Subcommittee on Population Science, Epidemiology and Disparities.

Open: June 25, 2018, 5:30 p.m. to 7:00 p.m.

Agenda: Discussion on Population Science, Epidemiology and Disparities.

Place: Gaithersburg Marriott Washingtonian Center, Room—To Be Determined, 9751 Washington Boulevard, Gaithersburg, MD 20878.

Contact Person: Dr. Deborah Winn, Executive Secretary, NCAB *Ad Hoc* Subcommittee on Population Science, Epidemiology and Disparities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, Room 4E344, Bethesda, MD 20892, (240) 276–6755, *winnde@mail.nih.gov.*

Name of Committee: National Cancer Advisory Board; *Ad Hoc* Subcommittee on Global Cancer Research.

Open: June 25, 2018, 7:30 p.m. to 9:00 p.m.

Agenda: Discussion on Global Cancer Research.

Place: Gaithersburg Marriott Washingtonian Center, Room—To Be Determined, 9751 Washington Boulevard, Gaithersburg, MD 20878.

Contact Person: Dr. Edward Trimble, Executive Secretary, NCAB *Ad Hoc* Subcommittee on Global Cancer Research, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, Room 3W562, Bethesda, MD 20892, (240) 276–5796, *trimblet@mail.nih.gov.*

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Open: June 26, 2018, 8:30 a.m. to 5:00 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Director's report and presentations, NCI Board of Scientific Advisors Concepts Review.

Closed: June 26, 2018, 5:00 p.m. to 6:00 p.m.

Agenda: Review of NCAB grant applications.

Place: National Cancer Institute—Shady Grove 9609, Medical Center Drive, Room TE406 & 408 Rockville, MD 20850.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov.*

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Open: June 27, 2018, 9:00 a.m. to 12:00 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Board of Scientific Advisors Concepts Review.

Place: National Cancer Institute—Shady Grove 9609 Medical Center Drive, Room TE406 & 408 Rockville, MD 20850.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, Room 7W444, Bethesda, MD 20892, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on

this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NCI-Shady Grove campus. All visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: NCAB: *http://deainfo.nci.nih.gov/advisory/ncab/ncab.htm,* BSA: *http://deainfo.nci.nih.gov/advisory/bsa/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 30, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11958 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Summer Research Education Experience Programs.

Date: June 19, 2018.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ernest W. Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Research Education Programs for Residents and Fellows.

Date: June 29, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ernest W. Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 30, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11963 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the patent applications listed below may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development, Office of Technology Transfer, 31 Center Drive, Room 4A29, MSC 2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: This notice is in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing. A description of the technology follows.

Octopod (8-Pointed Star) Iron Oxide Nanoparticles Enhance MRI T2 Contrast

Description of Technology: The octopod-shaped iron oxide nanoparticles of this technology significantly enhance contrast in MRI imaging compared to spherical superparamagnetic iron oxide nanoparticle T2 contrast agents. These octopod iron oxide nanoparticles show a transverse relaxivity that is over five times greater than comparable spherical agents. Because the unique octopod shape creates a greater effective radius than spherical agents, but maintains similar magnetization properties, the relaxation rate is improved. The improved relaxation rate greatly enhances the contrast of images. These octopod agents appear to be bio-compatible and may be suitable for intravenous delivery. The synthesis of these agents is also easily reproducible and scaled. The superior contrast greatly improves diagnostic sensitivities, compared to current FDA approved spherical contrast agents. These octopod-shaped iron oxide nanoparticle T2 contrast agents may have a number of medical imaging uses, such as tumor detection, atherosclerosis imaging and delivery of therapeutic treatments.

Potential Commercial Applications: Medical imaging, such as tumor detection, atherosclerosis imaging and delivery of therapeutic treatments.

Competitive Advantages:

—Enhanced T2 contrast
—Reproducible and scalable synthesis
—Improved imaging and diagnostic capability

Development Stage: In vivo data available (animal).

Inventors: Xiaoyuan Chen (NIBIB), Jinhao Gao (Xiamen University, China), Zhenghuan Zhao (Xiamen University, China).

Publication: Zhao Z, *et al.* Octapod iron oxide nanoparticles as high-performance T2 contrast agents for magnetic resonance imaging. Nat Commun. 2013;4:2266. [PMID 23903002]

Intellectual Property: HHS Reference No. E–314–2013/0—PCT Application No. PCT/CN2013/076645 filed June 3, 2013. Chinese Patent Application 201380077163.3 filed December 3, 2015.

European Patent 3003394 issued May 23, 2018 (validated in Switzerland, Germany, France, the United Kingdom, and Ireland), U.S. Patent 9,974,868 issued May 22, 2018.

Licensing Contact: Michael A. Shmilovich; 301–435–5019; *shmilovm@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Biomedical Imaging and Bioengineering is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this technology. For collaboration opportunities, please contact Cecilia Pazman, Ph.D. at *pazmance@mail.nih.gov.*

Dated: May 21, 2018.

Michael A. Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2018–12017 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–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; PAR–18–669: Limited Competition: Specific Pathogen Free Macaque Colonies.

Date: June 28, 2018.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–18–016: Innovative Technologies to Deliver Genome Editing Machinery to Disease-relevant Cells and Tissues.

Date: June 29, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Luis Dettin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, Bethesda, MD 20892, 301 451 1327, *dettinle@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Immunopathology and Immunotherapy.

Date: July 3, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–435–1719, *ngkl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 30, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11957 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of Centers of Biomedical Research Excellence (COBRE) (P20) Applications.

Date: July 16, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Hotel & Suite Rockville, 1 Helen Heneghan Way, Rockville, MD 20850.

Contact Person: Manas Chattopadhyay, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3An12N, 45 Center Drive, Bethesda, md 20892, 301–827–5320, *manasc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 30, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11960 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIH Pathway to Independence Award K99/R00 Applications.

Date: July 19, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Rebecca H. Johnson, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18C, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 30, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11961 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Pilot Effectiveness Trials for Treatment, Preventive and Services Interventions (R34).

Date: June 21, 2018.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Karen Gavin-Evans, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Boulevard, Room 6153, MSC 9606, Bethesda, MD 20892, 301–451–2356, *gavinevanskm@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Kirschstein NRSA Individual Postdoctoral Fellowship (F32).

Date: June 21, 2018.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 30, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–11962 Filed 6–4–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0018]

Agency Information Collection Activities: Ship's Store Declaration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than August 6, 2018) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0018 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Ship's Stores Declaration.

OMB Number: 1651–0018.

Form Number: CBP Form 1303.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours. There is no change to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form 1303, Ship's Stores Declaration, is used by the carriers to declare articles to be retained on board the vessel, such as sea stores, ship's stores (*e.g.* alcohol and tobacco products), controlled narcotic drugs or bunker fuel in a format that can be readily audited and checked by CBP. This form collects information about the ship, the ports of arrival and departure, and the articles on the ship. CBP Form 1303 form is provided for by 19 CFR 4.7, 4.7a, 4.81, 4.85 and 4.87 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=1303&=Apply.*

Estimated Number of Respondents: 8,000.

Estimated Number of Responses per Respondent: 13.

Estimated Number of Total Annual Responses: 104,000.

Estimated Total Annual Burden Hours: 26,000.

Dated: May 30, 2018.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2018–11970 Filed 6–4–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Private Sector Clearance Program Request Form

AGENCY: National Protection and Programs Directorate (NPPD), Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments; revised information collection request: 1670–0013.

SUMMARY: DHS NPPD will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. NPPD previously published this ICR in the **Federal Register** on Thursday, February 1, 2018 for a 60-day public comment period. One comment was received by NPPD. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until July 5, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to OMB Desk Officer, Department of Homeland Security and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.* All submissions must include the words ''Department of Homeland Security'' and the OMB Control Number 1670–0013.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. 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: For specific questions related to collection activities, please contact Quintin Whitaker at 703–235–9485 or at *PSCP@HQ.DHS.GOV.*

SUPPLEMENTARY INFORMATION: Partnerships between the U.S. Government and the private sector at times necessitate the sharing of classified information. The Private Sector Clearance Program (PSCP) facilitates this sharing by sponsoring security clearances for ''appropriate representatives of sector coordinating counsels, sector information sharing and analysis organizations [(ISAOs),] owners and operators of critical infrastructure, and any other person that the Secretary determines appropriate.'' 6 U.S.C. 150. In order to begin this process of approving an applicant to participate in the clearance program, the applicant's employment information and Personally Identifiable Information (PII) is collected. Their association/SCC membership or employment information is reviewed for approval, and their PII is input into e-QIP, the Office of Personnel Management's (OPM) secure portal for investigation processing.

The U.S. Government is authorized to ask for this information under Sections 201 and 229 of the Homeland Security Act of 2002 (Pub. L. 107–296, 6 U.S.C. 121, 150), and Executive Orders 12968, 13526, 13549, 13636, and 13691 which authorize the collection of this information.

The PSCP is designed to process security clearances for private sector personnel who have been sponsored for access to classified information by a Federal Agency. In 2010, through Executive Order 13549, the President established the Classified National Security Information Program (otherwise known as the Private Sector Clearance Program) to ''safeguard and govern access to classified national security information shared by the Federal Government with State, local, tribal, and private sector (SLTPS) entities. 75 FR 51609, 1.1 (2010). In 2013, in a subsequent Executive Order 16363, the President directed the Secretary of Homeland Security, as Executive Agent for PSCP, to ''expedite the processing of security clearances to appropriate personnel employed by critical infrastructure owners and operators, prioritizing the critical infrastructure identified in section 9 of this order.'' 78 FR 11739, 11740 4(d) (2013). Section 9 of Executive Order 13636 refers to ''critical infrastructure where a cybersecurity incident could reasonably result in catastrophic regional or national effects on public health or safety, economic security, or national security.'' Id. at Section 9. In 2014 and 2015, Congress codified PSCP in section 229 of the Homeland Security Act of 2002, authorizing the Secretary of Homeland Security to ''make available the process of application for security clearances under Executive Order 13549 . . . or any successor Executive Order to appropriate representatives of sector coordinating councils, sector information sharing and analysis organizations . . . , owners and operators of critical infrastructure, and any other persons that the Secretary determines appropriate.'' 6 U.S.C. 150. Also in 2015, through Executive Order 13691, the President designated the National Cybersecurity and Communications Integration Center (NCCIC) as a critical infrastructure protection program and required the Department to manage the sharing of classified cybersecurity information under this designation. E.O. 13691, 80 FR 9349 4(a) (2015); see 6 U.S.C. 132. These partners are subject matter experts within specific industries and have specialized knowledge not available within DHS. Private citizens do not receive monetary compensation for their time. DHS has created this program to facilitate clearances for these individuals who are not employed by an agency of the Federal government or otherwise have a contract, license or grant with an agency of the Federal government pursuant to E.O. 12829 (the traditional means of obtaining a clearance) and must have clearances.

Program changes require a revision of the existing collection. These changes include: Updating the title of the collection and updates to the form itself and reflects the potential for increased sponsorship and associated justifications articulated in section 229 of the Homeland Security Act of 2002 and Presidential direction through the 2013 and 2015 Executive Orders.

The form will accommodate an increase in potential sponsorships and be used by additional programs in the same manner to sponsor private sector entities and individuals for security clearances. The additional sponsorships and programs will increase the burden totals by 360 responses, 60 burden hours, and $6,155 annual burden cost. For current programs using the form, the burden estimates have decreased by 200 responses, 33 burden hours and $706 annual burden cost based on actual responses received. As a result, the total burden estimates will increase overall by 160 responses, 27 burden hours, $5,448 annual burden costs.

The changes to the form itself include: Updating the title; adding a program type field, adding justification guidance to the back of the form, and updating the wording of the field titles and instructions to improve clarity. A redlined mockup of the form changes will be included as a supplement to this supporting statement. The changes to the form itself will not change the burden estimates as the only field being added is an open text field to distinguish the justification for the nomination.

The annual government cost for the collection has increased by $91,998, from $150,852 to $242,850, due to updated wage rates.

This ICR was previously published at 83 FR 4670 for 60-day comment, and NPPD is soliciting public comment for another 30 days. OMB 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.

Title of Collection: Private Sector Clearance Program Request Form.

OMB Control Number: 1670–0013.

Frequency: Annually.

Affected Public: Private and Public Sector.

Number of Respondents: 660 respondents.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 110 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Total Recordkeeping Burden: $0.

David Epperson,

Chief Information Officer.

[FR Doc. 2018–11966 Filed 6–4–18; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2623–18; DHS Docket No. USCIS–2014–0007]

RIN 1615–ZB75

Termination of the Designation of Honduras for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security.

ACTION: Notice.

SUMMARY: The designation of Honduras for Temporary Protected Status (TPS) is set to expire on July 5, 2018. After reviewing country conditions and consulting with appropriate U.S. Government agencies, the Secretary of Homeland Security has determined that because conditions in Honduras no longer support its designation for TPS, termination of the TPS designation of Honduras is required by statute. To provide time for an orderly transition, the Secretary is terminating the designation effective on January 5, 2020, which is 18 months following the end of the current designation.

Nationals of Honduras (and aliens having no nationality who last habitually resided in Honduras) who have been granted TPS and would like to maintain their TPS and receive TPS-based Employment Authorization Documents (EAD) valid through January 5, 2020, must re-register for TPS in accordance with the procedures set forth in this Notice. After January 5, 2020, nationals of Honduras (and aliens having no nationality who last habitually resided in Honduras) who have been granted TPS under the Honduras designation will no longer have TPS.

DATES: The designation of Honduras for TPS is terminated effective at 11:59 p.m., local time, on January 5, 2020. The 60-day re-registration period runs from June 5, 2018 through August 6, 2018. (**Note:** It is important for re-registrants to timely re-register during this 60-day period.)

FOR FURTHER INFORMATION CONTACT:

- You may contact Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, 20 Massachusetts Avenue NW, Washington, DC 20529–2060; or by phone at 800–375–5283.
- For further information on TPS, including guidance on the re-registration process and additional information on eligibility, please visit the USCIS TPS web page at *http://www.uscis.gov/tps.* You can find specific information about this termination of Honduras's TPS by selecting ''Honduras'' from the menu on the left side of the TPS web page.
- If you have additional questions about Temporary Protected Status, please visit *uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283.
- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833). Service is available in English and Spanish.
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
FR—Federal Register
Government—U.S. Government
IJ—Immigration Judge

INA—Immigration and Nationality Act
IER—U.S. Department of Justice Civil Rights Division, Immigrant and Employee Rights Section
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Through this Notice, DHS sets forth procedures necessary for eligible nationals of Honduras (or aliens having no nationality who last habitually resided in Honduras) to re-register for TPS and to apply for renewal of their EADs with USCIS. Re-registration is limited to persons who have previously registered for TPS under the designation of Honduras and whose applications have been granted.

For individuals who have already been granted TPS under Honduras's designation, the 60-day re-registration period runs from June 5, 2018 through August 6, 2018. USCIS will issue new EADs with a January 5, 2020 expiration date to eligible Honduran TPS beneficiaries who timely re-register and apply for EADs. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants will receive new EADs before their current EADs expire on July 5, 2018. Accordingly, through this **Federal Register** notice, DHS automatically extends the validity of EADs issued under the TPS designation of Honduras for 180 days, through January 1, 2019. Additionally, individuals who have EADs with an expiration date of January 5, 2018, and who applied for a new EAD during the last re-registration period but have not yet received their new EADs are also covered by this automatic extension. These individuals may show their EAD indicating a January 5, 2018 expiration date and their EAD application receipt (Notice of Action, Form I–797C) that notes the application was received on or after December 15, 2017, to employers as proof of continued employment authorization through January 1, 2019. This Notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how this affects the Form I–9, Employment Eligibility Verification, and E-Verify processes.

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the INA, or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary terminates a country's TPS designation, beneficiaries return to one of the following:
  - ○ The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated); or
  - ○ Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

When was Honduras designated for TPS?

On January 5, 1999, former Attorney General Janet Reno designated Honduras for TPS based on an environmental disaster within that country, specifically the severe flooding and associated damage from Hurricane Mitch, which struck Honduras in October 1998. *See Designation of Honduras Under Temporary Protected Status,* 64 FR 524 (Jan. 5, 1999). The designation has been continuously extended since its initial designation. Most recently, on November 6, 2017, former Acting Secretary Duke announced that she had not made a decision on Honduras's TPS designation by the statutory deadline, resulting in an automatic 6-month extension of the designation, through July 5, 2018. *See* DHS Press Release, *Acting Secretary Elaine Duke Announcement on Temporary Protected Status for Nicaragua and Honduras* (Nov. 6, 2017), *available at https://www.dhs.gov/news/2017/11/06/acting-secretary-elaine-duke-announcement-temporary-protected-status-nicaragua-and*; *see also Extension of the Designation of Honduras for Temporary Protected Status,* 82 FR 59630 (Dec. 15, 2017).

What authority does the Secretary have to terminate the designation of Honduras for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate U.S. Government agencies, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in the foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state continues to meet the conditions for TPS designation, the designation must be extended for an additional period of 6 months and, in the Secretary's discretion, may be extended for 12 or 18 months. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer continues to meet the conditions for TPS designation, the Secretary must terminate the designation, but such termination may not take effect earlier than 60 days after the date the **Federal Register** notice of termination is published, or if later, the expiration of the most recent previous extension of the country's TPS designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B). The Secretary may determine the appropriate effective date of the termination and the expiration of any TPS-related documentation, such as EADs, for the purpose of providing for an orderly transition. *See id.*; INA section 244(d)(3), 8 U.S.C. 1254a(d)(3).

Why is the Secretary terminating the TPS designation for Honduras as of January 5, 2020?

DHS has reviewed conditions in Honduras. Based on the review, which

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to the U.S. Department of Homeland Security (DHS) ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

considered input received from other appropriate U.S. Government agencies, including the Department of State, the Secretary of Homeland Security has determined that the conditions supporting Honduras's 1999 designation for TPS on the basis of environmental disaster due to the damage caused by Hurricane Mitch in October 1998 are no longer met. Recovery and reconstruction efforts relating to Hurricane Mitch have largely been completed. The social and economic conditions affected by the hurricane have stabilized, and people are able to conduct their daily activities without impediments directly related to damage from the hurricane. Honduras has, however, experienced some negative environmental conditions unrelated to Hurricane Mitch over the intervening years. Despite ongoing challenges relating to coffee rust, coffee bean production is up and Honduras is currently the third largest Arabica producer in the world. In 2017 Honduras was devastated by a pine beetle plague but the Government of Honduras took aggressive steps to stem the invasion. Drought conditions Honduras has previously dealt with are not currently impacting the country, with USAID reporting as of January 2018 that sufficient seasonal rainfall had led to higher agricultural production compared to recent years and an increase in employment opportunities, resulting in improvements in the food security situation in many parts of the country. While some housing issues remain, recent construction figures show sustained growth in 2017, with residential projects growing by 10% with respect to 2016, and commercial projects growing by 18% over the same period. Additionally, Honduras has been regularly accepting the return of its nationals with final removal orders over the last five years. From fiscal year 2013 to fiscal year 2016, DHS removed 120,047 individuals to Honduras. In fiscal year 2017, DHS removed 22,381 Honduran nationals. As of May 2, 2018, in fiscal year 2018 DHS has removed 13,800 Honduran nationals.

Following Hurricane Mitch, Honduras received a significant amount of international aid to assist in its recovery efforts and to fund reconstruction projects. Accordingly, many reconstruction projects have now been completed. Reconstruction programs have helped to address Honduras's ongoing housing shortage and improve infrastructure, in particular, roads and bridges. Schools and health centers damaged by the hurricane have also been repaired or rebuilt and reopened. Additionally, Honduras's economy is steadily improving. The Honduran economy grew by 3.7% in 2016, and its Gross Domestic Product (GDP) annual growth rate is projected to trend around 4.90% by the end of the first quarter of 2018. The GDP in Honduras averaged $5.69 billion (USD) from 1960 until 2016, reaching an all-time high of $21.52 billion in 2016. The Honduran Government estimated that the country's unemployment rate was 7.4% in 2016.

DHS estimates that there are approximately 86,000 nationals of Honduras (and aliens having no nationality who last habitually resided in Honduras) who hold TPS under Honduras's designation.

Notice of Termination of the TPS Designation of Honduras

By the authority vested in the Secretary of Homeland Security under INA section 244(b)(3), 8 U.S.C. 1254a(b)(3), I have determined, after consultation with appropriate U.S. Government agencies, that the conditions for the designation of Honduras for TPS under 244(b)(1)(B) of the INA, 8 U.S.C. 1254a(b)(1)(B), are no longer met.

Accordingly, I order as follows:

(1) Pursuant to sections 244(b)(3)(B) and 244(d)(3) of the Immigration and Nationality Act, the designation of Honduras for TPS is terminated effective at 11:59 p.m., local time, on January 5, 2020, which is 18 months following the end of the current designation, in order to provide for an orderly transition.

(2) Information concerning the termination of TPS for nationals of Honduras (and aliens having no nationality who last habitually resided in Honduras) will be available at local USCIS offices upon publication of this Notice and through the USCIS Contact Center at 1–800–375–5283. This information will be published on the USCIS website at *www.uscis.gov.*

Kirstjen M. Nielsen,

Secretary.

Required Application Forms and Application Fees To Re-Register for TPS

To re-register for TPS based on the designation of Honduras, you *must* submit an Application for Temporary Protected Status (Form I–821). You are not required to pay the filing fee for the Form I–821. *See* 8 CFR 244.17. You may be required to pay the biometric services fee. Please see additional information under the ''Biometric Services Fee'' section of this Notice.

Through operation of this **Federal Register** notice, your existing EAD issued under the TPS designation of Honduras with the expiration date of July 5, 2018, is automatically extended for 180 days, through January 1, 2019. However, if you want to obtain a new EAD valid through January 5, 2020, you must file an Application for Employment Authorization (Form I–765) and pay the Form I–765 fee (or request a fee waiver). If you do not want a new EAD, you do not have to file Form I–765 or pay the Form I–765 fee. If you do not want to request a new EAD now, you may also file Form I–765 at a later date and pay the fee (or request a fee waiver), provided that you still have TPS or a pending TPS application.

Additionally, individuals who have EADs with an expiration date of January 5, 2018, and who applied for a new EAD during the last re-registration period but have not yet received their new EADs are also covered by this automatic extension through January 1, 2019. You do not need to apply for a new EAD in order to benefit from this 180-day automatic extension. If you have a Form I–821 and/or Form I–765 that was still pending as of June 5, 2018, then you do not need to file either application again. If your pending TPS application is approved, you will be granted TPS through January 5, 2020. Similarly, if you have a pending TPS-related application for an EAD that is approved, it will be valid through the same date.

Unless you timely re-register and properly file an EAD application in accordance with this Notice, the validity of your current EAD will end on January 1, 2019. You may file the application for a new EAD either prior to or after your current EAD has expired. However, you are strongly encouraged to file your application for a new EAD as early as possible to avoid gaps in the validity of your employment authorization documentation and to ensure that you receive your new EAD by January 1, 2019.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *http://www.uscis.gov/tps.* Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years and older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may complete a Form I–912 or submit a personal letter requesting a fee waiver with satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS website at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support

Center to have your biometrics captured. For additional information on the USCIS biometrics screening process please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at *www.dhs.gov/privacy.*

Refiling a Re-Registration TPS Application After Receiving a Denial of a Fee Waiver Request

You should file as soon as possible within the 60-day re-registration period so USCIS can process your application and issue any EAD promptly. Properly filing early will also allow you to have time to refile your application before the deadline should USCIS deny your fee waiver request. If, however, you receive a denial of your fee waiver request and are unable to refile by the re-registration deadline, you may still refile your Form I–821 with the biometrics fee. This situation will be reviewed to determine whether you established good cause for late TPS re-registration. However, you are urged to refile within 45 days of the date on any USCIS fee waiver denial notice, if possible. *See* INA section 244(c)(3)(C) (8 U.S.C. 1254a(c)(3)(C)); 8 CFR 244.17(b). For more information on good cause for late re-registration, visit the USCIS TPS web page at *http://www.uscis.gov/tps.* Following denial of your fee waiver request, you may also refile your Form I–765 with fee either with your Form I–821 or at a later time, if you choose.

Note: Although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the Form I–821 fee) when filing a TPS re-registration application, you may decide to wait to request an EAD. Therefore, you do not have to file the Form I–765 or pay the associated Form I–765 fee (or request a fee waiver) at the time of re-registration, and could wait to seek an EAD until after USCIS has approved your TPS re-registration application. If you choose to do this, to re-register for TPS you would only need to file the Form I–821 with the biometrics services fee, if applicable, (or request a fee waiver).

Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If you . . .	Mail your application to:
Are re-registering for TPS and you are using the U.S. Postal Service to mail your package; or Were granted TPS by an immigration judge or the Board of Immigration Appeals, and you wish to request an EAD; or You are re-registering for the first time after an immigration judge or the Board of Immigration Appeals granted you TPS and you are using the U.S. Postal Service to mail your package.	U.S. Citizenship and Immigration Services, Attn: TPS Honduras, P.O. Box 6943, Chicago, IL 60680–6943.
Are using a non-U.S. Postal Service delivery service to mail your package (for re-registrations).	U.S. Citizenship and Immigration Services, Attn: TPS Honduras, 131 S Dearborn—3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD or are re-registering for the first time following a grant of TPS by an IJ or the BIA, please mail your application to the appropriate mailing address in Table 1. When re-registering and requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application. This will help us to verify your grant of TPS and process your application.

Supporting Documents

The filing instructions on the Form I–821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying or registering for TPS on the USCIS website at *www.uscis.gov/tps* under ''Honduras.''

Employment Authorization Document (EAD)

How can I obtain information on the status of my EAD request?

To get case status information about your TPS application, including the status of an EAD request, you can check Case Status Online at *http://www.uscis.gov,* or call the USCIS National Contact Center at 800–375–5283 (TTY 800–767–1833). If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at *https://infopass.uscis.gov.* However, we strongly encourage you first to check Case Status Online or call the USCIS National Contact Center for assistance before making an InfoPass appointment.

Am I eligible to receive an automatic extension of my current EAD through January 1, 2019, using this ***Federal Register*** *notice?*

Yes. Provided that you currently have a Honduras TPS-based EAD, this **Federal Register** notice automatically extends your EAD through January 1, 2019, if you:

- Are a national of Honduras (or have no nationality and last habitually resided in Honduras); and either,
- Have an EAD with a marked expiration date of July 5, 2018, bearing the notation A–12 or C–19 on the face of the card under Category, or
- Have an EAD with a marked expiration date of January 5, 2018, bearing the notation A–12 or C–19 on the face of the card under Category and you applied for a new EAD during the last re-registration period but have not yet received a new EAD.

Although this **Federal Register** notice automatically extends your EAD through January 1, 2019, you must re-register timely for TPS in accordance with the procedures described in this **Federal Register** notice if you would like to maintain your TPS.

When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Form I–9. Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity

and employment authorization to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization), or one document from List B (which provides evidence of your identity) together with one document from List C (which is evidence of employment authorization), or you may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 Instructions. Employers may not reject a document based on a future expiration date. You can find additional detailed information about Form I–9 on USCIS' I–9 Central web page at *http://www.uscis.gov/I–9Central.*

An EAD is an acceptable document under List A. If your EAD has an expiration date of July 5, 2018, or January 5, 2018 (and you applied for a new EAD during the last re-registration period but have not yet received a new EAD), and states A–12 or C–19 under Category, it has been extended automatically for 180 days by virtue of this **Federal Register** notice and you may choose to present this Notice along with your EAD to your employer as proof of identity and employment eligibility for Form I–9 through January 1, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. If you have an EAD with a marked expiration date of July 5, 2018, and you properly filed for a new EAD in accordance with this Notice, you will also receive Form I–797C, Notice of Action that will state your current A–12 or C–19 coded EAD is automatically extended for 180 days. You may choose to present your EAD to your employer together with this Form I–797C as a List A document that provides evidence of your identity and employment authorization for Form I–9 through January 1, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. See the subsection titled, ''How do my employer and I complete the Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?'' for further information.

To reduce confusion over this extension at the time of hire, you should explain to your employer that your EAD has been automatically extended through January 1, 2019. You may also provide your employer with a copy of this **Federal Register** notice, which explains that your EAD has been automatically extended. As an alternative to presenting evidence of your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

What documentation may I present to my employer for Employment Eligibility Verification (Form I–9) if I am already employed but my current TPS-related EAD is set to expire?

Even though your EAD has been automatically extended, your employer is required by law to ask you about your continued employment authorization no later than before you start work on July 6, 2018 (or July 5, if you have an EAD with a marked expiration date of January 5, 2018). You will need to present your employer with evidence that you are still authorized to work. Once presented, you may correct your employment authorization expiration date in Section 1 and your employer should correct the EAD expiration date in Section 2 of Form I–9. See the subsection titled, ''What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my employment authorization has been automatically extended?'' for further information. You may show this **Federal Register** notice to your employer to explain what to do for Form I–9 and to show that your EAD has been automatically extended through January 1, 2019. Your employer may need to reinspect your automatically extended EAD to check the expiration date and Category code if your employer did not keep a copy of this EAD when you initially presented it. In addition, if you have an EAD with a marked expiration date of July 5, 2018, and you properly filed your Form I–765 to obtain a new EAD, you will receive a Form I–797C, Notice of Action. Form I–797C will state that your current A–12 or C–19 coded EAD is automatically extended for 180 days. You may present Form I–797C to your employer along with your EAD to confirm that the validity of your EAD has been automatically extended through January 1, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. To reduce the possibility of gaps in your employment authorization documentation, you should file your Form I–765 to request a new EAD as early as possible during the re-registration period.

The last day of the automatic EAD extension is January 1, 2019. Before you start work on January 2, 2019, your employer must reverify your employment authorization. At that time, you must present any document from List A or any document from List C on Form I–9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 Instructions to reverify employment authorization.

By January 2, 2019, your employer must complete Section 3 of the current version of the form, Form I–9 07/17/17 N, and attach it to the previously completed Form I–9, if your original Form I–9 was a previous version. Your employer can check the USCIS' I–9 Central web page at *http://www.uscis.gov/I–9Central* for the most current version of Form I–9.

Note that your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

Can my employer require that I provide any other documentation to prove my status, such as proof of my Honduran citizenship?

No. When completing Form I–9, including reverifying employment authorization, employers must accept any documentation that appears on the Form I–9 ''Lists of Acceptable Documents'' that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Honduran citizenship or proof of re-registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If presented with EADs that have been automatically extended, employers should accept such documents as a valid List A document so long as the EAD reasonably appears to be genuine and relates to the employee. Refer to the Note to Employees section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

How do my employer and I complete Employment Eligibility Verification (Form I–9) using my automatically extended employment authorization for a new job?

When using an automatically extended EAD to complete Form I–9 for a new job before January 2, 2019, you and your employer should do the following:

1. For Section 1, you should:

a. Check ''An alien authorized to work until'' and enter January 1, 2019, the

automatically extended EAD expiration date as the ''expiration date; and

b. Enter your Alien Number/USCIS number or A-Number where indicated (your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix).

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended by ensuring it is in category A–12 or C–19 and has a July 5, 2018 expiration date (or January 5, 2018 expiration date provided you applied for a new EAD during the last re-registration period but have not yet received a new EAD);

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write January 1, 2019, as the expiration date.

Alternatively, if you have an EAD with a marked expiration date of July 5, 2018, and you also filed for a new EAD, as proof of the automatic extension of your employment authorization, you may present your expired or expiring EAD with category A–12 or C–19 in combination with the Form I–797C Notice of Action showing that the qualifying eligibility category is either A–12 or C–19. Unless your TPS has been withdrawn or your request for TPS has been denied, this document combination is considered an unexpired EAD under List A. In these situations, to complete Section 2, employers should:

a. Determine if the EAD is auto-extended through January 1, 2019, by ensuring:

- It is in category A–12 or C–19; and
- The category code on the EAD is the same category code on Form I–797C, noting that employers should consider category codes A–12 and C–19 to be the same category code.

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write January 1, 2019, as the expiration date. Before the start of work on January 2, 2019, employers must reverify the employee's employment authorization in Section 3 of Form I–9.

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my employment authorization has been automatically extended?

If you presented a TPS-related EAD that was valid when you first started your job and your EAD has now been automatically extended, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. You may, and your employer should, correct your previously completed Form I–9 as follows:

1. For Section 1, you may:

a. Draw a line through the expiration date in Section 1;

b. Write January 1, 2019, above the previous date; and

c. Initial and date the correction in the margin of Section 1.

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended by ensuring:

- It is in category A–12 or C–19; and
- Has a marked expiration date of July 5, 2018; or January 5, 2018, provided your employee applied for a new EAD during the last re-registration period but has not yet received a new EAD.

b. Draw a line through the expiration date written in Section 2;

c. Write January 1, 2019, above the previous date; and

d. Initial and date the correction in the Additional Information field in Section 2.

In the alternative, you may present your expired EAD with category A–12 or C–19 in combination with the Form I–797C Notice of Action if you have an EAD with a marked expiration date of July 5, 2018. The Form I–797C should show that the qualifying eligibility category is either A–12 or C–19. To avoid confusion, you may also provide your employer a copy of this Notice. Your employer should correct your previously completed Form I–9 as follows:

For Section 2, employers should:

a. Determine if the EAD is auto-extended for 180 days by ensuring:

- It is in category A–12 or C–19; and
- The category code on the EAD is the same category code on Form I–797C, noting that employers should consider category codes A–12 and C–19 to be the same category code.

b. Draw a line through the expiration date written in Section 2;

c. Write January 1, 2019, above the previous date; and

d. Initial and date the correction in the Additional Information field in Section 2.

Note: This is not considered a reverification. Employers do not need to complete Section 3 until either the 180-day automatic extension has ended or the employee presents a new document to show continued employment authorization, whichever is sooner. By January 2, 2019, when the employee's automatically extended EAD has expired, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for a new employee using the EAD bearing the expiration date July 5, 2018. Employers may also create a case in E-Verify for a new employee using the EAD bearing the expiration date January 5, 2018, provided the employee applied for a new EAD during the last re-registration period but has not yet received a new EAD. Employers may also create a case in E-Verify using the Form I–797C receipt information provided on Form I–9 for employees whose EADs have a January 5, 2018 or July 5, 2018 expiration date. In either case, the receipt number entered as the document number on Form I–9 should be entered into the document number field in E-Verify.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

E-Verify automated the verification process for employees whose TPS-related EAD was automatically extended. If you have employees who are TPS beneficiaries who provided a TPS-related EAD when they first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. The alert indicates that before this employee starts to work on January 2, 2019, you must reverify his or her employment authorization in Section 3 of Form I–9. Employers should not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice's Civil Rights

Division, Immigrant and Employee Rights Section (IER) (formerly the Office of Special Counsel for Immigration-Related Unfair Employment Practices) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I–9Central@dhs.gov.* Calls are accepted in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Employment Eligibility Verification (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from an employee's Form I–9 differs from Federal or state government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee because of the TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *https://www.justice.gov/ier* and the USCIS website at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples of such documents are:

(1) Your current EAD;

(2) A copy of your Notice of Action (Form I–797C), the notice of receipt, for your application to renew your current EAD providing an automatic extension of your currently expired or expiring EAD;

(3) A copy of your Notice of Action (Form I–797C), the notice of receipt, for your Application for Temporary Protected Status for this re-registration; and

(4) A copy of your Notice of Action (Form I–797), the notice of approval, for a past or current Application for Temporary Protected Status, if you received one from USCIS.

Check with the government agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at the following link: *https://save.uscis.gov/casecheck/,* then by clicking the ''Check Your Case'' button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found on the SAVE website at *http://www.uscis.gov/save.*

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6108–FA–01]

Housing Trust Fund; Fiscal Year (FY) 2018 Allocation Notice

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of fiscal year 2018 funding awards.

SUMMARY: The Housing and Economic Recovery Act of 2008 (HERA) established the Housing Trust Fund (HTF) to be administered by HUD. Pursuant to the Federal Housing Enterprises Financial Security and Soundness Act of 1992 (the Act), as amended by HERA, Division A, eligible HTF grantees are the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the United States Virgin Islands. In accordance with Section 1338 (c)(4)(A) of the Act, this notice announces the formula allocation amount for each eligible HTF grantee.

FOR FURTHER INFORMATION CONTACT: Virginia Sardone, Director, Office of Affordable Housing Programs, Room 7164, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–7000; telephone (202) 708–2684. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 1131 of HERA Division A amended the Act to add a new section 1337 entitled

''Affordable Housing Allocations'' and a new section 1338 entitled ''Housing Trust Fund.'' HUD's implementing regulations are codified at 24 CFR part 93. Congress authorized the HTF with the stated purpose of: (1) Increasing and preserving the supply of rental housing for extremely low-income families with incomes between 0 and 30 percent of area median income and very low-income families with incomes between 30 and 50 percent of area median income, including homeless families, and (2) increasing homeownership for extremely low-income and very low-income families. Section 1337 of the Act provides for the HTF (and other programs) to be funded with an affordable housing set-aside by Fannie Mae and Freddie Mac. The total set-aside amount is equal to 4.2 basis points (.042 percent) of Fannie Mae and Freddie Mac's new mortgage purchases, a portion of which is for the HTF. Section 1338 of the Act directs HUD to establish, through regulation, the formula for distribution of amounts made available for the HTF. The statute specifies the factors to be used for the formula and priority for certain factors. The factors and methodology HUD uses to allocate HTF funds among eligible grantees are established in the HTF regulation. The funding announced for Fiscal Year 2018 through this notice is $266,775,403.45. Appendix A to this notice provides the names of the grantees and the amounts of the awards.

Dated: May 29, 2018.

Neal J. Rackleff,

Assistant Secretary, Office of Community Planning and Development.

Appendix A:

FY 2018 Housing Trust Fund Allocation Amounts

Grantee	FY 2018 allocation
Alabama	$3,000,000
Alaska	3,000,000
Arizona	3,997,777
Arkansas	3,000,000
California	36,616,277.45
Colorado	3,563,587
Connecticut	3,269,474
Delaware	3,000,000
District of Columbia	3,000,000
Florida	10,442,914
Georgia	5,705,499
Hawaii	3,000,000
Idaho	3,000,000
Illinois	9,812,230
Indiana	3,937,462
Iowa	3,000,000
Kansas	3,000,000
Kentucky	3,000,000
Louisiana	3,068,829
Maine	3,000,000
Maryland	3,578,771
Massachusetts	5,720,333
Michigan	6,004,558
Minnesota	3,445,781
Mississippi	3,000,000
Missouri	3,970,270
Montana	3,000,000
Nebraska	3,000,000
Nevada	3,000,000
New Hampshire	3,000,000
New Jersey	7,726,903
New Mexico	3,000,000
New York	22,171,681
North Carolina	5,874,191
North Dakota	3,000,000
Ohio	6,971,712
Oklahoma	3,000,000
Oregon	3,654,189
Pennsylvania	7,759,948
Rhode Island	3,000,000
South Carolina	3,007,655
South Dakota	3,000,000
Tennessee	3,688,511
Texas	12,279,085
Utah	3,000,000
Vermont	3,000,000
Virginia	4,672,562
Washington	5,197,313
West Virginia	3,000,000
Wisconsin	4,117,505
Wyoming	3,000,000
Puerto Rico	1,253,357
America Samoa	11,995
Guam	97,028
Northern Marianas	53,415
Virgin Islands	104,591
Total	266,775,403.45

[FR Doc. 2018–12041 Filed 6–4–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0025; DS63644000 DR2000000.CH7000 189D0102R2, OMB Control Number 1012–0003]

Agency Information Collection Activities: 30 CFR Parts 1227, 1228, and 1229, Delegated and Cooperative Activities With States and Indian Tribes

AGENCY: Office of the Secretary, Office of Natural Resources Revenue (ONNR), Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), ONRR is inviting comments on the renewal of an information collection request that we will submit to the Office of Management and Budget (OMB) for review and approval.

DATES: You must submit your written comments on or before August 6, 2018.

ADDRESSES: You may submit comments on this ICR to ONRR by using one of the following three methods. Please reference ''ICR 1012–0003'' in your comments.

- Electronically go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2011–0025,'' then click ''Search.'' Follow the instructions to submit public comments. ONRR will post all comments.
- Email comments to Mr. Luis Aguilar, Regulatory Specialist, at *Luis.Aguilar@onrr.gov.*
- Hand-carry or mail comments, using an overnight courier service, to ONRR. Our courier address is Office of Natural Resources Revenue; Building 85, Entrance N–1, Denver Federal Center; West 6th Ave. and Kipling St.; Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Mr. Peter Hanley, STRAC Administration, ONRR, telephone (303) 231–3721 or email to *Peter.Hanley@onrr.gov.* For other questions, contact Mr. Luis Aguilar, telephone (303) 231–3418, or email to *Luis.Aguilar@onrr.gov.* You may also contact Mr. Aguilar to obtain copies [free of charge] of (1) the ICR, (2) any associated form, and (3) the regulations that require us to collect the information. You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format. 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 ONRR; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the ONRR enhance the quality, utility, and clarity of the information to be collected; and (5) how might the ONRR 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 ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Secretary of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibility is to manage mineral resources production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected. ONRR performs the royalty management functions and assists the Secretary in carrying out the Department's responsibilities. We have posted those laws pertaining to mineral leases on Federal and Indian lands and the OCS at *http://www.onrr.gov/Laws_R_D/PubLaws/default.htm.*

General Information

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information that ONRR collects includes data necessary to ensure that the lessee accurately values the production and appropriately pays all royalties and other mineral revenues due.

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended by sections 3, 4, and 8 [for Federal lands] of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, authorizes the Secretary to develop delegated and cooperative agreements with States (section 205) and Indian Tribes (section 202) to carry out certain inspection, auditing, investigation, or limited enforcement activities for oil and gas leases in their jurisdiction. The States and Indian Tribes are working partners with ONRR and are an integral part of the overall onshore and offshore compliance effort. The Appropriations Act of 1992 also authorizes the States and Indian Tribes to perform the same functions for coal and other solid mineral leases.

Information Collections

This Information Collection Request (ICR) covers the paperwork requirements in the regulations under title 30, *Code of Federal Regulations* (CFR), parts 1227, 1228, and 1229. This collection of information is necessary in order for States and Indian Tribes to conduct audits and related investigations of Federal and Indian oil, gas, coal, any other solid minerals, and geothermal royalty revenues from Federal and Tribal leased lands. Relevant parts of the regulations include 30 CFR parts 1227, 1228, and 1229, as described below:

Title 30 CFR part 1227—Delegation to States, provides procedures to delegate certain Federal minerals revenue management functions to States for Federal oil and gas leases. The regulations provide only audit and investigation functions to States for Federal geothermal and solid mineral leases, and leases subject to section 8(g) of the OCS Lands Act, within their respective State boundaries. To be considered for such delegation, States must submit a written proposal to ONRR, which ONRR must approve. States also must provide quarterly reimbursement vouchers and reports concerning the activities under the delegation to ONRR.

Title 30 CFR part 1228—Cooperative Activities with States and Indian Tribes, provides procedures for Indian Tribes to carry out audits and related investigations of their respective leased lands. Indian Tribes must submit a written proposal to ONRR in order to enter into a cooperative agreement. The proposal must outline the activities that the Tribe will undertake and must present evidence that the Tribe can meet the standards of the Secretary to conduct these activities. The Tribes also must submit an annual work plan and budget, as well as quarterly reimbursement vouchers.

Title 30 CFR part 1229—Delegation to States, provides procedures for States to carry out audits and related investigations of leased Indian lands within their respective State boundaries, by permission of the respective Indian Tribal councils or individual Indian mineral owners. The State must receive the Secretary's delegation of authority and submit annual audit work plans detailing its audits and related investigations, annual budgets, and quarterly reimbursement vouchers. The State also must maintain records.

OMB Approval

We will request OMB approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge the duties of the office and may also result in the inability to confirm the accurate royalty value. ONRR protects any proprietary information received under this collection and does not collect items of a sensitive nature. States and Tribes must respond in order to obtain the benefit of entering into a cooperative agreement with the Secretary.

Title of Collection: Delegated and Cooperative Activities with States and Indian Tribes—30 CFR parts 1227, 1228, and 1229.

OMB Control Number: 1012–0003.

Bureau Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: States and Tribes.

Total Estimated Number of Annual Respondents: 9 States and 6 Indian Tribes.

Total Estimated Number of Responses: 449.

Estimated Completion Time per Response: 26.40 hrs.

Total Estimated Number of Annual Burden Hours: 11,851 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Annual.

Total Estimated Annual Nonhour Burden Cost: We have identified no ''non-hour cost'' burden associated with this collection of information.

We have not included in our estimates certain requirements performed in the normal course of business, which are considered usual and customary. The following table shows the estimated burden hours by CFR section and paragraph:

SECTION A.12 BURDEN BREAKDOWN

30 CFR section	Reporting and recordkeeping requirements	Hour burden per response	Number of annual responses	Annual burden hours
	Part 1227—Delegation To States			
	Delegation Proposals			
1227.103; 107; 109; 110(a) and (b)(1); 110 (c), (d), and (e); 111(a) and (b); 805.	What must a State's delegation proposal contain? ..... If you want ONRR to delegate royalty management functions to you, then you must submit a delegation proposal to the ONRR Deputy Director. The ONRR will provide you with technical assistance and information to help you prepare your delegation proposal . . .	200	1	200
	Delegation Process			
1227.110(b)(2)	(b)(2) If you want to change the terms of your delegation agreement for the renewal period, you must submit a new delegation proposal under this part.	16	9	144
	Existing Delegations			
	Compensation			
1227.112(d) and (e)	What compensation will a State receive to perform delegated functions?. You will receive compensation for your costs to perform each delegated function subject to the following conditions . . . (d) At a minimum, you must provide vouchers detailing your expenditures quarterly during the fiscal year. However, you may agree to provide vouchers on a monthly basis in your delegation agreement . . . (e) You must maintain adequate books and records to support your vouchers . . .	4	60	240
	States' Responsibilities To Perform Delegated Functions			
1227.200(a), (b), (c), and (d).	What are a State's general responsibilities if it accepts a delegation?. For each delegated function you perform, you must: (a) . . . seek information or guidance from ONRR regarding new, complex, or unique issues . . . (b)(1) . . . Provide complete disclosure of financial results of activities;. (2) Maintain correct and accurate records of all mineral-related transactions and accounts;. (3) Maintain effective controls and accountability;. (4) Maintain a system of accounts . . . (5) Maintain adequate royalty and production information . . . (c) Assist ONRR in meeting the requirements of the Government Performance and Results Act (GPRA) . . . (d) Maintain all records you obtain or create under your delegated function, such as royalty reports, production reports, and other related information. . . . You must maintain such records for at least 7 years . . .	940	9	8,460
1227.200(e); 801(a); 804.	(e) Provide reports to ONRR about your activities under your delegated functions . . . At a minimum, you must provide periodic statistical reports to ONRR summarizing the activities you carried out . . .	3	36	108
1227.200(f); 401(e); 601(d).	(f) Assist ONRR in maintaining adequate reference, royalty, and production databases . . .	1	250	250
1227.200(g); 301(e)	(g) Develop annual work plans . . .	60	9	540
1227.200(h)	(h) Help ONRR respond to requests for information from other Federal agencies, Congress, and the public . . .	8	9	72
1227.400(a)(4) and (a)(6); 401(d); 501(c).	What functions may a State perform in processing production reports or royalty reports?. Production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases that must be collected, analyzed, and corrected. (a) If you request delegation of either production report or royalty report processing functions, you mustperform . . . (4) Timely transmitting production report or royalty report data to ONRR and other affected Federal agencies . . .	250	1	250

SECTION A.12 BURDEN BREAKDOWN—Continued

30 CFR section	Reporting and recordkeeping requirements	Hour burden per response	Number of annual responses	Annual burden hours
	(6) Providing production data or royalty data to ONRR and other affected Federal agencies . . .			
1227.400(c)	(c) You must provide ONRR with a copy of any exceptions from reporting and payment requirements for marginal properties and any alternative royalty and payment requirements for unit agreements and communitization agreements you approve.	12	1	12
1227.601(c)	What are a State's responsibilities if it performs automated verification?.	10	1	10
	To perform automated verification of production reports or royalty reports, you must . . .			
	(c) Maintain all documentation and logging procedures . . .			
	Performance Review			
	Subtotal Burden for 30 CFR Part 1227		386	10,286
	Part 1228—Cooperative Activities With States and Indian Tribes			
	Subpart C—Oil and Gas, Onshore			
1228.100(a) and (b); 101(c); 107(b).	Entering into an agreement	200	1	200
	(a) . . . Indian tribe may request the Department to enter into a cooperative agreement by sending a letter from . . . tribal chairman . . . to the Director of ONRR.			
	(b) The request for an agreement shall be in a format prescribed by ONRR and should include at a minimum the following information:.			
	(1) Type of eligible activities to be undertaken.			
	(2) Proposed term of the agreement.			
	(3) Evidence that . . . Indian tribe meets, or can meet by the time the agreement is in effect . . .			
	(4) If the State is proposing to undertake activities on Indian lands located within the State, a resolution from the appropriate tribal council indicating their agreement to delegate to the State responsibilities under the terms of the cooperative agreement for activities to be conducted on tribal or allotted land.			
1228.101(a)	Terms of agreement	15	6	90
	(a) Agreements entered into under this part shall be valid for a period of 3 years and shall be renewable . . . upon request of . . . Indian tribe . . .			
1228.101(d)	(d) . . . Indian tribe will be given 60 days to respond to the notice of deficiencies and to provide a plan for correction of those deficiencies . . .	80	1	80
1228.103(a) and (b)	Maintenance of records	120	6	720
	(a) . . . Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials . . .			
	(b) . . . Indian tribe shall maintain all books and records . . .			
1228.105(a)(1) and (a)(2).	Funding of cooperative agreements	60	6	360
	(a)(1) The Department may, under the terms of the cooperative agreement, reimburse . . . Indian tribe up to 100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a work plan and funding requirement.			
	(2) A cooperative agreement may be entered into with . . . Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.			
1228.105(c)	(c) . . . Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30 days of the end of each calendar quarter. . . . Indian tribe must provide the Department a summary of costs incurred, for which . . . Indian tribe is seeking reimbursement, with the voucher.	4	24	96

SECTION A.12 BURDEN BREAKDOWN—Continued

30 CFR section	Reporting and recordkeeping requirements	Hour burden per response	Number of annual responses	Annual burden hours
	Subtotal Burden for 30 CFR Part 1228		44	1,546
	Part 1229—Delegation To States			
	Subpart C—Oil and Gas, Onshore			
	Administration of Delegations			
1229.100(a)(1) and (a)(2).	Authorities and responsibilities subject to delegation ..... (a) All or part of the following authorities and responsibilities of the Secretary under the Act may be delegated to a State authority:.	1	1	1
	(1) Conduct of audits related to oil and gas royalty payments made to the ONRR which are attributable to leased . . . Indian lands within the State. Delegations with respect to any Indian lands require the written permission, subject to the review of the ONRR, of the affected Indian tribe or allottee. (2) Conduct of investigation related to oil and gas royalty payments made to the ONRR which are attributable to . . . Indian lands within the State. Delegation with respect to any Indian lands require the written permission, subject to the review of the ONRR, of the affected Indian tribe or allottee. No investigation will be initiated without the specific approval of the ONRR . . .			
1229.101(a) and (d)	Petition for delegation ..... (a) The governor or other authorized official of any State which contains . . . Indian oil and gas leases where the Indian tribe and allottees have given the State an affirmative indication of their desire for the State to undertake certain royalty management-related activities on their lands, may petition the Secretary to assume responsibilities to conduct audits and related investigations of royalty related matters affecting . . . Indian oil and gas leases within the State . . . (d) In the event that the Secretary denies the petition, the Secretary must provide the State with the specific reasons for denial of the petition. The State will then have 60 days to either contest or correct specific deficiencies and to reapply for a delegation of authority.	1	1	1
1229.102(c)	Fact-finding and hearings ..... (c) A State petitioning for a delegation of authority shall be given the opportunity to present testimony at a public hearing.	1	1	1
1229.103(c)	Duration of delegations; termination of delegations ..... (c) A State may terminate a delegation of authority by giving a 120-day written notice of intent to terminate.	1	1	1
1229.105	Evidence of Indian agreement to delegation ..... In the case of a State seeking a delegation of authority for Indian lands . . . the State petition to the Secretary must be supported by an appropriate resolution or resolutions of tribal councils joining the State in petitioning for delegation and evidence of the agreement of individual Indian allottees whose lands would be involved in a delegation. Such evidence shall specifically speak to having the State assume delegated responsibility for specific functions related to royalty management activities.	1	1	1
1229.106	Withdrawal of Indian lands from delegated authority ..... If at any time an Indian tribe or an individual Indian allottee determines that it wishes to withdraw from the State delegation of authority in relation to its lands, it may do so by sending a petition of withdrawal to the State . . .	1	1	1
1229.109(a)	Reimbursement for costs incurred by a State under the delegation of authority. (a) The Department of the Interior (DOI) shall reimburse the State for 100 percent of the direct cost associated with the activities undertaken under the delegation of authority. The State shall maintain books and records in accordance with the standards established by the DOI and will provide the DOI, on a quarterly basis, a summary of costs incurred . . .	1	1	1
1229.109(b)	(b) The State shall submit a voucher for reimbursement of costs incurred within 30 days of the end of each calendar quarter.	1	4	4

SECTION A.12 BURDEN BREAKDOWN—Continued

30 CFR section	Reporting and recordkeeping requirements	Hour burden per response	Number of annual responses	Annual burden hours
	Delegation Requirements			
1229.120	Obtaining regulatory and policy guidance All activities performed by a State under a delegation must be in full accord with all Federal laws, rules and regulations, and Secretarial and agency determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties. In those cases when guidance or interpretations are necessary, the State will direct written requests for such guidance or interpretation to the appropriate ONRR officials . . .	1	1	1
1229.121	Recordkeeping requirements (a) The State shall maintain in a safe and secure manner all records, work papers, reports, and correspondence gained or developed as a consequence of audit or investigative activities conducted under the delegation . . . (b) The State must maintain in a confidential manner all data obtained from DOI sources or from payor or company sources under the delegation . . . (c) All records subject to the requirements of paragraph (a) must be maintained for a 6-year period measured from the end of the calendar year in which the records were created . . . Upon termination of a delegation, the State shall, within 90 days from the date of termination, assemble all records specified in subsection (a), complete all working paper files in accordance with § 229.124, and transfer such records to the ONRR. (d) The State shall maintain complete cost records for the delegation in accordance with generally accepted accounting principles . . .	1	1	1
1229.122	Coordination of audit activities (a) Each State with a delegation of authority shall submit annually to the ONRR an audit work plan specifically identifying leases, resources, companies, and payors scheduled for audit . . . A State may request changes to its work plan . . . at the end of each quarter of each fiscal year. All requested changes are subject to approval by the ONRR and must be submitted in writing. (b) When a State plans to audit leases of a lessee or royalty payor for which there is an ONRR or OIG resident audit team, all audit activities must be coordinated through the ONRR or OIG resident supervisor . . . (c) The State shall consult with the ONRR and/or OIG regarding resolution of any coordination problems encountered during the conduct of delegation activities.	1	1	1
1229.123 (b)(3)(i)	Standards for audit activities (b)(3) *Standards of reporting.* (i) Written audit reports are to be submitted to the appropriate ONRR officials at the end of each field examination.	1	1	1
1229.124	Documentation standards Every audit performed by a State under a delegation of authority must meet certain documentation standards. In particular, detailed work papers must be developed and maintained.	1	1	1
1229.125(a) and (b)	Preparation and issuance of enforcement documents (a) Determinations of additional royalties due resulting from audit activities conducted under a delegation of authority must be formally communicated by the State, to the companies or other payors by an issue letter prior to any enforcement action. (b) After evaluating the company or payor's response to the issue letter, the State shall draft a demand letter which will be submitted with supporting work paper files to the ONRR for appropriate enforcement action. Any substantive revisions to the demand letter will be discussed with the State prior to issuance of the letter . . .	1	1	1
1229.126(a) and (b)	Appeals (a) . . . The State regulatory authority shall, upon the request of the ONRR, provide competent and knowledgeable staff for testimony, as well as any required documentation and analyses, in support of the lessor's position during the appeal process.	1	1	1

SECTION A.12 BURDEN BREAKDOWN—Continued

30 CFR section	Reporting and recordkeeping requirements	Hour burden per response	Number of annual responses	Annual burden hours
	(b) An affected State, upon the request of the ONRR, shall provide expert witnesses from their audit staff for testimony as well as required documentation and analyses to support the Department's position during the litigation of court cases arising from denied appeals . . .			
1229.127	Reports from States	1	1	1
	The State, acting under the authority of the Secretarial delegation, shall submit quarterly reports which will summarize activities carried out by the State during the preceding quarter of the year under the provisions of the delegation . . .			
Subtotal Burden for 30 CFR Part 229			19	19
Total Burden			449	11,851

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.

Public Comment Policy: ONRR will post all comments, including names and addresses of respondents at *http://www.regulations.gov.*

ONRR Information Collection Clearance Officer: Luis Aguilar (303) 231–3418.

Authority

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*).

Gregory J. Gould,

Director for Office of Natural Resources Revenue.

[FR Doc. 2018–12036 Filed 6–4–18; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1116]

Certain Blood Cholesterol Testing Strips and Associated Systems Containing the Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 30, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Polymer Technology Systems, Inc. of Indianapolis, Indiana. On May 11, 2018, PTS filed a letter correcting the expiration dates for two of the three asserted patents. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain blood cholesterol testing strips and associated systems containing the same by reason of infringement of certain claims of U.S. Patent No. 7,087,397 (''the '397 patent''); U.S. Patent No. 7,625,721 (''the '721 patent''); and U.S. Patent No. 7,494,818 (''the '818 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 30, 2018, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain blood cholesterol testing strips and associated systems containing the same by reason of infringement of one or more of claims 1–3, 5, 10, 13–14, and 17–20 of the '397 patent; claims 1–9 and 13–15 of the '721 patent; and claims 8–11 of the '818 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Polymer Technology Systems, Inc., 7736 Zionsville Road, Indianapolis, Indiana 46268.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ACON Laboratories, Inc., 10125 Mesa Rim Road, San Diego, California 92121

ACON Biotech (Hangzhou) Co., Ltd., No. 210 Zhenzhoong Road, West Lake

District, Hangzhou Zhejiang 310030, China

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not be named as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 31, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–12054 Filed 6–4–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1362–1367 (Final)]

Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of cold-drawn mechanical tubing from China, Germany, India, Italy, Korea, and Switzerland, provided for in subheadings 7304.31.30, 7304.31.60, 7304.51.10, 7304.51.50, 7306.30.50, and 7306.50.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'').[2] [3]

Background

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted these investigations effective April 19, 2017, following receipt of a petition filed with the Commission and Commerce by ArcelorMittal Tubular Products, Shelby, Ohio; Michigan Seamless Tube, LLC, South Lyon, Michigan; PTC Alliance Corp., Wexford, Pennsylvania; Webco Industries, Inc., Sand Springs, Oklahoma; and Zekelman Industries, Inc., Farrell, Pennsylvania. Effective September 25, 2017, the Commission established a general schedule for the conduct of the final phase of its investigations on cold-drawn mechanical tubing, following preliminary determinations by Commerce that imports of the subject cold-drawn mechanical tubing were subsidized by the governments of China and India. Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 5, 2017 (82 FR 46522). The hearing was held in Washington, DC, on December 6, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel. Following notification of final determinations by Commerce that imports of cold-drawn mechanical tubing from China, Germany, India, Italy, Korea, and Switzerland were being sold at LTFV within the meaning of section 735(b) of the Act (19 U.S.C. 1673d(a)), notice of the supplemental scheduling of the final phase of the Commission's antidumping duty investigations was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 23, 2018 (83 FR 17674).

The Commission made these determinations pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on May 31, 2018. The views of the Commission are contained in USITC Publication 4790 (May 2018), entitled *Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland: Investigation Nos. 731–TA–1362–1367 (Final).*

By order of the Commission.

Issued: May 31, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–12055 Filed 6–4–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1115]

Certain Blow-Molded Bag-In-Container Devices, Associated Components, and End Products Containing or Using Same: Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 30, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Anheuser-Busch InBev S.A. of Belgium and Anheuser-Busch, LLC of St. Louis, Missouri. Supplements to the Complaint were filed on May 4, 2018 and May 15, 2018. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain blow-molded bag-in-container devices, associated components, and end products containing or using same by reason of infringement of certain claims of U.S. Patent No. 9,162,372 (''the '372 patent''); U.S. Patent No. 9,517,876 (''the '876 patent''); U.S. Patent No. 9,555,572 (''the '572 patent''); and 9,944,453 (''the '453 patent''). The complaint further alleges that an

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Rhonda K. Schmidtlein did not vote in these antidumping duty investigations and Commissioner Jason E. Kearns did not participate in these investigations.

[3] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the antidumping duty orders on cold-drawn mechanical tubing from China, Italy, and Korea.

industry in the United States exists or is in the process of being established as required by the applicable Federal Statute.

The complainant request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 30, 2018, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain blow-molded bag-in-container devices, associated components, and end products containing or using same by reason of infringement of one or more of claim 1 of the '372 patent; claims 1–5 of the '876 patent; claims 7–17 of the '572 patent; and claims 1, 2, and 4–7 of the '453 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Anheuser-Busch InBev S.A., Brouwerijplein 1, 3000 Leuven, Belgium

Anheuser-Busch, LLC, One Busch Place, St. Louis, Missouri 63118

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Heineken International B.V., Tweede Weteringplantsoen 21, Amsterdam 1017 ZD Netherlands

Heineken N.V., Tweede Weteringplantsoen 21, Amsterdam 1017 ZD Netherlands

Heineken USA Inc., 360 Hamilton Avenue Suite 1103, White Plains, NY 10601

Heineken Holding N.V., Tweede Weteringplantsoen 5, Amsterdam 1017 ZD Netherlands

Heineken Beer Systems B.V., Tweede Weteringplantsoen 21, Amsterdam 1017 ZD Netherlands

Heineken Brouwerijen B.V., Tweede Weteringplantsoen 21, Amsterdam 1017 ZD Netherlands

Heineken Export Americas B.V., Tweede Weteringplantsoen 21, Amsterdam 1017 ZD Netherlands

Heineken Global Procurement B.V, Tweede Weteringplantsoen 21, Amsterdam 1017 ZD Netherlands

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: May 31, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–12053 Filed 6–4–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0067]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register**, on April 4, 2018, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 5, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact Dawn Smith, ATF Firearms Industry Programs Branch either by mail at 244 Needy Road, Martinsburg, WV 25405, by email

at *fipb-informationcollection@atf.gov,* or by telephone at 304–267–1994. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): None.

Abstract: Firearm manufacturers' records are permanent records of all firearms manufactured and records of their disposition. These records are vital to support ATF's mission to inquire about the disposition of any firearm in the course of a criminal investigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 9,056 respondents will respond approximately 1,269.59375 times, and it will take each respondent approximately 1.05 minutes to complete each response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 201,205 hours which is equal to 9,056 (# of respondents) * 1,269.59375 (# of responses per person) * .0175 (1.05 minutes).

(7) An Explanation of the Change in Estimates: The increase in total responses by 6,678, total respondents by 1,523,647 and total burden hours by 23,673, are due to a general increase in both the number of firearms manufacturers that respond to this collection and the number of firearms produced each year.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 31, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–12051 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0031]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition & Implements of War on the U.S. Munitions Import List

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register**, on April 2, 2018 allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 5, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact Desiree Dickinson either by mail at Firearms and Explosives Imports Branch, 244 Needy Road Martinsburg, WV 25405, by email at *desiree.dickinson@atf.gov,* or by telephone at (304) 616–4584.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *The Title of the Form/Collection:* Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition & Implements of War on the U.S. Munitions Import List.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: This information collection involves records of imported items that are on the United States Munitions Import List. The importers must register with ATF, file an intent to import specific items, as well as certify to the Bureau, that the list of imported items were received. The records are maintained at the registrant's business premises, where they are available for inspection by ATF officers during compliance inspections or criminal investigations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50 respondents will utilize this information collection, and it will take each respondent approximately 5 hours to provide a response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 250 hours, which is equal to 50 (total # of responses) * 5 (# of hours to provide each response).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 31, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–12050 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0024]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Report of Firearms Transactions—Demand 2 (ATF Form 5300.5)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register**, on April 5, 2018, allowing for a 60-day comment period. The proposed information collection OMB 1140–0024 (Report of Firearms Transactions—Demand 2—ATF Form 5300.5) is also being revised due to a reduction in burden, since there is a decrease in the number of respondents, responses, and total burden hours from the previous renewal in 2015. The proposed information collection is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 5, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact Ed Stely, Branch Chief, Tracing Operations and Records Management Branch, National Tracing Center Division either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *Edward.Stely@atf.gov,* or by telephone at 304–260–1515. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Report of Firearms Transactions—Demand 2

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: 5300.5.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: The ATF Form 5300.5 is used when the Bureau of Alcohol, Tobacco, Firearms and Explosives Official has determined that the Federal Firearms Licensee (FFL) has met the Demand 2 reporting requirements. The Demand 2 Program requires FFLs with 25 or more traces, with a time to crime of 3 years or less in a calendar year, to submit an annual report followed by quarterly reports of used firearms acquired by the FFL.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 395 respondents will utilize the form, and it will take each respondent approximately 30 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 790 hours which is equal to 395 (# of respondents) * 4 (# of responses per respondent) * .5 (30 minutes).

(7) *An Explanation of the Change in Estimates:* The changes in burden are due to decrease in the number of respondents and responses by 927 and 3,708 respectively. There was also a reduction in the burden hours for this IC by 1,854, from the previous renewal of this IC in 2015.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and

Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 31, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–12049 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Mobile Alliance

Notice is hereby given that, on May 2, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Mobile Alliance (''OMA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Centero, LLC, Marietta, GA; ControlBEAM Digital Automation, Ontario, CA; Eaton, Cleveland, OH; GreenWave Systems Inc., Irvine, CA; KDDI Corporation, Chiyoda-ku, Tokyo, JAPAN; Lulea University of Technology, Lulea, SWEDEN; Runtime, Redwood City, CA; Silicon Labs Inc., Montreal, Quebec, CANADA; TeleCommunication Systems, Inc., Annapolis, MD; Telecommunications Technology Association, Seongnam-si, Gyeonggi-do, PEOPLE'S REPUBLIC of CHINA; and u-blox AG, Thalwil, SWITZERLAND have been added as parties to this venture.

Also, CallUp Net Ltd., Rosh Haayin, ISRAEL; Kodiak Networks, San Ramon, CA; Microsoft, Redmond, WA; Mind Reader (MR Lab), Hangzhou City, PEOPLE'S REPUBLIC of CHINA; NEC Corporation, Kawasaki, Kanagawa, JAPAN; Pratt and Miller Engineering, New Hudson, MI; and Schneider-Electric, Eybens, FRANCE have withdrawn as parties to this venture.

Further, the following members have changed their names: Mavenir to Mavenir Systems, Inc., Ra'anana, ISRAEL; and Vodafone to Vodafone Group Services Gmbh, Newbury, Berkshire, UNITED KINGDOM.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OMA intends to file additional written notifications disclosing all changes in membership.

On March 18, 1998, OMA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was filed with the Department on September 7, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 10, 2017 (82 FR 47026).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–12067 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research, and Production Act of 1993—Cooperative Research Group on Hedge IV

Notice is hereby given that, on April 30, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on HEDGE IV (''HEDGE IV'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Chery Automobile Co., Ltd., Wuhu Anhui, PEOPLE'S REPUBLIC OF CHINA; Convergent Science, Inc., Madison, WI; Denso International America, Inc., Southfield, MI; Hyundai Motor Company, Seoul, REPUBLIC OF KOREA; Isuzu Technical Center of America, Inc., Plymouth, MI; The Lubrizol Corporation, Wickliffe, OH; Robert Bosch LLC, Farmington Hill, MI; Sejong Industrial Co., Ltd., Gyeonggi-do; REPUBLIC OF KOREA and Guangzhou Automobile Group Co., Ltd., Guangzhou, PEOPLE'S REPUBLIC OF CHINA; have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HEDGE IV intends to file additional written notifications disclosing all changes in membership.

On February 14, 2017, HEDGE IV filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2017 (82 FR 15238).

The last notification was filed with the Department on July 25, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 28, 2017 (82 FR 40805).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–12065 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium Americas

Notice is hereby given that, on April 25, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Systems Engineering Consultants Co., Ltd., Tokyo, JAPAN; Toyota Industrial Equipment Mfg, Inc., Columbus, IN; and Deere & Company, Moline, IL, have been added as parties to this venture.

Also, KATERRA, Menlo Park, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section

6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on January 5, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 2018 (83 FR 6050).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–12063 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0026]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-Day Notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until July 5, 2018.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for the Court Training and Improvements Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0026. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 2 remaining grantees of the previously authorized Court Training and Improvements Program. The grant program creates a unique opportunity for Federal, State, Territorial, and Tribal courts or court-based programs to significantly improve court responses to sexual assault, domestic violence, dating violence, and stalking cases utilizing proven specialized court processes to ensure victim safety and offender accountability. The program challenges courts and court-based programs to work with their communities to develop specialized practices and educational resources that will result in significantly improved responses to sexual assault, domestic violence, dating violence and stalking cases, ensure offender accountability, and promote informed judicial decision making.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 2 remaining respondents (grantees from the previously authorized Court Training and Improvements Program) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Court Training and Improvements Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 4 hours, that is 2 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: May 31, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–12003 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0027]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until July 5, 2018.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the

Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Engaging Men and Youth Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0027. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 8 grantees of the Consolidated Grant Program to Address Children and Youth Experiencing Domestic and Sexual Assault and Engage Men and Boys as Allies (Consolidated Youth Program) who are implementing engaging men and youth projects. The Consolidated Youth Program creates a unique opportunity for communities to increase collaboration among non-profit victim service providers, violence prevention programs, and child and youth organizations serving victims ages 0–24. Additionally, it supports organizations and programs that promote boys' and men's role in combating violence against women and girls. Eligible applicants are nonprofit, nongovernmental entities, Indian tribes or tribal nonprofit organizations, and territorial, tribal or unit of local government entities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 8 respondents (grantees from the Consolidated Youth Program who are implementing engaging men and youth projects) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of grantee activities.

(6) Program grantees will only be required to complete the sections of the form that pertain to their own specific activities.

(7) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 16 hours, that is 8 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: May 31, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–12004 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0006]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on March 30, 2018, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until July 5, 2018.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Semiannual Progress Report for the Improving Criminal Justice Responses to Sexual Assault, Domestic Violence, Dating Violence, and Stalking Grant Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0006. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes 200 grantees from the Improving Criminal Justice Responses to Sexual Assault, Domestic Violence, Dating Violence, and Stalking Grant Program (ICJR Program) (also known as Grants to Encourage Arrest Policies and Enforcement of Protection Orders) which encourages state, local, and tribal governments and state, local, and tribal courts to treat domestic violence, dating violence, sexual assault, and stalking as serious violations of criminal law requiring the coordinated involvement of the entire criminal justice system. Eligible applicants are states and territories, units of local government, Indian tribal governments, coalitions, victim service providers and state, local, tribal, and territorial courts.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 200 respondents (ICJR Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. An ICJR Program grantee will only be required to complete the sections of the form that pertain to its own specific activities (victim services, law enforcement, training, etc.).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 400 hours, that is 200 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: May 31, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–12002 Filed 6–4–18; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Youth CareerConnect Evaluation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of the Assistant Secretary for Policy (OASP) sponsored information collection request (ICR) proposal titled, ''Youth CareerConnect Evaluation,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 5, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201801-1290-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ASP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Youth CareerConnect Evaluation information collection. More specifically, the DOL seeks clearance for a follow-up survey of study participants in the Youth CareerConnect program.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on October 3, 2017 (82 FR 46090).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201801–1290–002. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OASP.

Title of Collection: Youth CareerConnect Evaluation.

OMB ICR Reference Number: 201801–1290–002.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 144.

Total Estimated Number of Responses: 144.

Total Estimated Annual Time Burden: 72 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: May 30, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–12010 Filed 6–4–18; 8:45 am]

BILLING CODE 4510–HX–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting Notice

DATE AND TIME: The Legal Services Corporation's Finance Committee will meet telephonically on June 11, 2018. The meeting will commence at 2:00 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW, Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- *Call toll-free number:* 1–866–451–4981;
- *When prompted, enter the following numeric pass code:* 5907707348.
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of April 9, 2018
3. Public comment regarding LSC's fiscal year 2020 budget request
   - Presentation by a representative of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
   - Presentation by a representative of National Legal Aid and Defender Association (NLADA)
   - Other Interested Parties
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov*.

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: June 1, 2018.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2018–12119 Filed 6–1–18; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (18–047)]

National Space Council Users' Advisory Group; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the National Space Council Users' Advisory Group (UAG).

DATES: Tuesday, June 19, 2018, 9:00 a.m.–2:00 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Executive Conference Center, Room 8Q40B, 300 E Street SW, Washington, DC 20546. Please note that if the prior room is filled to maximum capacity, an overflow room will be provided in the James E. Webb Memorial Auditorium.

FOR FURTHER INFORMATION CONTACT: Mr. Brandon Eden, UAG Designated Federal Officer, NASA Headquarters, Washington, DC 20546, (202) 358–2470 or *brandon.t.eden@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capacity of the meeting room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the Toll Number 1–517–308–9154 or Toll Free Number 888–469–2059 and then the numeric passcode 7145407, followed by the # sign. **Note:** If dialing in, please ''mute'' your phone. To join via WebEx, the link is *https://nasa.webex.com/.* The meeting number on June 19 is 995 394 422 and the meeting password is JMgpT9A? (case sensitive).

As noted above, this will be the first meeting of the UAG. Topics to be discussed will include:

—Opening Remarks by National Space Council Executive Secretary and National Space Council UAG Chair

—Discussion of Topics for the UAG by the National Space Council

—Formation of Work Plan and UAG Subcommittees

—Other Committee Business and Public Input

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to NASA Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 3 working days prior to the meeting. Information should be sent to Mr. Brandon Eden via email at *brandon.t.eden@nasa.gov.* It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2018–11993 Filed 6–4–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2018–039]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when agencies no longer need them for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records they no longer need to conduct agency business. NARA invites public comments on such records schedules.

DATES: NARA must receive requests for copies in writing by July 5, 2018. Once NARA finishes appraising the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA); 8601 Adelphi Road; College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA); National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: NARA publishes notice in the **Federal Register** for records schedules they no longer need to conduct agency business. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing records retention periods and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the agency to dispose of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it creates or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is expressly limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without Archivist of the United States' approval. The Archivist approves destruction only after thoroughly considering the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records (or notes that the schedule has agency-wide applicability when schedules cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of Agriculture, Farm Service Agency (DAA–0145–2017–0027, 10 items, 10 temporary items). Routine administrative records documenting the agency's leasing activities. Included are requests for leasing space, solicitation records, negotiation documents, successful and unsuccessful offers, approval documentation, and award notification files.

2. Department of Agriculture, Foreign Agricultural Service (DAA–0166–2018–0008, 1 item, 1 temporary item). Compliance review records. Includes case files of internal reviews of agency programs, operations, and procedures, as well as external reviews of Foreign Market Development Program Coordinators.

3. Department of Agriculture, Foreign Agricultural Service (DAA–0166–2018–0017, 2 items, 2 temporary items). Agricultural import records documenting sugar and dairy import assistance to developing countries. Information includes applications, agreements, and related background information for participants in the two programs.

4. Department of the Army, Agency-wide (DAA–AU–2018–0021, 22 items, 20 temporary items). Records relating to administration and management of installations including laundry and dry cleaning operations, commercial solicitations, vending facilities, and related documents. Proposed for permanent retention are construction and planning records for historic structures.

5. Board of Governors of the Federal Reserve System, Division of Supervision and Regulation (DAA–0082–2018–0001, 1 item, 1 temporary item). Master files of an electronic information system containing reports by financial institutions for incidents involving unauthorized access or use of sensitive customer information.

6. Securities and Exchange Commission, Division of Trading and Markets (DAA–0266–2018–0007, 2 items, 2 temporary items). Records relating to applications for, and amendments to, registrations for

entities, persons, products, and offerings.

7. United States Postal Service, Office of the Regional Director, Atlanta, Georgia (DAA–0028–2018–0001, 6 items, 6 temporary items). Dedication files and site selection files of individual post offices in Florida, Georgia, North Carolina, South Carolina, and Puerto Rico. Includes personnel records and routine organization data.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2018–11987 Filed 6–4–18; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0105]

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 May 8, 2018, to May 21, 2018. The last biweekly notice was published on May 22, 2018.

DATES: Comments must be filed by July 5, 2018. A request for a hearing must be filed by August 6, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking* website: Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0105. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Janet Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0105, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0105.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0105, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment

prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice August 6, 2018. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory

documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (MNS), Mecklenburg County, North Carolina

Date of amendment request: December 8, 2017. A publicly-available version is in ADAMS under Accession No. ML17352A404.

Description of amendment request: The amendments would modify the MNS, Unit Nos. 1 and 2 Updated Final Safety Analysis Report (UFSAR) to describe the methodology and results of the analyses performed to evaluate the protection of the plant's structures, systems, and components from tornado-generated missiles.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the MNS UFSAR constitutes a license amendment to incorporate use of a Nuclear Regulatory Commission (NRC) approved probabilistic methodology to assess the need for additional positive (physical) tornado missile protection of specific features at the MNS site. The UFSAR changes will reflect use of the Electric Power Research Institute (EPRI) Topical Report ''Tornado Missile Risk

Evaluation Methodology'' (EPRI NP–2005), Volumes I and II. As noted in the NRC Safety Evaluation Report on this topic dated October 26, 1983, the current licensing criteria governing tornado missile protection are contained in NUREG–0800, Sections 3.5.1.4 and 3.5.2. These criteria generally specify that safety-related systems, structures and components be provided positive tornado missile protection (barriers) from the maximum credible tornado threat. However, NUREG–0800 includes acceptance criteria permitting relaxation of the above deterministic guidance, if it can be demonstrated that the probability of damage to unprotected essential safety-related features is sufficiently small.

As permitted in NUREG–0800 sections, the combined probability will be maintained below an allowable level, *i.e.,* an acceptance criterion threshold, which reflects an extremely low probability of occurrence. The approach assumes that if the sum of the individual probabilities calculated for tornado missiles striking and damaging portions of important systems, structures or components is greater than or equal to 1×10^{-6} per year per unit, then installation of unique missile barriers would be needed to lower the total cumulative probability below the acceptance criterion of 1×10^{-6} per year per unit.

With respect to the probability of occurrence or the consequences of an accident previously evaluated in the UFSAR, the possibility of a tornado reaching the site and causing damage to plant structures, systems and components is considered in the MNS UFSAR.

The change being proposed does not affect the probability that the natural phenomenon (a tornado) will reach the plant, but from a licensing basis perspective, the change does affect the probability that missiles generated by the winds of the tornado might strike and damage certain plant structures, systems and components. There are a limited number of safety-related components that could theoretically be struck and damaged by tornadogenerated missiles. The probability of tornado-generated missile strikes on important to safety structures, systems and components is what was analyzed using the probabilistic methods discussed above. The combined probability of damage will be maintained below an extremely low acceptance criterion to ensure overall plant safety. The proposed change is not considered to constitute a significant increase in the probability of occurrence or the consequences of an accident, due to the extremely low probability of damage due to tornado-generated missiles and thus an extremely low probability of a radiological release.

The results of the analysis documented in this [license amendment request (LAR)] are below the acceptance criterion of 1×10^{-6} per year per unit. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to the MNS UFSAR incorporate use of a NRC approved probabilistic methodology to assess the need for additional positive (physical) tornado missile protection for specific features. This will not change the design function or operation of any structure, system or component. This proposed change does not involve any plant modifications. There are no new credible failure mechanisms, malfunctions or accident initiators not considered in the design and licensing bases for MNS. The proposed change involves an already established tornado design basis event and the tornado event is explicitly considered in the MNS UFSAR.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The existing licensing basis for MNS for protecting safety-related, safe shutdown equipment from tornado generated missiles is to provide positive missile barriers for all safety-related structures, systems and components. The proposed change recognizes that there is an extremely low probability, below an established acceptance limit, that a limited subset of the safety-related, safe shutdown structures, systems and components could be struck and consequently damaged. The change from requiring protection of all safety-related, safety shutdown structures, systems and components from tornadogenerated missiles, to only a subset of equipment, is not considered to constitute a significant decrease in the margin of safety due to that extremely low probability of occurrence of tornado-generated missile strikes and consequential damage.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Progress, LLC, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: April 5, 2018. A publicly-available version is in ADAMS under Accession No. ML18099A130.

Description of amendment request: The proposed amendment would revise the licensing basis, by the addition of a license condition, to allow for the implementation of the provisions of 10 CFR 50.69, ''Risk-informed categorization and treatment of structures, systems, and components [SSCs] for nuclear power reactors.''

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 will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The process used to evaluate SSCs for changes to NRC special treatment requirements and the use of alternative requirements ensures the ability of the SSCs to perform their design function. The potential change to special treatment requirements does not change the design and operation of the SSCs. As a result, the proposed change does not significantly affect any initiators to accidents previously evaluated or the ability to mitigate any accidents previously evaluated. The consequences of the accidents previously evaluated are not affected because the mitigation functions performed by the SSCs assumed in the safety analysis are not being modified. The SSCs required to safely shut down the reactor and maintain it in a safe shutdown condition following an accident will continue to perform their design functions.

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 will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not change the functional requirements, configuration, or method of operation of any SSC. Under the proposed change, no additional plant equipment will be installed.

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 will permit the use of a risk-informed categorization process to

modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not affect any Safety Limits or operating parameters used to establish the safety margin. The safety margins included in analyses of accidents are not affected by the proposed change. The regulation requires that there be no significant effect on plant risk due to any change to the special treatment requirements for SSCs and that the SSCs continue to be capable of performing their design basis functions, as well as to perform any beyond design basis functions consistent with the categorization process and results.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, DEC45A, Charlotte NC 28202.

NRC Acting Branch Chief: Brian W. Tindell.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: March 12, 2018, as supplemented by letter dated April 26, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML18071A319 and ML18117A493, respectively.

Description of amendment request: The amendment would revise the Arkansas Nuclear One, Unit No. 1 Technical Specifications (TSs) by relocating specific surveillance frequencies to a licensee-controlled program with the adoption of Technical Specification Task Force (TSTF)-425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk-informed TSTF] Initiative 5b.'' Additionally, the change would add a new program, the Surveillance Frequency Control Program, to TS Section 5.5, ''Programs and Manuals.''

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 any accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements (SRs) to licensee control under a new Surveillance Frequency Control Program [SFCP]. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the technical specifications (TSs) for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the SRs, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated 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 previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed change. The changes do 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 changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, Entergy will perform a probabilistic risk evaluation using the guidance contained in NRC approved NEI [Nuclear Energy Institute] 04–10, Rev. 1 in accordance with the TS SFCP. NEI 04–10, Rev. 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, L–ENT–WDC, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: February 6, 2018, as supplemented by letter dated March 26, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML18038B354, and ML18085A816, respectively.

Description of amendment request: The amendment would revise the Arkansas Nuclear One, Unit No. 2 Technical Specifications (TSs) by relocating specific surveillance frequencies to a licensee-controlled program with the adoption of Technical Specifications Task Force (TSTF)-425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk-Informed TSTF] Initiative 5b.'' The amendment would also add a new program, the Surveillance Frequency Control Program, to TS Section 6.0, ''Administrative Controls.''

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 any accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic Surveillance Requirements (SRs) to licensee control under a new Surveillance Frequency Control Program (SFCP). Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the TSs for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the SRs, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated 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 previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed change. The changes do 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 changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, Entergy will perform a probabilistic risk evaluation using the guidance contained in NRC approved NEI [Nuclear Energy Institute] 04–10, Rev. 1, in accordance with the TS SFCP. NEI 04–10, Rev. 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, L–ENT–WDC, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc.; System Energy Resources, Inc.; Cooperative Energy, A Mississippi Electric Cooperative; and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit No. 1, Claiborne County, Mississippi

Date of amendment request: April 10, 2018. A publicly-available version is in ADAMS under Accession No. ML18100B304.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–542, Revision 2, ''Reactor Pressure Vessel Water Inventory Control.'' The proposed change would replace existing TS requirements related to ''operations with a potential for draining the reactor vessel'' (OPDRVs) with new requirements on reactor pressure vessel (RPV) water inventory control (WIC) to protect Safety Limit 2.1.1.3. Safety Limit 2.1.1.3 requires reactor vessel water level to be greater than the top of active irradiated fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change replaces existing TS requirements related to OPDRVs with new requirements on RPV WIC that will protect Safety Limit 2.1.1.3. Draining of RPV water inventory in Mode 4 (*i.e.,* cold shutdown) and Mode 5 (*i.e.,* refueling) is not an accident previously evaluated and, therefore, replacing the existing TS controls to prevent or mitigate such an event with a new set of controls has no effect on any accident previously evaluated. RPV water inventory control in Mode 4 or Mode 5 is not an initiator of any accident previously evaluated. The existing OPDRV controls or the proposed RPV WIC controls are not mitigating actions assumed in any accident previously evaluated.

The proposed change reduces the probability of an unexpected draining event (which is not a previously evaluated accident) by imposing new requirements on the limiting time in which an unexpected draining event could result in the reactor vessel water level dropping to the top of the active fuel (TAF). These controls require cognizance of the plant configuration and control of configurations with unacceptably short drain times. These requirements reduce the probability of an unexpected draining event. The current TS requirements are only mitigating actions and impose no requirements that reduce the probability of an unexpected draining event.

The proposed change reduces the consequences of an unexpected draining event (which is not a previously evaluated accident) by requiring an Emergency Core Cooling System (ECCS) subsystem to be operable at all times in Modes 4 and 5. The current TS requirements do not require any water injection systems, ECCS or otherwise, to be Operable in certain conditions in Mode 5. The change in requirement from two ECCS subsystems to one ECCS subsystem in Modes 4 and 5 does not significantly affect the consequences of an unexpected draining event because the proposed Actions ensure equipment is available within the limiting drain time that is as capable of mitigating the event as the current requirements. The proposed controls provide escalating compensatory measures to be established as calculated drain times decrease, such as verification of a second method of water injection and additional confirmations that containment and/or filtration would be available if needed.

The proposed change reduces or eliminates some requirements that were determined to be unnecessary to manage the consequences of an unexpected draining event, such as automatic initiation of an ECCS subsystem and control room ventilation. These changes do not affect the consequences of any accident previously evaluated since a draining event in Modes 4 and 5 is not a previously evaluated accident and the requirements are not needed to adequately respond to a draining event.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change replaces existing TS requirements related to OPDRVs with new requirements on RPV WIC that will protect Safety Limit 2.1.1.3. The proposed change will not alter the design function of the equipment involved. Under the proposed change, some systems that are currently required to be operable during OPDRVs would be required to be available within the limiting drain time or to be in service depending on the limiting drain time. Should those systems be unable to be placed into service, the consequences are no different than if those systems were unable to perform their function under the current TS requirements.

The event of concern under the current requirements and the proposed change is an unexpected draining event. The proposed change does not create new failure mechanisms, malfunctions, or accident initiators that would cause a draining event or a new or different kind of accident not previously evaluated or included in the design and licensing bases.

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 amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change replaces existing TS requirements related to OPDRVs with new requirements on RPV WIC. The current requirements do not have a stated safety basis and no margin of safety is established in the licensing basis. The safety basis for the new requirements is to protect Safety Limit 2.1.1.3. New requirements are added to

determine the limiting time in which the RPV water inventory could drain to the top of the fuel in the reactor vessel should an unexpected draining event occur. Plant configurations that could result in lowering the RPV water level to the TAF within one hour are now prohibited. New escalating compensatory measures based on the limiting drain time replace the current controls. The proposed TS establish a safety margin by providing defense-in-depth to ensure that the Safety Limit is protected and to protect the public health and safety. While some less restrictive requirements are proposed for plant configurations with long calculated drain times, the overall effect of the change is to improve plant safety and to add safety margin.

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: Anna Vinson Jones, Senior Counsel/Legal Department, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc.; System Energy Resources, Inc.; Cooperative Energy, A Mississippi Electric Cooperative; and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit No. 1 (GGNS), Claiborne County, Mississippi

Date of amendment request: April 27, 2018. A publicly-available version is in ADAMS under Accession No. ML18117A514.

Description of amendment request: The proposed amendment would revise the Emergency Plan to adopt the Nuclear Energy Institute's (NEI's) revised Emergency Action Level (EAL) scheme described in NEI 99–01, Revision 6, ''Development of Emergency Action Levels for Non-Passive Reactors'' (ADAMS Accession No. ML110240324), which has been endorsed by the NRC (ADAMS Accession No. ML12346A463).

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 proposed changes to the GGNS EALs do not involve any physical changes to plant equipment or systems and do not alter the assumptions of any accident analyses. The proposed changes do not adversely affect accident initiators or precursors and do not alter design assumptions, plant configuration, or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems or components (SSCs) to perform intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

Therefore, the changes do not involve a significant increase in the probability or consequences of an 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.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. The changes do not challenge the integrity or performance of any safety-related systems. No plant equipment is installed or removed, and the changes do not alter the design, physical configuration, or method of operation of any plant SSC. Because EALs are not accident initiators and no physical changes are made to the plant, no new causal mechanisms are introduced.

Therefore, the changes do not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with the ability of the fission product barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes do not impact operation of the plant and no accident analyses are affected by the proposed changes. The changes do not affect the Technical Specifications or the method of operating the plant. Additionally, the proposed changes will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by these changes. The proposed changes will not result in plant operation in a configuration outside the design basis. The proposed changes do not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

Therefore, the changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anna Vinson Jones, Senior Counsel/Legal Department, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois, and Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of amendment request: April 2, 2018. A publicly-available version is in ADAMS under Accession No. ML18092B081.

Description of amendment request: The proposed amendments would revise Technical Specification 3.2.3 to require that the axial flux difference be maintained within the limits specified in the core operating limits report during MODE 1 with reactor thermal power greater or equal to 50 percent. An associated change would also be made to the NOTE modifying surveillance 3.2.3.1.

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 amendment requires that the AFD [axial flux difference] be maintained within the limits specified in the COLR [core operating limits report] at-all-times during MODE 1 when reactor power is ≥50% RTP [reactor thermal power]. This requirement will ensure that all FRD [fuel rod design] performance criteria remain satisfied during ANS [American Nuclear Society] Condition II events (*i.e.,* Faults of Moderate Frequency); thus, ensuring the integrity of the fuel rod cladding. It is noted that maintaining AFD within the COLR limits at-all-times when ≥50% RTP is the normal operating practice as specified in plant procedures.

The proposed change will have no impact on accident initiators or precursors; does not alter accident analysis assumptions; does not involve any physical plant modifications that would alter the design or configuration of the facility, or the manner in which the plant is maintained; and does not impact the probability of operator error.

The proposed amendment will not impact the ability of structures, systems, and components (SSCs) from performing their intended functions to mitigate the consequences of an accident. All accident analysis acceptance criteria will continue to be met as the proposed change will not affect

the source term, containment isolation function, or radiological release assumptions for any accident previously evaluated.

Based on the above discussion, the proposed amendment 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 formalizes the existing operating practice of maintaining the AFD within the limits specified in the COLR at-all-times during MODE 1 when reactor power is ≥ 50% RTP. This change ensures that all FRD performance criteria remain satisfied during ANS Condition II events. The ANS Condition II events have all been previously evaluated in the Updated Final Safety Analysis Report.

The proposed change does not involve a design change or other changes that would impact safety-related SSCs from performing their specified safety functions.

The proposed change does not result in the creation of any new accident precursors; does not result in changes to any existing accident scenarios; and does not introduce any operational changes or mechanisms that would create the possibility of a new or different kind of accident.

Therefore, the proposed amendment 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 change to maintain the AFD within the limits specified in the COLR at-all-times during MODE 1 when reactor power is ≥ 50% RTP ensures that all FRD performance criteria remain satisfied during ANS Condition II events; and thus, will maintain the existing margin of safety related to FRD performance criteria and ensure the integrity of the fuel rod cladding. The AFD limits specified in the COLR have been established in accordance with the analysis approach described in NRC-approved Westinghouse Topical Reports.

In addition, this change will have no impact on the margin of safety associated with other reactor core safety parameters such as fuel hot channel factors, core power tilt ratios, loss of coolant accident peak cladding temperature and peak local power density.

Therefore, the proposed 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 requested amendments involve no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

FirstEnergy Nuclear Operating Company, Docket No. 50–412, Beaver Valley Power Station, Unit No. 2, Beaver County, Pennsylvania

Date of amendment request: March 28, 2018. A publicly-available version is in ADAMS under Accession No. ML18087A293.

Description of amendment request: The amendment would revise Technical Specification (TS) 5.5.5.2.d, ''Provisions for SG [Steam Generator] Tube Inspection,'' and TS 5.5.5.2.f, ''Provisions for SG Tube Repair Methods.'' More specifically, TSs 5.5.5.2.d.5 and 5.5.5.2.f.3 would be simplified and clarified, respectively, without changing the intent of the specifications. Specification 5.5.5.2.f.3 would also be amended by changing the number of fuel cycles that Westinghouse Electric Company, LLC leak-limiting Alloy 800 sleeves may remain in operation.

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.

Proposed amendment of Technical Specification 5.5.5.2.d.5 to simplify the description of the required inspection region, and Technical Specification 5.5.5.2.f.3 to clarify that this specification is only applicable to sleeves installed in the steam generator tubesheet and change the number of fuel cycles that an Alloy 800 steam generator tubesheet sleeve may remain in service from five to eight fuel cycles of operation, does not affect structures, systems or components of the plant, plant operations, design functions or analyses that verify the capability of structures, systems or components to perform a design function. The proposed amendment does not increase the likelihood of steam generator tube sleeve leakage.

The proposed amendment of Technical Specification 5.5.5.2.d.5 to simplify the description of the required inspection region, makes it clear that the steam generator parent tube is to be inspected in the areas where the joints will be established prior to installation of the sleeve, regardless of the sleeve location. This proposed amendment does not change the intent of the specification.

The proposed amendment of TS 5.5.5.2.f.3 includes two changes. The first change would add the words ''installed in the hot-leg or cold-leg tubesheet region'' after the words ''An Alloy 800 sleeve'' to make it clear that the specification only applies to Alloy 800 tube sleeves installed in the steam generator tubesheet. The design of Alloy 800 sleeves installed in steam generator tube locations other than the tubesheet does not include a nickel band. For these sleeves, nondestructive examination methods have been demonstrated to be effective and limits on sleeve operating life are not necessary. This proposed amendment does not change the intent of the specification.

The second change to TS 5.5.5.2.f.3, increases the number of fuel cycles Alloy 800 tube sleeves installed in the tubesheet may remain in service. The leak-limiting Alloy 800 sleeves are designed using the applicable American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code and, therefore, meet the design objectives of the original steam generator tubing. The applied stresses and fatigue usage for the sleeves are bounded by the limits established in the ASME Code. Mechanical testing has shown that the structural strength of sleeves under normal, upset, emergency, and faulted conditions provides margin to the acceptance limits. These acceptance limits bound the most limiting (three times normal operating pressure differential) burst margin of NRC Regulatory Guide 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes.''

The leak-limiting Alloy 800 sleeve depth-based structural limit is determined using NRC guidance and the pressure stress equation of ASME Code, Section III with margin added to account for the configuration of long axial cracks. Calculations show that a depth-based limit of 45 percent through-wall degradation is acceptable. However, Technical Specifications 5.5.5.2.c.2 and 5.5.5.2.c.3 provide additional margin by requiring an Alloy 800 sleeved tube to be plugged on detection of any flaw in the sleeve or in the pressure boundary portion of the original tube wall in the sleeve to tube joint. Degradation of the original tube adjacent to the nickel band of an Alloy 800 sleeve installed in the tubesheet, regardless of depth, would not prevent the sleeve from satisfying design requirements. Thus, flaw detection capabilities within the original tube adjacent to the sleeve nickel band are a defense-in-depth measure, and are not necessary in order to justify continued operation of the sleeved tube.

Evaluation of repaired steam generator tube testing and analysis indicates that there are no detrimental effects on the leak-limiting Alloy 800 sleeve or sleeved tube assembly from reactor coolant system flow, primary or secondary coolant chemistries, thermal conditions or transients, or pressure conditions that may be experienced at Beaver Valley Power Station, Unit No. 2. Westinghouse is not aware of, and has no knowledge of any reports of parent-tube stress corrosion cracking (SCC) in the sleeve roll joint region for any Westinghouse sleeve design.

The proposed increase in the number of fuel cycles Alloy 800 tube sleeves installed in the tubesheet may remain in service has no effect on sleeve operation or capability of the sleeve to perform its design function. The mechanical and leakage tests have confirmed

that degradation of the parent tube adjacent to the nickel band will not prevent the sleeve from satisfying its design function.

Consequences of a hypothetical failure of the leak-limiting Alloy 800 sleeve and tube assembly are bounded by the current main steam line break and steam generator tube rupture accident analyses described in the Beaver Valley Power Station, Unit No. 2 Updated Final Safety Analysis Report. The total number of plugged steam generator tubes (including equivalency associated with installed sleeves) is required to be consistent with accident analysis assumptions. The sleeve and tube assembly leakage during plant operation is required to be within the allowable Technical Specification leakage limits and accident analysis assumptions.

Therefore, the proposed amendment 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.

Proposed amendment of Technical Specification 5.5.5.2.d.5 to simplify the description of the required inspection region, and Technical Specification 5.5.5.2.f.3 to clarify that this specification is only applicable to sleeves installed in the steam generator tubesheet do not change the intent of these specifications, and do not affect the design function or operation of the tube sleeves. The proposed amendment of Technical Specification 5.5.5.2.f.3 to change the number of fuel cycles that an Alloy 800 steam generator tubesheet sleeve may remain in service from five to eight fuel cycles of operation, does not affect the design function or operation of the tube sleeves. Since these changes do not create any credible new failure mechanisms, malfunctions, or accident initiators not considered in the design or licensing bases, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The leak-limiting Alloy 800 sleeves are designed using the applicable ASME Code, and therefore meet the objectives of the original steam generator tubing. As a result, the functions of the steam generator will not be significantly affected by the installation of the proposed sleeve. Therefore, the only credible failure modes for the sleeve and tube are to leak or rupture, which has already been evaluated. The continued integrity of the installed sleeve and tube assembly is periodically verified as required by the Technical Specifications, and a sleeved tube will be plugged on detection of a flaw in the sleeve or in the pressure boundary portion of the original tube wall in the sleeve to tube joint.

The proposed amendment to Technical Specification 5.5.5.2.f.3 increases the number of fuel cycles Alloy 800 tube sleeves installed in the tubesheet may remain in service to eight fuel cycles of operation. Implementation of this proposed amendment has no significant effect on either the configuration of the plant, the manner in which it is operated, or ability of the sleeve to perform its design function.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Proposed amendment of Technical Specification 5.5.5.2.d.5 to simplify the description of the required inspection region, and Technical Specification 5.5.5.2.f.3 to clarify that this specification is only applicable to sleeves installed in the steam generator tubesheet, do not change the intent of these requirements or reduce the margin of safety. The proposed amendment to Technical Specification 5.5.5.2.f.3 to change the number of fuel cycles that an Alloy 800 steam generator tubesheet sleeve may remain in service from five to eight fuel cycles of operation, does not affect a design basis or safety limit (that is, the controlling numerical value for a parameter established in the Updated Final Safety Analysis Report or the license) or reduce the margin of safety.

The proposed amendment to Technical Specification 5.5.5.2.f.3 increases the number of fuel cycles Alloy 800 tube sleeves installed in the tubesheet may remain in service to eight fuel cycles of operation. Implementation of this proposed amendment would not affect a design basis or safety limit or reduce the margin of safety. The repair of degraded steam generator tubes with leak-limiting Alloy 800 sleeves restores the structural integrity of the degraded tube under normal operating and postulated accident conditions. Minimum reactor coolant system flow rate from the cumulative effect of repaired (sleeved) and plugged tubes will be greater than the flow rate limit established in the Technical Specification limiting condition for operation 3.4.1. The design safety factors utilized for the sleeves are consistent with the safety factors in the American Society of Mechanical Engineers Boiler and Pressure Vessel Code used in the original steam generator design. Tubes with sleeves are subject to the same safety factors as the original tubes, which are described in the performance criteria for steam generator tube integrity in the existing Technical Specifications. The sleeve and portions of the installed sleeve and tube assembly that represent the reactor coolant pressure boundary will be monitored, and a sleeved tube will be plugged if a flaw is detected in the sleeve or in the pressure boundary portion of the original tube wall in the leak-limiting sleeve and tube assembly. Use of the previously-identified design criteria and design verification testing ensures that the margin of safety is not significantly different from the original steam generator tubes.

Therefore, the proposed 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: David W. Jenkins, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Branch Chief: James Danna.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: March 28, 2018. A publicly-available version is in ADAMS under Accession No. ML18087A095.

Description of amendment request: The amendment would revise Technical Specification (TS) 3/4.8.1, ''AC [Alternating Current] Sources—Operating''; specifically, ACTION b concerning one inoperable emergency diesel generator (EDG). The proposed change would remove the Salem Nuclear Generating Station, Unit No. 3 (Salem Unit 3), gas turbine generator and replace it with portable diesel generators.

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 removes the requirement for the Salem Unit 3 gas turbine generator (GTG) and replaces it with the supplemental power source during the existing extended allowable outage time for the A or B EDG. The emergency diesel generators are safety related components which provide backup electrical power supply to the onsite Safeguards Distribution System. The emergency diesel generators are not accident initiators; the EDGs are designed to mitigate the consequences of previously evaluated accidents including a loss of offsite power. (During normal operation, the proposed portable diesel generators will not be connected to the plant.)

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated and maintained. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) 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. The proposed change is consistent with safety analysis assumptions and resultant consequences.

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 removes the requirement for the Salem Unit 3 gas turbine generator (GTG) and replaces it with the supplemental power source during the existing extended allowable outage time for the A or B EDG. The proposed change does not alter or involve any design basis accident initiators. Equipment will be operated in the same configuration and manner that is currently allowed and designed for.

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 does not alter the permanent plant design, including instrument set points, nor does it change the assumptions contained in the safety analyses. The proposed change does not impact the redundancy or availability requirements of offsite power supplies or change the ability of the plant to cope with station blackout [(SBO)] events.

The EDGs continue to meet their design requirements; there is no reduction in capability or change in design configuration. The EDG response to LOOP [loss of offsite power], LOCA [loss-of-coolant accident], SBO, or fire is not changed by this proposed amendment; there is no change to the EDG operating parameters. The remaining operable emergency diesel generators are adequate to supply electrical power to the onsite Safeguards Distribution System. The proposed change does not alter a design basis or safety limit; therefore it does not significantly reduce the margin of safety. The EDGs will continue to operate per the existing design and regulatory requirements.

Therefore, it is concluded that 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: Jeffrie J. Keenan, PSEG Nuclear LLC–N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: James G. Danna.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Unit Nos. 1 and 2 (SQN), Hamilton County, Tennessee

Date of amendment request: March 9, 2018, as supplemented by letter dated April 11, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML18071A349 and ML18102B430, respectively.

Description of amendment request: The amendments would make changes to the SQN Essential Raw Cooling Water (ERCW) Motor Control Centers (MCCs) and revise the Updated Final Safety Analysis Report (UFSAR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

The proposed change does not alter the safety function of any structure, system, or component, does not modify the manner in which the plant is operated, and does not alter equipment out-of-service time. In addition, this request does not degrade the ability of the ERCW to perform its intended safety function. Therefore, the proposed change does not involve a significant increase in the probability or consequence 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 does not involve any physical changes to plant safety related structure, system or component or alter the modes of plant operation in a manner that is outside the bounds of the system design analyses. The proposed change to complete the design change for the removal of mechanical interlock device from the feeder breakers and tie breakers for the ERCW MCCs and to revise the ERCW System Description in Section 9.2.2.2 of the SQN UFSAR to describe the normal and alternate power sources for the ERCW system does not create the possibility for an accident or malfunction of a different type than any evaluated previously in SQN's UFSAR. The proposal does not alter the way any safety related structure, system or component functions and does not modify the manner in which the plant is operated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to remove the mechanical interlock device from the feeder breakers and tie breakers for ERCW MCCs 1B–B and 2B–B and to revise the ERCW System Description in Section 9.2.2.2 of the SQN UFSAR to describe the normal and alternate power sources for the ERCW system does not reduce the margin of safety because ERCW will continue to perform its safety function. The design features provided by the mechanical interlock device are not described in the SQN UFSAR, are not credited in the SQN accident analysis and do not provide any additional safety margin. The results of accident analyses remain unchanged by this request. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Acting Branch Chief: Brian W. Tindell.

Vistra Operations Company LLC, Docket Nos. 50–445 and 50–446, Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: March 29, 2018. A publicly-available version is in ADAMS under Accession No. ML18102A516.

Description of amendment request: The amendments would revise Technical Specification 3.3.2, ''Engineered Safety Feature Actuation System (ESFAS) Instrumentation,'' to change the applicability of when the automatic auxiliary feedwater actuation due to the trip of all main feedwater pumps is required to be operable at Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2.

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 design basis events which impose auxiliary feedwater safety function requirements are loss of all AC [alternating current] power to plant auxiliaries, loss of normal feedwater, steam generator fault in either the feedwater or steam lines, and small break loss of coolant accidents. These design basis event evaluations assume actuation of auxiliary feedwater due to station blackout, low-low steam generator level or a safety injection signal. The anticipatory auxiliary feedwater automatic start signals from the main feedwater pumps are not credited in any design basis accidents and are, therefore, not part of the primary success path for postulated accident mitigation as defined by 10 CFR 50.36(c)(2)(ii), Criterion 3. Modifying MODE 2 Applicability for this function will not impact any previously evaluated design basis accidents.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an 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.

This technical specification change allows for an operational allowance during MODE 2 while placing main feedwater pumps in service. This change involves an anticipatory auxiliary feedwater automatic start function that is not credited in the accident analysis. Since this change only affects the conditions at which this automatic start function needs to be operable and does not affect the function that actuates auxiliary feedwater due to loss of offsite power, low-low steam generator level or a safety injection signal, it will not be an initiator to 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 previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

This technical [s]pecification change involves the automatic start of the auxiliary feedwater pumps due to trip of both main feedwater pumps, which is not an assumed start signal for design basis events. This change does not modify any values or limits involved in a safety related function or accident analysis.

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: Timothy P. Matthews, Esq., Morgan, Lewis, and Bockius, 1111 Pennsylvania Avenue NW, Washington, DC 20004.

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.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: June 8, 2017.

Brief description of amendment: The amendment revised technical specifications (TSs) to reflect previously approved changes made as part of the alternative source term initiative. The amendment revised the surveillance requirements for the control room emergency recirculation and annulus exhaust gas treatment systems, which are consistent with Technical Specification Task Force (TSTF) Traveler TSTF–522, ''Revise Ventilation System Surveillance Requirement to Operate for 10 Hours per Month.'' The amendment also deleted two TS sections related to the fuel handling building and fuel handling building ventilation exhaust system and increased the allowable secondary containment leakage. Lastly, the amendment revised the TS Table of Contents to reflect administrative changes to the titles of TS sections.

Date of issuance: May 16, 2018.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment No.: 180. A publicly-available version is in ADAMS under Accession No. ML18110A133; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–58: The amendment revised the Facility Operating License and TSs.

*Date of initial notice in **Federal Register:*** August 1, 2017 (82 FR 35841). The supplemental letter dated January 30, 2018, 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 May 16, 2018.

No significant hazards consideration comments received: No.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of amendment request: March 24, 2017.

Brief description of amendment: The amendment revised the DAEC Technical Specification (TS) Table 3.3.2.1–1, ''Control Rod Block Instrumentation,'' by relocating certain cycle-specific Minimum Critical Power Ratio values to the DAEC Core Operating Limits Report. The amendment also added a requirement to DAEC TS 5.6.5, ''Core Operating Limits Report.''

Date of issuance: March 7, 2018.

Effective date: As of the date of its issuance and shall be implemented by September 27, 2018. (Note: This Notice of Issuance corrects the ''Effective date'' of Amendment No. 303 originally noticed in the **Federal Register** on March 27, 2018 (83 FR 13153).

Amendment No.: 303. A publicly-available version is in ADAMS under Accession No. ML18011A059; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment. Amendment No. 303 was corrected by letter dated May 7, 2018 (ADAMS Accession No. ML18081A074).

Renewed Facility Operating License No. DPR–49: The amendment revised the Renewed Facility Operating License and TSs.

*Date of initial notice in **Federal Register:*** May 23, 2017 (82 FR 23627).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 2018.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 29th day of May, 2018.

For the Nuclear Regulatory Commission.

Gregory F. Suber,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–11843 Filed 6–4–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on APR1400

The ACRS Subcommittee on APR1400 will hold a meeting on June 5, 2018, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Tuesday, June 5, 2018, 8:30 a.m. Until 5:00 p.m.

The Subcommittee will review the APR1400 Design Control Document and Safety Evaluation Report with No Open Items, Chapter 17 (Quality Assurance & Reliability Assurance), Chapter 19.1 (Probabilistic Risk Assessment), and Chapter 19.2 (Severe Accident Evaluation).

The Subcommittee will hear presentations by and hold discussions with the NRC staff and Korea Hydro & Nuclear Power Company regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or Email: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312). The bridgeline number for this meeting is 866–822–3032, passcode 8272423#.

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Ms. Kendra Freeland (Telephone 301–415–6207) to be escorted to the meeting room.

Dated: May 23, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–12022 Filed 6–4–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Nuscale; Notice of Meeting

The ACRS Subcommittee on NuScale will hold a meeting on June 6, 2018, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Wednesday, June 6, 2018, 8:30 a.m. Until 12:00 p.m.

The Subcommittee will review the staff's SER with open items for Chapter 8, ''Electrical Systems,'' of the NuScale design certification application. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Michael Snodderly (Telephone 301–415–2241 or Email: *Michael.Snodderly@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312). The bridgeline number for this meeting is 866–822–3032, passcode 8272423#.

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Mr. Theron Brown (Telephone 301–415–6702 or 301–415–8066) to be escorted to the meeting room.

Dated: May 23, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–12024 Filed 6–4–18; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0244]

Guidelines for Evaluating the Effects of Light-Water Reactor Water Environments in Fatigue Analyses of Metal Components

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 1.207, ''Guidelines for Evaluating the Effects of Light-Water Reactor Water Environments in Fatigue Analyses of Metal Components.'' This RG describes methods and procedures that the staff of the NRC considers acceptable for use in determining the acceptable fatigue lives of components evaluated by a cumulative usage factor calculation in accordance with the fatigue design provisions in Section III, ''Rules for Construction of Nuclear Power Plant Components,'' of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code to account for the effects of light-water reactor water environments.

DATES: Revision 1 to RG 1.207 is available on June 5, 2018.

ADDRESSES: Please refer to Docket ID NRC–2014–0244 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0244. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* RG 1.207, ''Guidelines for Evaluating the Effects of Light-Water Reactor Water Environments in Fatigue Analyses of Metal Components,'' is available in ADAMS under Accession No. ML16315A130.
- *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.

RGs are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Robert Tregoning, Office of Nuclear Regulatory Research, telephone: 301–415–2324, email: *Robert.Tregoning@nrc.gov* and Stephen Burton, Office of Nuclear Regulatory Research, telephone: 301–415–7000, *Stephen.Burton@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 1 of RG 1.207 was issued with a temporary identification of Draft Regulatory Guide, DG–1309. This RG describes methods and procedures that the NRC staff considers acceptable for use in determining the acceptable fatigue lives of components evaluated by a cumulative usage factor calculation in accordance with the fatigue design provisions in Section III, ''Rules for Construction of Nuclear Power Plant Components,'' of the American Society of Mechanical Engineers' Boiler and Pressure Vessel Code to account for the effects of light-water reactor water environments.

II. Additional Information

The NRC published a notice of the availability of DG–1309 in the **Federal Register** on November 24, 2014 (79 FR 69884), for a 60-day public comment period. The public comment period closed on January 24, 2015. Public comments on DG–1309 and the NRC staff's responses to the public comments are available in ADAMS under Accession No. ML16315A127.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This RG describes methods and procedures that the NRC staff considers acceptable for use in applications for license renewal and subsequent license renewal in determining the acceptable fatigue lives of components evaluated by a cumulative usage factor calculation in accordance with the fatigue design provisions in Section III, ''Rules for Construction of Nuclear Power Plant Components,'' of the ASME Code. This RG also supports reviews of applications for new nuclear reactor construction permits or operating licenses under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), design certifications under 10 CFR part 52, and combined licenses under 10 CFR part 52, which do not cite a standard design, in addition to renewed operating licenses under 10 CFR part 54. This RG may also be used by existing holders of combined licenses and operating licenses in accordance with their existing licensing basis and applicable regulatory requirements.

This RG does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52, with certain exclusions discussed below, were intended to apply to every NRC action that substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever a combined license applicant references a part 52 license (*i.e.,* an early site permit or a manufacturing license) and/or part 52 regulatory approval (*i.e.,* a design certification rule or design approval). The NRC staff does not, at this time, intend to impose the positions represented in the RG in a manner that is inconsistent with any issue finality

provisions in these part 52 licenses and regulatory approvals. If, in the future, the NRC staff seeks to impose a position in this RG in a manner that does not provide issue finality as described in the applicable issue finality provision, then the NRC staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Existing licensees and applicants of final design certification rules will not be required to comply with the positions set forth in this RG unless the licensee or design certification rule applicant seeks a voluntary change to its licensing basis with respect to the effects of light-water reactor coolant environments on the fatigue lives of nuclear power plant components by means of a cumulative usage factor, and where the NRC determines that the safety review of the licensee's request must include consideration of the effects of light-water reactor coolant environments on the fatigue lives of nuclear power plant components. Further information on the staff's use of the RG is contained in the RG under Section D, ''Implementation.''

Dated at Rockville, Maryland, this 30th day of May 2018.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2018–11995 Filed 6–4–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0023]

Effect of LWR Water Environments on the Fatigue Life of Reactor Materials

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG/CR–6909, Revision 1, ''Effect of LWR Water Environments on the Fatigue Life of Reactor Materials.'' This report summarizes the results of NRC research efforts and work performed at Argonne National Laboratory on the fatigue of piping and pressure vessel steels in light-water reactor (LWR) environments. Revision 1 of this report provides updates and improvements to the environmental fatigue correction factor approach based on an extensive update to available laboratory fatigue data from testing and results available since this report was first published in 2007. This final document also incorporates changes to address public comments provided on the draft of Revision 1 of NUREG/CR–6909.

ADDRESSES: Please refer to Docket ID NRC–2014–0023 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0023. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. Revision 1 of NUREG/CR–6909 is available in ADAMS under Accession No. ML16319A004.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert Tregoning, Office of Nuclear Regulatory Research, telephone: 301–415–2324, email: *Robert.Tregoning@nrc.gov;* or Appajosula Rao, Office of Nuclear Regulatory Research, telephone: 301–415–2381, email: *Appajosula.Rao@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

SUPPLEMENTARY INFORMATION:

The American Society of Mechanical Engineers Boiler and Pressure Vessel Code (Code) provides rules for the design of Class 1 components of nuclear power plants. Appendix I to Section III of the Code contains fatigue design curves for applicable structural materials. However, the effects of LWR water environments are not explicitly addressed by the Code design curves. The existing fatigue strain–vs.–life (ε – N) data illustrate potentially significant effects of LWR water environments on the fatigue resistance of pressure vessel and piping steels. Under certain environmental and loading conditions, fatigue lives in water relative to those in air can be significantly lower for austenitic stainless steels, nickel alloy materials, carbon steels, and low-alloy steels. In March 2007, Revision 0 of NUREG/CR–6909 (ADAMS Accession No. ML070660620) was issued. That report was the technical basis document for NRC Regulatory Guide (RG) 1.207, Revision 0, ''Guidelines for Evaluating Fatigue Analyses Incorporating the Life Reduction of Metal Components Due to the Effects of the Light-Water Reactor Environment for New Reactors'' (ADAMS Accession No. ML070380586). Revision 0 of NUREG/CR–6909 summarized the work performed at Argonne National Laboratory on the fatigue of piping and pressure vessel steels in LWR coolant environments. That report evaluated the existing laboratory fatigue data to identify the various materials, environmental, and loading parameters that influence fatigue crack initiation and summarized the effects of key parameters on the fatigue lives of pressure vessel and piping steels. The report presented models for estimating fatigue lives as a function of material, loading, and environmental conditions, and described the environmental fatigue correction factor for incorporating the effects of LWR coolant environments into Code fatigue evaluations.

Revision 1 of NUREG/CR–6909 provides updates and improvements to the environmental fatigue correction factor approach based on additional laboratory fatigue data and other results available since 2007. On April 17, 2014 (79 FR 21811), a draft of Revision 1 was noticed in the **Federal Register** for public comment under Docket ID NRC–2014–0023. The public comment period ended on June 2, 2014. The final version of Revision 1 of NUREG/CR–6909 reflects changes made to address the public comments. Appendix F of the document provides responses to the public comments received.

Revision 1 of NUREG/CR–6909 is the technical basis document for Revision 1 of RG 1.207, ''Guidelines for Evaluating the Effects of Light-Water Reactor Water Environments in Fatigue Analyses of Metal Components'' (ADAMS Accession No. ML16315A130). This RG describes methods and procedures that the NRC staff considers acceptable for use in determining the acceptable fatigue lives

of components evaluated by a cumulative usage factor calculation in accordance with the fatigue design provisions in Section III, ''Rules for Construction of Nuclear Power Plant Components,'' of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code to account for the effects of LWR water environments. The NRC is issuing Revision 1 of RG 1.207 concurrently with Revision 1 of NUREG/CR–6909 under a separate notice associated with Docket ID NRC–2014–0244.

The NRC notes that Revision 1 of RG 1.207 was issued in draft form as a draft RG (DG–1309). The NRC published a notice of the availability of DG–1309 in the **Federal Register** on November 24, 2014 (79 FR 69884), under Docket ID NRC–2014–0244, with a public comment period that closed on January 24, 2015. Public comments on DG–1309 and the NRC staff's responses are available in ADAMS under Accession No. ML16315A127.

Dated at Rockville, Maryland, this 30th day of May 2018.

For the Nuclear Regulatory Commission.

Thomas Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2018–11996 Filed 6–4–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on June 6, 2018, 11545 Rockville Pike, Room T–2B3, Rockville, Maryland 20852.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 6, 2018—12:00 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312). The bridgeline number for this meeting is 888–790–7128, passcode 7802533#.

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown at 301–415–6702 to be escorted to the meeting room.

Dated: May 23, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–12023 Filed 6–4–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0102]

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 three amendment requests. The amendment requests are for River Bend Station, Unit 1; Grand Gulf Nuclear Station, Unit 1; and Browns Ferry Nuclear Plant, Units 1, 2, and 3. For each amendment request, the NRC proposes to determine that they involve 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 July 5, 2018. A request for a hearing must be filed by August 6, 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 June 15, 2018.

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

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0102. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Beverly Clayton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3475; email: *Beverly.Clayton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0102, facility name, unit number(s),

plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0102.
- *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 is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0102, 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. 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 website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the

applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located

on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Entergy Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1 (River Bend), West Feliciana Parish, Louisiana

Date of amendment request: April 2, 2018. A publicly-available version is in ADAMS under Accession No. ML18092B187.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would replace Technical Specification (TS) Figure 3.4.11–1, ''Minimum Temperature Required vs. RCS [Reactor Coolant System] Pressure,'' curves, also known as the pressure and temperature limit curves. The current TS figure is calculated for 34 Effective Full Power Years (EFPY), and the proposed TS figure would provide for 54 EFPY. The proposed TS figure includes new fluence values and material chemistry information, and uses the new methodologies described in Licensing Topical Report NEDO–33882, Revision 1, ''Pressure and Temperature Limits Report (PTLR) Up to 54 Effective Full Power Years.''

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 change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Basis: The proposed change to the River Bend reactor coolant system (RCS) pressure/temperature (P/T) limits does not modify the boundary, operating pressure, materials or seismic loading of the reactor coolant system. The proposed change does adjust the P/T limits for neutron irradiation effects to ensure that the Reactor Pressure Vessel (RPV) fracture toughness is consistent with analysis assumptions and NRC regulations. Changing the applicability of the limits to 54 effective full power years (EFPY) will continue to maintain appropriate limits for River Bend during the renewed license term. The proposed limits are more bounding than the current limits.

Therefore, it is concluded that this change does not significantly increase 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.

Basis: The proposed change to the reactor pressure vessel pressure-temperature limits does not involve any physical changes (installing new equipment or modifying existing equipment). The change does not affect the assumed accident performance of any structure, system or component previously evaluated. These revised limits are in compliance with the brittle fracture requirements of [10 CFR part 50] Appendix G. The proposed change does not introduce any new modes of system operation or failure mechanisms.

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.

Basis: The proposed change, which corrects a non-conservative TS, does not exceed or alter a setpoint, design basis or safety limit. Therefore, it is concluded that 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: Anna Vinson Jones, Senior Counsel/Legal Department, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc. (Entergy); System Energy Resources, Inc.; Cooperative Energy, A Mississippi Electric Cooperative; and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit No. 1, Claiborne County, Mississippi

Date of amendment request: March 26, 2018. A publicly-available version is in ADAMS under Accession No. ML18085A579.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise the Updated Final Safety Analysis Report (UFSAR) descriptions for the replacement of the Turbine First Stage Pressure (TFSP) output signals with Power Range Neutron Monitoring System (PRNMS) output signals. During June 2014, Entergy implemented Engineering Change (EC) 49880 in accordance with

10 CFR 50.59, ''Changes, tests, and experiments,'' that replaced the use of the TFSP instruments with the PRNMS to measure reactor power. On December 9, 2016, the NRC issued NRC Inspection Report 05000416/2016007. In this inspection report, the NRC issued non-cited violation 050000416/2016007–02, which identified that Entergy failed to obtain a license amendment prior to implementing the proposed change. Specifically, modification EC 40880 eliminated the TFSP instrument signals to the Reactor Protection System and replaced the signals with average power range monitor signals. The NRC concluded that the change reduced the diversity and resulted in a more than minimal increase in the likelihood of occurrence of a malfunction of a structure, system, or component (SSC) important to safety.

Entergy has determined that the proposed change requires NRC approval per 10 CFR 50.59(c)(2). Entergy concluded that the plant modification is potentially a reduction in diversity based on the Grand Gulf Nuclear Station, Unit 1, licensing basis. As such, the potential reduction in diversity is considered to be a change that results in more than a minimal increase in the likelihood of occurrence of a malfunction of an SSC important to safety previously evaluated in the UFSAR.

The proposed amendment would eliminate the potential for a transient caused by the mechanical failure of the TFSP sensing lines and instruments. It would also eliminate process delays in the steam lines, as the PRNMS voltage output signals are based on average power range monitoring signals, a direct and immediate measurement of neutron flux. The PRNMS signals are divisionally separated, safety-related, and provide reliability, quality, and defense-in-depth that the TFSP sensing lines and instruments could not provide. The replacement of the TFSP output signals with the PRNMS output signals enhances plant safety and improves reliability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed modification does not result in a change to the safety related functions including Low Power Setpoint (LPSP) and High Power Setpoint (HPSP), Turbine Stop Valve (TSV) closure and Turbine Control Valve (TCV) fast closure scram enable/bypass, and End of Cycle Recirculation Pump Trip (EOC–RPT) enable/bypass. The accidents potentially affected by the TFSP instrumentation are the turbine trip event (UFSAR Section 15.2.3), generator load rejection event (UFSAR Section 15.2.2), control rod drop accident (UFSAR Section 15.4.9) and rod withdrawal error (UFSAR Section 15.4.1). The proposed use of PRNMS signal outputs as inputs to the trip units will maintain the safety related functions credited in the evaluated events. Furthermore, the proposed modification makes no changes to the existing PRNM system inputs, system software or hardware architecture.

Overall protection system performance will remain within the bounds of the previously performed accident analyses since the proposed modification does not change the Reactor Protection System (RPS) or the Rod Control and Information System (RCIS). The same RPS and RCIS instrumentation will continue to be used. The protection systems will continue to function in a manner consistent with the plant design basis. The proposed modifications will not adversely affect accident initiators or precursors nor adversely alter the design assumptions and conditions of the facility or the manner in which the plant is operated and maintained with respect to such initiators or precursors.

The proposed modification will not prevent the capability of structures, systems, and components (SSCs) to perform their intended functions for mitigating the consequences of an accident and meeting applicable acceptance limits.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The use of PRNMS for determining reactor power will ensure that the protective functions EOC–RPT, TSV closure and TCV fast closure direct scram functions, and the rod pattern controller (RPC) and Rod Withdrawal Limiter functions credited in the safety analyses are maintained. With these automatic functions maintained, the proposed modification does not create the possibility of a new or different kind of accident from any accident previously evaluated in the UFSAR.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of the proposed modification. No new or different accidents result from the proposed modification. The proposed modification will not alter the performance of the RPS, RCIS and PRNMS.

Thus, the proposed amendment 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 modification does not alter the manner in which safety limits, safety setpoints, or limiting conditions for operation are determined. The PRNMS hardware and software are not changed by this modification. The modified system responds to a loss of power, and a restoration of power, in the same way as the TFSP system would have responded. The proposed modification makes no changes to the PRNMS, RPS or RCIS human-system interfaces. The equipment credited to perform a safety function has been designed and installed to the applicable quality standards and maintained the required redundancy. The proposed modification is expected to provide an improvement in accuracy for the determination of the low power setpoint and high power setpoint in terms of reactor power. The replacement of the TFSP output signals with the PRNMS output signals does not reduce the diversity of the RPS trip functions by use of a more direct measurement of power given the additional diverse capabilities available. The proposed modification maintains conservative margins between Analytical Limits, Allowable Values and the Nominal Trip Setpoints.

The proposed change does not impact accident offsite dose, containment pressure or temperature, Emergency Core Cooling System settings, Reactor Core Isolation Cooling System settings or RPS settings, or other parameter that could affect a margin of safety.

Therefore, the proposed 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: Anna Vinson Jones, Senior Counsel/Legal Department, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2, and 3 (BFN), Limestone County, Alabama

Date of amendment request: February 23, 2018, as supplemented by letter dated March 7, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML18079B140 and ML18067A495, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would allow operation of BFN in the expanded Maximum

Extended Load Line Limit Analysis Plus (MELLLA+) operating domain.

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 operation in the MELLLA+ operating domain does not significantly increase the probability or consequences of an accident previously evaluated.

The probability (frequency of occurrence) of Design Basis Accidents (DBAs) occurring is not affected by the MELLLA+ operating domain because BFN continues to comply with the regulatory and design basis criteria established for plant equipment. There is no change in consequences of postulated accidents when operating in the MELLLA+ operating domain compared to the operating domain previously evaluated. The results of accident evaluations remain within the NRC approved acceptance limits.

The spectrum of postulated transients has been investigated and is shown to meet the plant's currently licensed regulatory criteria. Continued compliance with the Safety Limit Minimum Critical Power Ratio (SLMCPR) will be confirmed on a cycle-specific basis consistent with the criteria accepted by the NRC.

Challenges to the reactor coolant pressure boundary were evaluated for the MELLLA+ operating domain conditions (pressure, temperature, flow, and radiation) and were found to meet their acceptance criteria for allowable stresses and overpressure margin.

Challenges to the containment were evaluated and the containment and its associated cooling systems continue to meet the current licensing basis. The calculated post-Loss-of-Coolant Accident (LOCA) suppression pool temperature remains acceptable.

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 operation in the MELLLA+ operating domain does not create the possibility of a new or different kind of accident from any previously evaluated.

Equipment that could be affected by the MELLLA+ operating domain has been evaluated. No new operating mode, safety-related equipment lineup, accident scenario, or equipment failure mode was identified. The full spectrum of accident considerations has been evaluated and no new or different kind of accident has been identified. The MELLLA+ operating domain uses developed technology, and applies it within the capabilities of existing plant safety-related equipment in accordance with the regulatory criteria (including NRC-approved codes, standards and methods). No new accident or event precursor has been identified.

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 operation in the MELLLA+ operating domain does not involve a significant reduction in the margin of safety.

The MELLLA+ operating domain affects only design and operational margins. Challenges to the fuel, reactor coolant pressure boundary, and containment were evaluated for the MELLLA+ operating domain conditions. Fuel integrity is maintained by meeting existing design and regulatory limits. The calculated loads on affected structures, systems, and components, including the reactor coolant pressure boundary, will remain within their design allowables for design basis event categories. No NRC acceptance criterion is exceeded. The BFN configuration and responses to transients and postulated accidents do not result in exceeding the presently approved NRC acceptance limits.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Dr., WT 6A–K, Knoxville, Tennessee 37902.

NRC Acting Branch Chief: Brian W. Tindell.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Entergy Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Entergy Operations, Inc.; System Energy Resources, Inc.; Cooperative Energy, A Mississippi Electric Cooperative; and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Unit Nos. 1, 2, and 3, Limestone County, Alabama

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

[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.

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 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 May, 2018.

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; and 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).

[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.

[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.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
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. 2018–10982 Filed 6–4–18; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pendency for Request for Approval of Special Withdrawal Liability Rules: Alaska Electrical Pension Plan of the Alaska Electrical Pension Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation (PBGC) has received a request from the Alaska Electrical Pension Plan of the Alaska Electrical Pension Fund for approval of a plan amendment providing for special withdrawal liability rules. Under PBGC's regulation on Extension of Special Withdrawal Liability Rules, a multiemployer pension plan may, with PBGC approval, be amended to provide for special withdrawal liability rules similar to those that apply to the construction and entertainment industries. Such approval is granted only if PBGC determines that the rules apply to an industry with characteristics that make use of the special rules appropriate and that the rules will not pose a significant risk to the pension insurance system. Before granting an approval, PBGC's regulations require PBGC to give interested persons an opportunity to comment on the request. The purpose of this notice is to advise interested persons of the request and to solicit their views on it.

DATES: Comments must be submitted on or before July 20, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.* Refer to the Alaska Plan in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the Alaska Plan. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026 or calling 202–326–4040 during normal business hours. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Jon Chatalian, ext. 6757, Acting Assistant General Counsel (*Chatalian.Jon@PBGC.gov*), 202–326–4020, ext. 6757, Office of the Chief Counsel, Suite 340, 1200 K Street NW, Washington, DC 20005–4026. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4020.)

SUPPLEMENTARY INFORMATION:

Background

Section 4203(a) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (ERISA), provides that a complete withdrawal from a multiemployer plan generally occurs when an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan. Under section 4205 of ERISA, a partial withdrawal generally occurs when an employer: (1) Reduces its contribution base units by seventy percent in each of three consecutive years; or (2) permanently ceases to have an obligation under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan, while continuing to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location or to an entity or entities owned or controlled by the employer; or (3) permanently ceases to have an obligation to contribute under the plan for work performed at one or more but fewer than all of its facilities, while continuing to perform work at the facility of the type for which the obligation to contribute ceased.

Although the general rules on complete and partial withdrawal identify events that normally result in a diminution of the plan's contribution base, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute normally does not weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

For construction industry plans and employers, section 4203(b)(2) of ERISA provides that a complete withdrawal

occurs only if an employer ceases to have an obligation to contribute under a plan and the employer either continues to perform previously covered work in the jurisdiction of the collective bargaining agreement, or resumes such work within 5 years without renewing the obligation to contribute at the time of resumption. In the case of a plan terminated by mass withdrawal (within the meaning of section 4041(A)(2) of ERISA), section 4203(b)(3) provides that the 5-year restriction on an employer's resuming covered work is reduced to 3 years. Section 4203(c)(1) of ERISA applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining agreement. In contrast, the general definition of complete withdrawal in section 4203(a) of ERISA includes the permanent cessation of the obligation to contribute regardless of the continued activities of the withdrawn employer.

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. Under section 4208(d)(1) of ERISA, ''[a]n employer to whom section 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.'' Under section 4208(d)(2) of ERISA, ''[a]n employer to whom section 4203(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the [PBGC] by regulation.''

Section 4203(f)(1) of ERISA provides that PBGC may prescribe regulations under which plans in other industries may be amended to provide for special withdrawal liability rules similar to the rules prescribed in section 4203(b) and (c) of ERISA. Section 4203(f)(2) of ERISA provides that such regulations shall permit the use of special withdrawal liability rules only in industries (or portions thereof) in which PBGC determines that the characteristics that would make use of such rules appropriate are clearly shown, and that the use of such rules will not pose a significant risk to the insurance system under Title IV of ERISA. Section 4208(e)(3) of ERISA provides that PBGC shall prescribe by regulation a procedure by which plans may be amended to adopt special partial withdrawal liability rules upon a finding by PBGC that the adoption of such rules is consistent with the purposes of Title IV of ERISA.

PBGC's regulations on Extension of Special Withdrawal Liability Rules (29 CFR part 4203) prescribe procedures for a multiemployer plan to ask PBGC to approve a plan amendment that establishes special complete or partial withdrawal liability rules. Section 4203.5(b) of the regulation requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal liability rules in the **Federal Register**, and to provide interested parties with an opportunity to comment on the request.

The Request

PBGC received a request, dated June 15, 2016, from the Alaska Electrical Pension Plan of the Alaska Electrical Pension Fund (the ''Plan''), for approval of a plan amendment providing for special withdrawal liability rules. On August 28, 2017, the Plan provided supplemental information in response to a request from PBGC. PBGC's summary of the actuarial reports provided by the Plan may be accessed on PBGC's website (*https://www.pbgc.gov/prac/pg/other/guidance/multiemployer-notices.html*). A copy of the Plan's submission can be requested from the PBGC Disclosure Officer. The fax number is 202–326–4042. It may also be obtained by writing the Disclosure Officer, PBGC, 1200 K Street NW, Suite 11101, Washington, DC 20005.

In summary, the Plan is a multiemployer pension plan maintained pursuant to a collective bargaining agreement between the Alaska Chapter National Electrical Contractors and the I.B.E.W. 1547 (''Union''), collective bargaining agreements between individual employers and the Union, and ''special agreements'' between various employers and the Board to provide for participation by certain non-bargained employees. The Plan covers unionized employees who predominantly work in the electrical industry in Alaska. Approximately one-third of the participants are employed in the building and construction industry and the remaining two-thirds are employed in the utilities and telecommunications industry.

The Plan's proposed amendment would be effective for withdrawals occurring on or after January 1, 2017, and would create special withdrawal liability rules for employers contributing to the Plan whose employees work under a contract or subcontract with federal government agencies governed by the Service Contract Act (''SCA''), 41 U.S.C. 351 *et seq.;* provided that substantially all of the employees for whom the employer is required to make a contribution work under a service contract (''SCA Employers''). The Plan's submission represents that the industry for which the rule is requested has characteristics similar to those of the construction industry. According to the Plan, the principal similarity is that when a contributing SCA Employer loses a contract, the applicable federal government agency typically contracts with a new SCA Employer to contribute at the same or substantially the same rate, because the SCA provides that employees must not be paid less than the minimum monetary wages and fringe benefits found prevailing in a particular locality in accordance with the applicable collective bargaining agreement.

Under the following circumstances relating to SCA Employers, the Plan's proposed amendment defines a complete withdrawal as follows:

(1) If an SCA Employer ceases to have an obligation to contribute to the Plan because it loses all its Service Contracts and the successor SCA Employer has an obligation to contribute to the Plan for work performed under the Service Contract at the same or a higher contribution rate and for at least 85% as many contribution base units as such SCA Employer had the obligation to contribute during the plan year ending before such SCA Employer lost the contract, a complete withdrawal only occurs if the SCA Employer:

(A) Continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required; or

(B) Within 5 years after the date on which the SCA Employer loses the Service Contract(s),

(i) Such SCA Employer resumes such work and does not renew the obligation at the time of resumption; or

(ii) The federal government decides to close the facility, have the work performed by government employees, or transfer the work covered by the Service Contract to another location that is not covered by a collective bargaining unit; or

(iii) The successor SCA Employer ceases contributions to the Plan for work performed pursuant to the Service Contract.

Under the following circumstances relating to SCA Employers, the Plan's proposed amendment defines a partial withdrawal as follows:

(1) If an SCA Employer loses a contract to a successor SCA Employer, and if the successor has an obligation to contribute to the Plan for work performed under the Service Contract at the same or a higher contribution rate and for at least 85% as many contribution base units as such SCA Employer had the obligation to contribute during the plan year ending before such SCA Employer lost the contract, a partial withdrawal only occurs if the SCA Employer has an obligation to contribute for no more than an insubstantial portion of its work in the jurisdiction of a collective bargaining agreement for which contributions are or were required to the Plan, and either,

(A) The SCA Employer continues to perform work in the jurisdiction of a collective bargaining agreement of the type for which contributions were previously required; or

(B) Within 5 years after the date on which the SCA Employer loses the Service Contract,

(i) The federal government decides to close the facility, have the work performed by government employees, or transfer the work covered by the service contract to another location that is not covered by a collective bargaining unit; or

(ii) The successor SCA Employer ceases contributions to the Plan for work performed under the Service Contract.

In the case of termination by mass withdrawal (within the meaning of section 4041A(a)(2) of ERISA), the proposed amendment provides that section 4203(b)(3) of ERISA, the provision that allows a construction employer to resume covered work after 3 years of withdrawal, rather than the standard 5-year restriction, is not applicable. Therefore, in the event of a mass withdrawal, there is still a 5-year restriction on resuming covered work in the jurisdiction of the Plan. The Plan's request includes the actuarial data on which the Plan relies to support its contention that the amendment will not pose a significant risk to the insurance system under Title IV of ERISA.

Comments

All interested persons are invited to submit written comments on the pending exemption request. All comments will be made part of the administrative record.

Issued in Washington, DC, by:

William Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–12035 Filed 6–4–18; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83341; File No. SR–NYSEAMER–2018–22]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Proposed Rule Change To Amend Rule 7.35E Relating to the Auction Reference Price for a Trading Halt Auction Following a Regulatory Halt

May 30, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 15, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.35E relating to the Auction Reference Price for a Trading Halt Auction following a regulatory halt. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.35E (Auctions) relating to the Auction Reference Price for a Trading Halt Auction following a regulatory halt.

Under Rule 7.35E, Auction Reference Prices are used for a number of purposes, including determining Auction Collars under Rule 7.35E(a)(10)(A). Rule 7.35E(a)(8)(A) defines the Auction Reference Price applicable to auctions on the Exchange. For the Trading Halt Auction, the Reference Price is the last consolidated round-lot price of that trading day, and if none, the prior day's Official Closing Price (except as provided for in Rule 7.35E(e)(7)(A)).[4]

The Exchange proposes to amend Rule 7.35E(a)(8)(A) to permit the Exchange to designate a different Auction Reference Price for a Trading Halt Auction following a regulatory halt. The Exchange believes that if the price of a security changes during a regulatory halt, for example, due to a news event, an Auction Reference Price based on the last consolidated round-lot price of that trading day, or if none, the prior day's Official Closing Price, may no longer reflect the value of the security. In such case, using that price for purposes of calculating Auction Collars for the Trading Halt Auction may unnecessarily constrict the price at which such auction would initially be permitted and potentially lead to an unnecessary number of extensions before the security resumes trading, thereby delaying the Trading Halt Auction.[5] The Exchange believes that for these scenarios, it would be appropriate to designate a different Auction Reference Price.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Rule 7.35E(e)(7)(A) provides for a different Auction Reference Price for a Trading Halt Auction following a Trading Pause. The ''Official Closing Price'' is defined in Rule 1.1E(gg).

[5] Pursuant to Rule 7.35E(e)(6), the Re-Opening Time for a Trading Halt Auction will be extended if the Indicative Match Price, before being adjusted based on Auction Collars, would be below (above) the Lower (Upper) Auction Collar or if there is a sell (buy) Market Imbalance.

[6] For example, the Exchange's affiliated exchange, NYSE Arca, Inc. (''NYSE Arca'') recently amended NYSE Arca Rule 7.35–E(a)(8)(A), which is identical to Rule 7.35E(a)(8)(A), on a temporary basis to provide for a different Auction Reference Price for a security that was the subject of a regulatory halt. *See* Securities Exchange Act Release No. 82716 (February 14, 2018), 83 FR 7517 (February 21, 2018) (SR–NYSEArca–2018–12). NYSE Arca sought such relief to respond to the impact of market-wide

Continued

To effect this change, the Exchange proposes to amend Rule 7.35E(a)(8)(A) to provide that if the Auction Reference Price would impact a fair and orderly Trading Halt Auction following a regulatory halt, the CEO of the Exchange, or his or her designee, may designate a different Auction Reference Price.[7]

Because the specific circumstances for a security and impact on pricing cannot be known in advance, the Exchange does not believe it would be appropriate, let alone feasible, to specify in the rule what the alternate Auction Reference Price should be. For example, NYSE Arca designated a revised Auction Reference Price for SVXY that was 84% lower than the Auction Reference Price that would have been required under the NYSE Arca rule.[8] But SVXY represents just one example. The reasons why an Auction Reference Price for a Trading Halt Auction following a regulatory halt may no longer be appropriate are myriad, and include external reasons specific to a security, such as news relating to an issuer or a corporate action. The Exchange therefore believes that the facts and circumstances for individual securities should inform the Exchange of an Auction Reference Price to designate under the proposed rule.

As noted above, the Exchange would not conduct a Trading Halt Auction until all Market Orders can be satisfied in that auction and extends the time before trading in a security resumes until such time. The Exchange believes, however, that if the last consolidated sale price no longer reflects the value of such security, a Trading Halt Auction may be unnecessarily delayed with multiple extensions. By contrast, enabling the Exchange to designate a different Auction Reference Price could potentially reduce the number of extensions, thus eliminating unnecessary delay and allowing for a fair and orderly auction process. In such case, the Auction Reference Price designated by the Exchange does not need to be perfectly calibrated, as the extension logic would ensure that the Trading Halt Auction would not occur until equilibrium among all Market Orders is met and the overall trading auction interest is satisfied at or within the auction collars. The Exchange believes that it would promote a more fair and orderly, and timely, Trading Halt Auction, for the Exchange to exercise the discretion as proposed when the last consolidated round-lot price of that trading day, or if none, the prior day's Official Closing Price, would otherwise be significantly out of sync with the value of the security. The Exchange believes that having the CEO, or his or her designee, designate the Auction Reference Price would ensure that proper deliberation would be put into determining such alternative Auction Reference Price.

The proposed rule would further provide that the Exchange would announce the updated Auction Reference Price prior to the Trading Halt Auction. Pursuant to Rule 7.35E(a)(4), the Exchange publishes the Auction Reference Price for a Trading Halt Auction via a proprietary data feed. If the Exchange designates a different Auction Reference Price, that price would not only be disseminated via the proprietary data feed, but the Exchange would also announce the new Auction Reference Price by Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that it would promote the protection of investors and the public interest to amend Rule 7.35E(a)(8)(A) to permit the Exchange to designate a different Auction Reference Price for a Trading Halt Auction following a regulatory halt. In particular, the Exchange believes that using an Auction Reference Price based on a price that no longer reflects the value of the security could result in an unnecessary number of extensions before the Trading Halt Auction would be permitted to occur under Rule 7.35E(e)(6). By contrast, enabling the Exchange to designate a different Auction Reference Price could potentially reduce the number of extensions, thus eliminating unnecessary delay and allowing for a fair and orderly auction process. In such case, the Auction Reference Price designated by the Exchange does not need to be perfectly calibrated, as the extension logic would ensure that the Trading Halt Auction would not occur until equilibrium among all Market Orders is met and the overall trading auction interest is satisfied at or within the auction collars. The Exchange believes that it would promote a more fair and orderly, and timely, Trading Halt Auction, for the Exchange to exercise the discretion as proposed when the last consolidated round-lot price of that trading day, or if none, the prior day's Official Closing Price, would otherwise be significantly out of sync with the value of the security. The Exchange believes that having the CEO, or his or her designee, designate the Auction Reference Price would ensure that proper deliberation would be put into determining such alternative Auction Reference Price.

The Exchange therefore believes that it would remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, protect investors and the public interest to amend Rule 7.35E(a)(8)(A) to provide that if the Auction Reference Price would impact a fair and orderly Trading Halt Auction following a regulatory halt, the CEO of the Exchange, or his or her designee, may designate a different Auction Reference Price.

The Exchange further believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, protect investors and the public interest because the Exchange would provide notice of any change to an Auction Reference Price, both via the proprietary data feed and a Trader Update, thereby providing transparency to investors and the public regarding the Auction Reference Price that would be used for a Trading Halt Auction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed

trading volatility on February 5, 2018 on the pricing of the ProShares Short VIX Short-Term Futures ETF (SVXY). In that scenario, NYSE Arca halted trading in SVXY before trading began on February 6, 2018. Because the Official Closing Price no longer reflected the value of the security and would not have been an appropriate Auction Reference Price, to protect and fair and orderly market, NYSE Arca proposed a different Auction Reference Price for the Trading Halt Auction.

[7] *See, e.g.,* New York Stock Exchange LLC (''NYSE'') Rule 15(f)(1) (providing authority for the CEO of the NYSE to suspend the requirement to publish pre-opening indications for a security if, absent relief, the operation of the Exchange is likely to be impaired).

[8] *See* supra note 6.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

rule change is not designed to address any competitive issues, but rather to protect investors and the public by providing the Exchange with authority to designate an Auction Reference Price for a Trading Halt Auction following a regulatory halt if the Auction Reference Price, as defined in the current rule, would impair a fair and orderly auction.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2018–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSEAMER–2018–22 and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11978 Filed 6–4–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83349; File No. SR–MIAX–2018–11]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits

May 30, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 24, 2018, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 307, Position Limits, Interpretations and Policies .01, and Exchange Rule 309, Exercise Limits, Interpretations and Policies .01, to amend the position and exercise limits for options on the SPDR® S&P 500® ETF Trust (''SPY'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits, establish position and exercise limits, respectively, for aggregate positions in option contracts traded on the Exchange. Interpretations and Policies .01 to Exchange Rule 307 lists specific position limits for certain select underlying securities, and Interpretations and Policies .01 to Exchange Rule 309 lists specific exercise limits for certain select underlying securities. SPY is among the certain select underlying securities listed in each such Rule. Currently, these Rules provide that there are no position limits and there are no exercise limits on options overlying SPY pursuant to a pilot program, which is

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

scheduled to expire on July 12, 2018 (''SPY Pilot Program'').[3]

The Exchange proposes to amend Exchange Rule 307, Interpretations and Policies .01, and Exchange Rule 309, Interpretations and Policies .01, to allow the SPY Pilot Program to terminate on July 12, 2018, the current expiration date of the SPY Pilot Program. In lieu of extending the SPY Pilot Program for another year, the Exchange proposes to allow the SPY Pilot Program to terminate and to establish position and exercise limits of 1,800,000 contracts, for options on SPY, with such change becoming operative on July 12, 2018, so that there is no lapse in time between termination of the SPY Pilot Program and the establishment of the new limits. Furthermore, as a result of the termination of the SPY Pilot Program, the Exchange does not believe it is necessary to submit a SPY Pilot Program Report at the end of the SPY Pilot Program. Based on the prior SPY Pilot Program Reports provided to the Commission,[4] the Exchange believes it is appropriate to terminate the SPY Pilot Program and that permanent position and exercise limits should be established for SPY.

Position limits are designed to address potential manipulative schemes and adverse market impact surrounding the use of options, such as disrupting the market in the security underlying the options. The potential manipulative schemes and adverse market impact are balanced against the potential of setting the limits so low as to discourage participation in the options market. The level of those position limits must be balanced between curtailing potential manipulation and the cost of preventing potential hedging activity that could be used for legitimate economic purposes.

The SPY Pilot Program was established in 2012 in order to eliminate position and exercise limits for physically-settled SPY options. [5] In 2005, the position limits for SPY options were increased from 75,000 contracts to 300,000 contracts on the same side of the market.[6] In July 2011, the position limit for these options was again increased from 300,000 contracts to 900,000 contracts on the same side of the market.[7] Then, in 2012, the position limits for SPY options were eliminated as part of the SPY Pilot Program.[8]

The underlying SPY tracks the performance of the S&P 500 Index and the Exchange notes that the SPY and SPY options have deep, liquid markets that reduce concerns regarding manipulation and disruption in the underlying markets. In support of this proposed rule change, the Exchange has collected the following trading statistics for SPY and SPY Options: (1) The average daily volume (''ADV'') to date (as of May 15, 2018) for SPY is 108.32 million shares; (2) the ADV to date in 2018 for SPY options is 3.9 million contracts per day; (3) the total shares outstanding for SPY are 965.43 million; and (4) the fund market cap for SPY is 261.65 billion. The Exchange represents further that there is tremendous liquidity in the securities that make up the S&P 500 Index.

Accordingly, the Exchange proposes to amend Interpretations and Policies .01 to Exchange Rule 307 and Interpretations and Policies .01 to Exchange Rule 309 to set forth that the position and exercise limits for options on SPY would be 1,800,000 contracts on the same side of the market. These position and exercise limits equal the current position and exercise limits for options on QQQ, which the Commission previously approved to be increased from 900,000 contracts on the same side of the market, to 1,800,000 contracts on the same side of the market. [9] The Exchange also notes that SPY is more liquid than QQQ.[10] The Exchange believes that establishing position and exercise limits for the SPY options in the amount of 1,800,000 contracts on the same side of the market subject to this proposal would allow for the maintenance of the liquid and competitive market environment for these options, which will benefit customers interested in these products. Under the proposal, the reporting requirement for the options would be unchanged.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[11] Specifically, the proposal is consistent with Section 6(b)(5) of the Act [12] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that establishing permanent position and exercise limits for SPY options subject to this proposal will encourage Market Makers to continue to provide sufficient liquidity in SPY options on the Exchange, which will enhance the process of price discovery conducted on the Exchange. The proposal will also benefit institutional investors as well as retail traders, and public customers, by continuing to provide them with an effective trading and hedging vehicle. In addition, the Exchange believes that the structure of the SPY options subject to this proposal and the considerable liquidity of the market for those options diminishes the opportunity to manipulate this product and disrupt the underlying market that a lower position limit may protect against.

Increased position limits for select actively traded options, such as that proposed herein (increased as compared to the 900,000 limit in place prior to the SPY Pilot Program),[13] is not novel and has been previously approved by the Commission. For example, the Commission has previously approved a rule change permitting the Exchange to double the position and exercise limits for FXI, EEM, IWM, EFA, EWZ, TLT, QQQ, and EWJ.[14] Furthermore, as previously mentioned, the Commission specifically approved a proposal by the Exchange to increase the position and exercise limits for options on QQQ from 900,000 contracts on the same side of the market to 1,800,000 contracts on the same side of the market; similar to the

[3] *See* Securities Exchange Act Release No. 81020 (June 26, 2017), 82 FR 29951 (June 30, 2017)(SR–MIAX–2017–30)(extending the SPY Pilot Program to July 12, 2018); *see also* Securities Exchange Act Release Nos. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012)(SR–NYSEAmex–2012–29); 67937 (September 27, 2012), 77 FR 60489 (October 3, 2012)(SR–CBOE–2012–091).

[4] *Id.*

[5] *See* Securities Exchange Act Release Nos. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012)(SR–NYSEAmex-2012–29); 67937 (September 27, 2012), 77 FR 60489 (October 3, 2012)(SR–CBOE–2012–091).

[6] *See* Securities Exchange Act Release No. 51041 (January 14, 2005), 70 FR 3408 (January 24, 2005)(SR–CBOE–2005–06).

[7] *See* Securities Exchange Act Release No. 64928 (July 20, 2011), 76 FR 44633 (July 26, 2011)(SR–CBOE–2011–065).

[8] *See supra* note 5.

[9] *See* Securities Exchange Act Release No. 82931 (March 22, 2018), 83 FR 13323 (March 28, 2018)(SR–MIAX–2018–10); *see also* Securities Exchange Act Release No. 82770 (February 23, 2018), 83 FR 8907 (March 1, 2018)(SR–CBOE–2017–057).

[10] From the beginning of the year, through May 15, 2018, the ADV for SPY was 108.32 million shares while the ADV for QQQ was 46.64 million shares (calculated using data from Yahoo Finance as of May 15, 2018).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 7.

[14] *See supra* note 9.

current proposal for options on SPY. [15] The Exchange also notes that SPY is more liquid than QQQ.[16]

Lastly, the Commission expressed the belief that implementing higher position and exercise limits may bring additional depth and liquidity without increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.[17] The Exchange's existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from increasing position and exercise limits (increased as compared to the 900,000 limit in place prior to the SPY Pilot Program).[18]

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the entire proposal is consistent with Section (6)(b)(8) of the Act [19] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes the proposal promotes competition because it will enable the option exchanges to attract additional order flow from the over-the-counter market, who in turn compete for those orders. The Exchange believes that the proposed rule change will result in continued opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. MIAX Options believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position limits for additional multiply listed option classes. Furthermore, MIAX Options believes that the other options exchanges will file similar proposals with the Commission.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[15] *Id.*

[16] *See supra* note 10.

[17] *See supra* note 9.

[18] *See supra* note 7.

[19] 15 U.S.C. 78f(b)(8).

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) [21] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2018–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2018–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2018–11 and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11985 Filed 6–4–18; 8:45 am]

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[20] 15 U.S.C. 78s(b)(3)(A).

[21] 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.

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83342; File No. SR–NYSE–2018–19]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Intercontinental Exchange, Inc. Director Independence Policy

May 30, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 22, 2018, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Intercontinental Exchange, Inc. (''ICE'') director independence policy (''Independence Policy'') in connection with a transaction (''Transaction'') whereby Chicago Stock Exchange, Inc. (''CHX'') and its direct parent, CHX Holdings, Inc. (''CHX Holdings''), would become indirect subsidiaries of Intercontinental Exchange, Inc. (''ICE''), the ultimate parent of the Exchange. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Independence Policy in connection with the Transaction. CHX Holdings,[4] ICE and Kondor Merger Sub, Inc. (''Merger Sub''), entered into a Merger Agreement dated April 4, 2018 (''Merger Agreement''). Merger Sub is a wholly-owned subsidiary of NYSE Group, Inc. (''NYSE Group''). Pursuant to the Merger Agreement, Merger Sub would merge with and into CHX Holdings, with CHX Holdings continuing as the surviving corporation (''Merger''). Upon the Merger, NYSE Group would hold all of the outstanding and issued shares of CHX Holdings, and CHX Holdings would continue to be the record and beneficial owner of all of the issued and outstanding shares of capital stock of CHX and the sole member of CHXBD, LLC (''CHXBD''), the Exchange's affiliated routing broker.

NYSE Group owns all of the equity interest in the Exchange and its national securities exchange affiliates, NYSE Arca, Inc. (''NYSE Arca''), NYSE American LLC (''NYSE American'') and NYSE National, Inc. (''NYSE National''). In turn, NYSE Group is a wholly-owned subsidiary of NYSE Holdings LLC, which is wholly owned by Intercontinental Exchange Holdings, Inc. (''ICE Holdings''). ICE Holdings is wholly owned by ICE.[5]

Following the Transaction, CHX would continue to be registered as a national securities exchange and as a separate self-regulatory organization. As such, CHX would continue to have separate rules, membership rosters, and listings that would be distinct from the rules, membership rosters, and listings of the four registered national securities exchanges and self-regulatory organizations owned by NYSE Group, namely, the NYSE, NYSE American, NYSE Arca, and NYSE National (together, the ''NYSE Exchanges'').

The proposed rule changes would become operative simultaneously with the Merger that effectuates the Transaction (''Closing'').

Amendments to the Independence Policy

The Independence Policy was adopted at the time that the Exchange was acquired by ICE[6] and amended to reflect the NYSE Group acquisition of NYSE National.[7] In connection with the Transaction, the Independence Policy would be amended to provide similar protections to CHX as are currently provided to the NYSE Exchanges by the policy, by making technical and conforming amendments.[8] In addition, the Exchange proposes to remove or update obsolete references.

The proposed amendments are as follows:

- Under ''Independence Qualifications,'' references to the CHX would be added to categories (1)(b) and (c) that refer to ''members,'' as defined in section 3(a)(3)(A)(i), 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act.[9] References to the CHX would also be added to subsections (4) and (5) of the section. As CHX does not have terms equivalent to ''allied members'' or ''approved persons,'' the Exchange does not propose to add references to CHX to the clause following ''(collectively, 'Members')'' in category (1)(b) or to category 2.
- The NYSE no longer has allied members.[10] Accordingly, the Exchange proposes to delete the text ''as defined in paragraph (c) of Rule 2 of the New York Stock Exchange LLC and'' from category 1(b) of ''Independence Qualifications.''
- NYSE MKT LLC changed its name to NYSE American LLC.[11] Under ''Independence Qualifications'' and ''Member Organizations,'' references to NYSE MKT LLC would be updated to reflect its name change.
- NYSE Arca Equities, Inc. merged with NYSE Arca, Inc., and therefore no longer exists.[12] Accordingly, under ''Independence Qualifications,'' the text ''and Rule 1.1(c) of NYSE Arca Equities, Inc.'' in category 1(b) and references to NYSE Arca Equities, Inc. in categories 2 and 5 would be deleted.

Conforming changes would also be made to delete and replace connectors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act[13] in general, and with Section 6(b)(1)[14] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons

[4] CHX became a wholly-owned subsidiary of CHX Holdings pursuant to the Exchange's demutualization as approved by the Commission in February 2005. *See* Securities Exchange Act Release No. 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26).

[5] ICE is a publicly traded company listed on the NYSE.

[6] *See* Securities Exchange Act Release No. 70210 (August 15, 2013), 78 FR 51758, 511764–511765 [sic] (August 21, 2013) (SR–NYSE– 2013–42; SR–NYSEMKT–2013–50; SR– NYSEArca–2013–62). At the time of the acquisition, ''ICE'' was called ''IntercontinentalExchange Group, Inc.'' *See* Securities Exchange Act Release No. 72158 (May 13, 2014), 79 FR 28784 (May 19, 2014) (SR–NYSE–2014–23).

[7] *See* Securities Exchange Act Releases No. 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90; SR–NYSEArca–2016–167; SR–NYSEMKT–2016–122), and 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16).

[8] The Exchange's affiliates NYSE American, NYSE Arca, and NYSE National have each submitted substantially the same proposed rule change to the Independence Policy as described herein. *See* SR–NYSEAmer–2018–17, SR–NYSEArca–2018–27, and SR–NYSENAT–2018–06.

[9] *See* 15 U.S.C. 78c(a)(3)(a).

[10] *See* Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR–NYSE–2008–80) (notice of filing and immediate effectiveness of proposed rule change and Amendment No. 1 thereto conforming certain NYSE rules to changes to NYSE incorporated rules recently filed by the Financial Industry Regulatory Authority, Inc.).

[11] *See* Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14).

[12] *See* Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR–NYSEArca–2017–40).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(1).

associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that amending the ICE Independence Policy would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest by incorporating CHX in the text of the Independence Policy and by removing or updating obsolete or outdated references, thereby adding clarity and transparency to the Exchange Rules by removing any confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc. The proposed changes would allow persons subject to the Exchange's jurisdiction, regulators, and investors to more easily navigate and understand the Independence Policy, contributing to the orderly operation of the Exchange,

For similar reasons, the Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed amendments to the Independence Policy would remove impediments to and perfect the mechanism of a free and open market and a national market system by removing confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc., thereby ensuring that market participants can more easily navigate, understand and comply with the Exchange rules. In this manner, the proposed change would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Independence Policy. The Exchange further believes that eliminating obsolete or outdated references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's 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 that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with updating the Independence Policy to reflect the Transaction and to remove obsolete references.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [18] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to immediately update the Independence Policy to reflect the Transaction and to remove obsolete references. The Commission does not believe that any new or novel issues are raised by the proposal. For these reasons, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2018–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2018–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6)(iii) requires the Exchange to provide 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. The Exchange has fulfilled this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2018–19 and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11979 Filed 6–4–18; 8:45 am]

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[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83345; File No. SR–Phlx–2018–43]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Descriptions of Certain Data Feeds Within Rule 1070

May 30, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 25, 2018, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the descriptions of certain data feeds within Rule 1070 entitled ''Data Feeds and Trade Information.'' The text of the proposed rule change is available on the Exchange's website 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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1070 entitled ''Data Feeds and Trade Information'' to: (i) Replace the phrase ''option symbol directory information'' on the PHLX Depth of Market Feed with a more specific description of the options symbol directory that was recently utilized in ISE Rule 718(a);[3] and (ii) add a similar description to the Top of PHLX Options (''TOPO'') and PHLX Orders data feed which have options symbol directories as well.

The Exchange proposes to amend the description of the PHLX Depth of Market Feed by removing the words ''option symbol directory information'' from the description and adding the sentence, ''The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on Phlx and identifies if the series is available for closing transactions only'' to describe the data provided for each options series.

The Exchange inadvertently excluded this information when it originally filed the description for the TOPO and PHLX Order feeds and now proposes to add a description of the options symbol directory to these feeds, similar to Phlx Depth of Market. The Exchange notes that because the PHLX Orders feed contains complex order data, the Exchange is also noting that ''leg information on complex strategies'' information is included in that feed for each option series. The Exchange believes that adding this language will bring greater clarity to each of these feeds.

The Exchange also proposes to replace the word ''Exchange'' with ''Phlx'' in Rule 1070(a).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency to the data feed information offered on Phlx. The Exchange's proposal to add more detail concerning the options symbol directory to the PHLX Depth of Market, TOPO and PHLX Orders data feeds will bring greater transparency to the Exchange's Rules. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest as it provides information relating to the data available on the Exchange for the benefit of its members within its Rules and adds greater transparency to these offerings. Finally, the amendments seek to add greater clarity to the data offerings and conform the text of the offerings across its Nasdaq affiliated markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance

[3] The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on ISE and identifies if the series is available for closing transactions only.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

of the purposes of the Act. The data feed offerings are available to any market participant. The Exchange's proposal to amend the data offerings will bring greater transparency to the Rulebook. The amendments seek to add greater clarity to the data offerings and conform the text of the offerings.

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 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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) [9] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that such waiver will allow it to update its rules to provide more detail regarding its data offerings and will further the protection of investors and the public interest because it will provide greater transparency as to the data offerings available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–43 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–*2018–43.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR*–Phlx–*2018–43* and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11982 Filed 6–4–18; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83346; File No. SR–BX–2018–021]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of the Proposed Rule Change To Amend the Descriptions of Certain Data Feeds Within Chapter VI, Section 19 Entitled "Data Feeds and Trade Information."

May 30, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 25, 2018, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend the descriptions of certain data feeds within Chapter VI, Section 19 entitled ''Data Feeds and Trade Information.'' The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Chapter VI, Section 19 entitled ''Data Feeds and Trade Information'' to: (i) To further detail the type of information available on BX Depth of Market (BX Depth); and (ii) add a sentence to BX Depth and BX Top of Market (BX Top) which describes symbol directory information with a more specific description of the options symbol directory that was recently utilized in ISE Rule 718(a).[3]

The Exchange desires to amend the description for BX Depth which currently provides, ''BX Depth is a data feed that provides quotation information for individual orders on the BX Options book, last sale information for trades executed on BX Options, and Order Imbalance Information as set forth in BX Options Rules Chapter VI, Section 8.'' The Exchange proposes to amend this sentence to provide, ''BX Depth is a data feed that provides *full order and quote depth* information for individual orders *and quotes* on the BX Options book, last sale information for trades executed on BX Options, and Order Imbalance Information as set forth in BX Options Rules Chapter VI, Section 8.'' The Exchange proposes this language to make clear that this data feed has full order and quote information and not top of book information. The Exchange believes this proposed language will bring greater clarity to this description. The BX Depth feed is not changing.

Also, today BX Depth and BX Top have an options symbol directory within those data feeds. The Exchange proposes to add a sentence to each of those data feeds to describe the data provided for each options series. The data includes the symbol (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on BX and identifies if the series is available for closing transactions only. The Exchange inadvertently excluded this information when it originally filed the description for these feeds. The Exchange believes that adding this language will bring greater clarity to each of these feeds.

The Exchange also proposes to replace the word ''Exchange'' with ''BX'' in Section 19(a).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency to the data feed information offered on BX. The Exchange's proposal to add more detail to both the BX Depth and BX Top data feeds will bring greater transparency to the Exchange's Rules. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest as it provides information relating to the data available on the Exchange for the benefit of its Participants within its Rules and adds greater transparency to these offerings. Finally, the amendments seek to add greater clarity to the data offerings and conform the text of the offerings across its Nasdaq affiliated markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The data feed offerings are available to any market participant. The Exchange's proposal to amend the data offerings will bring greater transparency to the Rulebook. The amendments seek to add greater clarity to the data offerings and conform the text of the offerings.

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 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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that such waiver will allow it to update its rules to provide more detail regarding its data offerings and will further the protection of investors and the public interest because it will provide greater transparency as to the data offerings available to members. For this reason, the Commission believes that waiving

[3] The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on ISE and identifies if the series is available for closing transactions only.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2018–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2018–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–021 and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11983 Filed 6–4–18; 8:45 am]

BILLING CODE 8011–01–P

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, June 7, 2018.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; 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: May 31, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–12116 Filed 6–1–18; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83347; File No. SR–NYSEAMER–2018–17]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Intercontinental Exchange, Inc. Director Independence Policy

May 30, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 22, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Intercontinental Exchange, Inc. (''ICE'') director independence policy (''Independence Policy'') in connection with a transaction (''Transaction'') whereby Chicago Stock Exchange, Inc. (''CHX'') and its direct parent, CHX Holdings, Inc. (''CHX Holdings''), would become indirect subsidiaries of Intercontinental Exchange, Inc. (''ICE''), the ultimate parent of the Exchange. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Independence Policy in connection with the Transaction. CHX Holdings,[4] ICE and Kondor Merger Sub, Inc. (''Merger Sub''), entered into a Merger Agreement dated April 4, 2018 (''Merger Agreement''). Merger Sub is a wholly-owned subsidiary of NYSE Group, Inc. (''NYSE Group''). Pursuant to the Merger Agreement, Merger Sub would merge with and into CHX Holdings, with CHX Holdings continuing as the surviving corporation (''Merger''). Upon the Merger, NYSE Group would hold all of the outstanding and issued shares of CHX Holdings, and CHX Holdings would continue to be the record and beneficial owner of all of the issued and outstanding shares of capital stock of CHX and the sole member of CHXBD, LLC (''CHXBD''), the Exchange's affiliated routing broker.

NYSE Group owns all of the equity interest in the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''NYSE Arca'') and NYSE National, Inc. (''NYSE National''). In turn, NYSE Group is a wholly-owned subsidiary of NYSE Holdings LLC, which is wholly owned by Intercontinental Exchange Holdings, Inc. (''ICE Holdings''). ICE Holdings is wholly owned by ICE.[5]

Following the Transaction, CHX would continue to be registered as a national securities exchange and as a separate self-regulatory organization. As such, CHX would continue to have separate rules, membership rosters, and listings that would be distinct from the rules, membership rosters, and listings of the four registered national securities exchanges and self-regulatory organizations owned by NYSE Group, namely, the NYSE, NYSE American, NYSE Arca, and NYSE National (together, the ''NYSE Exchanges'').

The proposed rule changes would become operative simultaneously with the Merger that effectuates the Transaction (''Closing'').

Amendments to the Independence Policy

The Independence Policy was adopted at the time that the Exchange was acquired by ICE[6] and amended to reflect the NYSE Group acquisition of NYSE National.[7] In connection with the Transaction, the Independence Policy would be amended to provide similar protections to CHX as are currently provided to the NYSE Exchanges by the policy, by making technical and conforming amendments.[8] In addition, the Exchange proposes to remove or update obsolete references.

The proposed amendments are as follows:

- Under ''Independence Qualifications,'' references to the CHX would be added to categories (1)(b) and (c) that refer to ''members,'' as defined in section 3(a)(3)(A)(i), 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act.[9] References to the CHX would also be added to subsections (4) and (5) of the section. As CHX does not have terms equivalent to ''allied members'' or ''approved persons,'' the Exchange does not propose to add references to CHX to the clause following ''(collectively, 'Members')'' in category (1)(b) or to category 2.
- The NYSE no longer has allied members.[10] Accordingly, the Exchange proposes to delete the text ''as defined in paragraph (c) of Rule 2 of the New York Stock Exchange LLC and'' from category 1(b) of ''Independence Qualifications.''
- NYSE MKT LLC changed its name to NYSE American LLC.[11] Under ''Independence Qualifications'' and ''Member Organizations,'' references to NYSE MKT LLC would be updated to reflect its name change.
- NYSE Arca Equities, Inc. merged with NYSE Arca, Inc., and therefore no longer exists.[12] Accordingly, under ''Independence Qualifications,'' the text ''and Rule 1.1(c) of NYSE Arca Equities, Inc.'' in category 1(b) and references to NYSE Arca Equities, Inc. in categories 2 and 5 would be deleted.

Conforming changes would also be made to delete and replace connectors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act[13] in general, and with Section 6(b)(1)[14] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that amending the ICE Independence Policy would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest by incorporating CHX in the text of the Independence Policy and by removing or updating obsolete or outdated references, thereby adding clarity and transparency to the Exchange Rules by removing any confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained

[4] CHX became a wholly-owned subsidiary of CHX Holdings pursuant to the Exchange's demutualization as approved by the Commission in February 2005. *See* Securities Exchange Act Release No. 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26).

[5] ICE is a publicly traded company listed on the NYSE.

[6] *See* Securities Exchange Act Release No. 70210 (August 15, 2013), 78 FR 51758, 511764–511765 [sic] (August 21, 2013) (SR–NYSE–2013–42; SR–NYSEMKT–2013–50; SR–NYSEArca–2013–62). At the time of the acquisition, ''ICE'' was called ''IntercontinentalExchange Group, Inc.'' *See* Securities Exchange Act Release No. 72156 (May 13, 2014), 79 FR 28782 (May 19, 2014) (SR–NYSEMKT–2014–41).

[7] *See* Securities Exchange Act Releases No. 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90; SR–NYSEArca–2016–167; SR–NYSEMKT–2016–122), and 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16).

[8] The Exchange's affiliates NYSE, NYSE Arca, and NYSE National have each submitted substantially the same proposed rule change to the Independence Policy as described herein. *See* SR–NYSE–2018–19, SR–NYSEArca–2018–27, and SR–NYSENAT–2018–06.

[9] *See* 15 U.S.C. 78c(a)(3)(a).

[10] *See* Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR–NYSE–2008–80) (notice of filing and immediate effectiveness of proposed rule change and Amendment No. 1 thereto conforming certain NYSE rules to changes to NYSE incorporated rules recently filed by the Financial Industry Regulatory Authority, Inc.).

[11] *See* Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14).

[12] *See* Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR–NYSEArca–2017–40).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(1).

obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc. The proposed changes would allow persons subject to the Exchange's jurisdiction, regulators, and investors to more easily navigate and understand the Independence Policy, contributing to the orderly operation of the Exchange,

For similar reasons, the Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed amendments to the Independence Policy would remove impediments to and perfect the mechanism of a free and open market and a national market system by removing confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc., thereby ensuring that market participants can more easily navigate, understand and comply with the Exchange rules. In this manner, the proposed change would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Independence Policy. The Exchange further believes that eliminating obsolete or outdated references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's 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 that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with updating the Independence Policy to reflect the Transaction and to remove obsolete references.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [18] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to immediately update the Independence Policy to reflect the Transaction and to remove obsolete references. The Commission does not believe that any new or novel issues are raised by the proposal. For these reasons, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2018–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6)(iii) requires the Exchange to provide 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. The Exchange has fulfilled this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–17 and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11984 Filed 6–4–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83343; File No. SR–NYSEARCA–2018–27]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Intercontinental Exchange, Inc. Director Independence Policy

May 30, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 22, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Intercontinental Exchange, Inc. (''ICE'') director independence policy (''Independence Policy'') in connection with a transaction (''Transaction'') whereby Chicago Stock Exchange, Inc. (''CHX'') and its direct parent, CHX Holdings, Inc. (''CHX Holdings''), would become indirect subsidiaries of Intercontinental Exchange, Inc. (''ICE''), the ultimate parent of the Exchange. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Independence Policy in connection with the Transaction. CHX Holdings,[4] ICE and Kondor Merger Sub, Inc. (''Merger Sub''), entered into a Merger Agreement dated April 4, 2018 (''Merger Agreement''). Merger Sub is a wholly-owned subsidiary of NYSE Group, Inc. (''NYSE Group''). Pursuant to the Merger Agreement, Merger Sub would merge with and into CHX Holdings, with CHX Holdings continuing as the surviving corporation (''Merger''). Upon the Merger, NYSE Group would hold all of the outstanding and issued shares of CHX Holdings, and CHX Holdings would continue to be the record and beneficial owner of all of the issued and outstanding shares of capital stock of CHX and the sole member of CHXBD, LLC (''CHXBD''), the Exchange's affiliated routing broker.

NYSE Group owns all of the equity interest in the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (''NYSE''), NYSE American LLC (''NYSE American'') and NYSE National, Inc. (''NYSE National''). In turn, NYSE Group is a wholly-owned subsidiary of NYSE Holdings LLC, which is wholly owned by Intercontinental Exchange Holdings, Inc. (''ICE Holdings''). ICE Holdings is wholly owned by ICE.[5]

Following the Transaction, CHX would continue to be registered as a national securities exchange and as a separate self-regulatory organization. As such, CHX would continue to have separate rules, membership rosters, and listings that would be distinct from the rules, membership rosters, and listings of the four registered national securities exchanges and self-regulatory organizations owned by NYSE Group, namely, the NYSE, NYSE American, NYSE Arca, and NYSE National (together, the ''NYSE Exchanges'').

The proposed rule changes would become operative simultaneously with the Merger that effectuates the Transaction (''Closing'').

Amendments to the Independence Policy

The Independence Policy was adopted at the time that the Exchange was acquired by ICE[6] and amended to reflect the NYSE Group acquisition of NYSE National.[7] In connection with the Transaction, the Independence Policy would be amended to provide similar protections to CHX as are currently provided to the NYSE Exchanges by the policy, by making technical and conforming amendments.[8] In addition, the Exchange proposes to remove or update obsolete references.

The proposed amendments are as follows:

- Under ''Independence Qualifications,'' references to the CHX would be added to categories (1)(b) and (c) that refer to ''members,'' as defined in section 3(a)(3)(A)(i), 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act.[9] References to the CHX would also be added to subsections (4) and (5) of the section. As CHX does not have terms equivalent to ''allied members'' or ''approved persons,'' the Exchange does not propose to add references to CHX to the clause following ''(collectively, 'Members')'' in category (1)(b) or to category 2.

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] CHX became a wholly-owned subsidiary of CHX Holdings pursuant to the Exchange's demutualization as approved by the Commission in February 2005. *See* Securities Exchange Act Release No. 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26).

[5] ICE is a publicly traded company listed on the NYSE.

[6] *See* Securities Exchange Act Release No. 70210 (August 15, 2013), 78 FR 51758, 511764–511765 [sic] (August 21, 2013) (SR–NYSE–2013–42; SR–NYSEMKT–2013–50; SR–NYSEArca–2013–62). At the time of the acquisition, ''ICE'' was called ''IntercontinentalExchange Group, Inc.'' *See* Securities Exchange Act Release No. 72157 (May 13, 2014), 79 FR 28792 (May 19, 2014) (SR–NYSEArca–2014–52).

[7] *See* Securities Exchange Act Releases No. 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90; SR–NYSEArca–2016–167; SR–NYSEMKT–2016–122), and 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16).

[8] The Exchange's affiliates NYSE, NYSE American, and NYSE National have each submitted substantially the same proposed rule change to the Independence Policy as described herein. *See* SR–NYSE–2018–19, SR–NYSEAmer–2018–17 and SR–NYSENAT–2018–06.

[9] *See* 15 U.S.C. 78c(a)(3)(a).

• The NYSE no longer has allied members.[10] Accordingly, the Exchange proposes to delete the text ''as defined in paragraph (c) of Rule 2 of the New York Stock Exchange LLC and'' from category 1(b) of ''Independence Qualifications.''

• NYSE MKT LLC changed its name to NYSE American LLC.[11] Under ''Independence Qualifications'' and ''Member Organizations,'' references to NYSE MKT LLC would be updated to reflect its name change.

• NYSE Arca Equities, Inc. merged with NYSE Arca, Inc., and therefore no longer exists.[12] Accordingly, under ''Independence Qualifications,'' the text ''and Rule 1.1(c) of NYSE Arca Equities, Inc.'' in category 1(b) and references to NYSE Arca Equities, Inc. in categories 2 and 5 would be deleted.

Conforming changes would also be made to delete and replace connectors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [13] in general, and with Section 6(b)(1) [14] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that amending the ICE Independence Policy would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest by incorporating CHX in the text of the Independence Policy and by removing or updating obsolete or outdated references, thereby adding clarity and transparency to the Exchange Rules by removing any confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc. The proposed changes would allow persons subject to the Exchange's jurisdiction, regulators, and investors to more easily navigate and understand the Independence Policy, contributing to the orderly operation of the Exchange.

For similar reasons, the Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed amendments to the Independence Policy would remove impediments to and perfect the mechanism of a free and open market and a national market system by removing confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc., thereby ensuring that market participants can more easily navigate, understand and comply with the Exchange rules. In this manner, the proposed change would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Independence Policy. The Exchange further believes that eliminating obsolete or outdated references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's 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 that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with updating the Independence Policy to reflect the Transaction and to remove obsolete references.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [18] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to immediately update the Independence Policy to reflect the Transaction and to remove obsolete references. The Commission does not believe that any new or novel issues are raised by the proposal. For these reasons, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[20]

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

[10] *See* Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR–NYSE–2008–80) (notice of filing and immediate effectiveness of proposed rule change and Amendment No. 1 thereto conforming certain NYSE rules to changes to NYSE incorporated rules recently filed by the Financial Industry Regulatory Authority, Inc.).

[11] *See* Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14).

[12] *See* Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR–NYSEArca–2017–40).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(1).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6)(iii) requires the Exchange to provide 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. The Exchange has fulfilled this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2018–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2018–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2018–27 and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11980 Filed 6–4–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83344; File No. SR–NYSENAT–2018–06]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Intercontinental Exchange, Inc. Director Independence Policy

May 30, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 22, 2018, NYSE National, Inc. (the ''Exchange'' or ''NYSE National'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Intercontinental Exchange, Inc. director independence policy in connection with a transaction whereby Chicago Stock Exchange, Inc. and its direct parent, CHX Holdings, Inc., would become indirect subsidiaries of Intercontinental Exchange, Inc., the ultimate parent of the Exchange. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Independence Policy in connection with the Transaction. CHX Holdings,[4] ICE and Kondor Merger Sub, Inc. (''Merger Sub''), entered into a Merger Agreement dated April 4, 2018 (''Merger Agreement''). Merger Sub is a wholly-owned subsidiary of NYSE Group, Inc. (''NYSE Group''). Pursuant to the Merger Agreement, Merger Sub would merge with and into CHX Holdings, with CHX Holdings continuing as the surviving corporation (''Merger''). Upon the Merger, NYSE Group would hold all of the outstanding and issued shares of CHX Holdings, and CHX Holdings would continue to be the record and beneficial owner of all of the issued and outstanding shares of capital stock of CHX and the sole member of CHXBD, LLC (''CHXBD''), the Exchange's affiliated routing broker.

NYSE Group owns all of the equity interest in the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''NYSE Arca''), and NYSE American LLC (''NYSE American''). In turn, NYSE Group is a wholly-owned subsidiary of NYSE Holdings LLC, which is wholly owned by Intercontinental Exchange Holdings, Inc. (''ICE Holdings''). ICE Holdings is wholly owned by ICE.[5]

Following the Transaction, CHX would continue to be registered as a national securities exchange and as a separate self-regulatory organization. As

[4] CHX became a wholly-owned subsidiary of CHX Holdings pursuant to the Exchange's demutualization as approved by the Commission in February 2005. *See* Securities Exchange Act Release No. 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26).

[5] ICE is a publicly traded company listed on the NYSE.

such, CHX would continue to have separate rules, membership rosters, and listings that would be distinct from the rules, membership rosters, and listings of the four registered national securities exchanges and self-regulatory organizations owned by NYSE Group, namely, the NYSE, NYSE American, NYSE Arca, and NYSE National (together, the ''NYSE Exchanges'').

The proposed rule changes would become operative simultaneously with the Merger that effectuates the Transaction (''Closing'').

Amendments to the Independence Policy

The Independence Policy was adopted at the time that the Exchange's national securities exchange affiliates were acquired by ICE [6] and amended to reflect the NYSE Group acquisition of the Exchange.[7] In connection with the Transaction, the Independence Policy would be amended to provide similar protections to CHX as are currently provided to the NYSE Exchanges by the policy, by making technical and conforming amendments.[8] In addition, the Exchange proposes to remove or update obsolete references.

The proposed amendments are as follows:

- Under ''Independence Qualifications,'' references to the CHX would be added to categories (1)(b) and (c) that refer to ''members,'' as defined in section 3(a)(3)(A)(i), 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act.[9] References to the CHX would also be added to subsections (4) and (5) of the section. As CHX does not have terms equivalent to ''allied members'' or ''approved persons,'' the Exchange does not propose to add references to CHX to the clause following ''(collectively, 'Members')'' in category (1)(b) or to category 2.
- The NYSE no longer has allied members.[10] Accordingly, the Exchange proposes to delete the text ''as defined in paragraph (c) of Rule 2 of the New York Stock Exchange LLC and'' from category 1(b) of ''Independence Qualifications.''
- NYSE MKT LLC changed its name to NYSE American LLC.[11] Under ''Independence Qualifications'' and ''Member Organizations,'' references to NYSE MKT LLC would be updated to reflect its name change.
- NYSE Arca Equities, Inc. merged with NYSE Arca, Inc., and therefore no longer exists.[12] Accordingly, under ''Independence Qualifications,'' the text ''and Rule 1.1(c) of NYSE Arca Equities, Inc.'' in category 1(b) and references to NYSE Arca Equities, Inc. in categories 2 and 5 would be deleted.

Conforming changes would also be made to delete and replace connectors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [13] in general, and with Section 6(b)(1) [14] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that amending the ICE Independence Policy would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest by incorporating CHX in the text of the Independence Policy and by removing or updating obsolete or outdated references, thereby adding clarity and transparency to the Exchange Rules by removing any confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc. The proposed changes would allow persons subject to the Exchange's jurisdiction, regulators, and investors to more easily navigate and understand the Independence Policy, contributing to the orderly operation of the Exchange,

For similar reasons, the Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed amendments to the Independence Policy would remove impediments to and perfect the mechanism of a free and open market and a national market system by removing confusion that may result if the Transaction was not reflected in the Independence Policy, or if it retained obsolete or outdated references to NYSE allied members, NYSE MKT LLC or NYSE Arca Equities, Inc., thereby ensuring that market participants can more easily navigate, understand and comply with the Exchange rules. In this manner, the proposed change would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Independence Policy. The Exchange further believes that eliminating obsolete or outdated references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's 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 that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with updating the Independence Policy to

[6] *See* Securities Exchange Act Release No. 70210 (August 15, 2013), 78 FR 51758, 511764–511765 [sic] (August 21, 2013) (SR–NYSE– 2013–42; SR–NYSEMKT–2013–50; SR– NYSEArca–2013–62). At the time of the acquisition, ''ICE'' was called ''IntercontinentalExchange Group, Inc.'' *See* Securities Exchange Act Release No. 72158 (May 13, 2014), 79 FR 28784 (May 19, 2014) (SR–NYSE–2014–23).

[7] *See* Securities Exchange Act Releases No. 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90; SR–NYSEArca-2016–167; SR–NYSEMKT–2016–122), and 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16).

[8] The Exchange's affiliates NYSE, NYSE American, and NYSE Arca have each submitted substantially the same proposed rule change to the Independence Policy as described herein. *See* SR–NYSE–2018–19, SR–NYSEAmer–2018–17, and SR–NYSEArca–2018–27.

[9] *See* 15 U.S.C. 78c(a)(3)(a).

[10] *See* Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR–NYSE–2008–80) (notice of filing and immediate effectiveness of proposed rule change and Amendment No. 1 thereto conforming certain NYSE rules to changes to NYSE incorporated rules recently filed by the Financial Industry Regulatory Authority, Inc.).

[11] *See* Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14).

[12] *See* Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR–NYSEArca–2017–40).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(1).

[15] 15 U.S.C. 78f(b)(5).

reflect the Transaction and to remove obsolete references.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [18] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to immediately update the Independence Policy to reflect the Transaction and to remove obsolete references. The Commission does not believe that any new or novel issues are raised by the proposal. For these reasons, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2018–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2018–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2018–06 and should be submitted on or before June 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–11981 Filed 6–4–18; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6)(iii) requires the Exchange to provide 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. The Exchange has fulfilled this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15520 and #15521; KENTUCKY Disaster Number KY–00068]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the Commonwealth of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–4361–DR), dated 04/26/2018.

Incident: Severe Storms, Tornadoes, Flooding, Landslides, and Mudslides.

Incident Period: 02/21/2018 through 03/21/2018.

DATES: Issued on 05/24/2018.

Physical Loan Application Deadline Date: 06/25/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 01/28/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated 04/26/2018, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Pendleton

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator, for Disaster Assistance.

[FR Doc. 2018–11968 Filed 6–4–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0664]

Medley SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Medley SBIC, L.P., 280 Park Avenue, New York, NY 10017, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Medley SBIC, L.P. proposes to sell its debt security financing of The Plastics Group, Inc., 7409 S. Quincy Street, Willowbrook, IL 60527 (''TPG'').

The sale is brought within the purview of § 107.730(a) of the Regulations as the purchaser, Medley Capital Corporation, is an Associate of Medley SBIC, L.P. and an investor in TPG therefore this transaction requires prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

Dated: May 17, 2018.

A. Joseph Shepard,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2018–12038 Filed 6–4–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15495 and #15496; OHIO Disaster Number OH–00054]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Ohio

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Ohio (FEMA–4360–DR), dated 04/17/2018.

Incident: Severe Storms, Flooding, and Landslides.

Incident Period: 02/14/2018 through 02/25/2018.

DATES: Issued on 05/24/2018.

Physical Loan Application Deadline Date: 06/18/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 01/17/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Ohio, dated 04/17/2018, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Coshocton, Harrison, Jefferson, Morgan

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–11967 Filed 6–4–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 02/72–0631 issued to Kinderhook Capital SBIC Fund I, LP, said license is hereby declared null and void.

United States Small Business Administration

Dated: May 24, 2018.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2018–12039 Filed 6–4–18; 8:45 am]

BILLING CODE P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 6 (Sub-No. 496X); Docket No. AB 290 (Sub-No. 400X)]

BNSF Railway Company—Abandonment Exemption—in the City of Des Moines, Polk County, Iowa; Norfolk Southern Railway Company—Discontinuance of Service Exemption—in the City of Des Moines, Polk County, Iowa

BNSF Railway Company (BNSF), and Norfolk Southern Railway Company (NSR) (collectively, Applicants), have jointly filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for BNSF to abandon, and for NSR to discontinue service over, approximately 0.45 miles of rail line between milepost 67.38 and milepost 66.93 in the City of Des Moines, Polk County, Iowa (the Line). The Line traverses United States Postal Service Zip Code 50309.

Applicants have certified that: (1) No local rail traffic has moved over the Line for at least two years; (2) no overhead rail traffic has moved over the Line for at least two years; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial

assistance (OFA)[1] has been received, these exemptions will be effective on July 5, 2018,[2] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 15, 2018. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 25, 2018, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Karl Morell, Karl Morell & Associates, 440 1st Street NW, Suite 440, Washington, DC 20001 and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA issued an environmental assessment (EA) on May 25, 2018. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed by June 11, 2018.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by BNSF's filing of a notice of consummation by June 5, 2019, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: May 31, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–12044 Filed 6–4–18; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. *See Offers of Financial Assistance,* EP 729 (STB served June 29, 2017); 82 FR 30,997 (July 5, 2017).

[2] Applicants initially filed their verified notice of exemption on April 30, 2018. BNSF filed a supplemental certificate of service for the environmental and historic report on May 16, 2018. Therefore, the official filing date is May 16, 2018.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[4] Each OFA must be accompanied by the filing fee, which is currently set at $1,800. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0180]

Hours of Service of Drivers: Application for Exemption; Small Business in Transportation Coalition

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Small Business in Transportation Coalition (SBTC) has requested an exemption from the electronic logging device (ELD) requirements for all motor carriers with fewer than 50 employees, including, but not limited to, one-person private and for-hire owner-operators of commercial motor vehicles used in interstate commerce. SBTC believes that the exemption would not have any adverse impacts on operational safety as motor carriers and drivers would remain subject to the hours-of-service (HOS) regulations as well as the requirements to maintain paper RODS. FMCSA requests public comment on SBTC's application for exemption.

DATES: Comments must be received on or before July 5, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2018–0180 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614–942–6477. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2018–0180), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means.

FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2018–0180'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

SBTC reports that it is a non-profit trade organization with more than 8,000 members. SBTC states that it ''represents, promotes, and protects the interest of small businesses in the transportation industry. Through the exemption application, SBTC seeks relief from the ELD requirements for small private, common and contract motor carriers with fewer than 50 employees. SBTC argues:

> ''[T]he ELD rule is not a ''safety regulation'' per se as the FMCSA has concluded. Rather it is a mechanism intended to enforce a safety regulation by regulating the manner in which a driver records and communicates his compliance. That is, it is merely a tool to determine compliance with an existing rule that regulates over-the-road drivers' driving and on duty time, namely the actual safety regulation: the [hours-of-service] regulations codified at 49 CFR 395.3 and 395.5. However, the ELD rule is not a safety regulation itself. Therefore, it is our position that this rule does *not* itself impact safety, and that the level of safety will not change based on whether or not our exemption application is approved. That would require a change to the [hours-of-service rules].''

SBTC asserts that the exemption would not have any adverse impacts on operational safety, as motor carriers and drivers would remain subject to the HOS regulations in 49 CFR 395.3, as well as the requirements to maintain a paper RODS under 49 CFR 395.8. The exemption would allow motor carriers with fewer than 50 employees to maintain their current practices that have resulted in a proven safety record. The term of the requested exemption, if granted, would be for five years, subject to renewal upon application.

A copy of SBTC's application for exemption is available for review in the docket for this notice.

Issued on: May 30, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–12037 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2007–28812]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that by a letter dated March 23, 2018 (and amended April 30, 2018), BNSF Railway Company (BNSF) petitioned the Federal Railroad Administration (FRA) for an extension of its waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232. FRA assigned the petition Docket Number FRA–2007–28812.

BNSF originally received conditional relief in 2008 from 49 CFR 232.205, *Class I brake test-initial terminal inspection,* and 49 CFR part 215, *Freight car safety standards,* for freight cars received in interchange at the United States/Mexico border crossing in Eagle Pass, TX, to permit required inspections to be conducted at Ryan's Ruin and Horan Siding, 14 miles north of the international border at Eagle Pass. BNSF's relief was extended for an additional five years in a decision letter dated March 26, 2013. In support of its present petition to extend its relief, BNSF states that the change in inspection point has proven a more efficient and safer operating environment.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by July 20, 2018 will be considered by FRA before final action is taken. Comments received

after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–12071 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0090]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GRATITUDE; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 5, 2018.

ADDRESSES: Comments should refer to docket number MARAD–2018–0090. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GRATITUDE is:

—*Intended Commercial Use of Vessel:* ''Six pack sailing charter business out of Gulfport, FL''

—*Geographic Region:* ''Florida''

The complete application is given in DOT docket MARAD–2018–0090 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: May 31, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–11998 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0092]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel INFINITY; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 5, 2018.

ADDRESSES: Comments should refer to docket number MARAD–2018–0092. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel INFINITY is:

—*Intended Commercial Use of Vessel:* ''Coastal passenger Charter''

—*Geographic Region:* ''Florida, Texas''

The complete application is given in DOT docket MARAD–2018–0092 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

Dated: May 31, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–11999 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0091]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel INTRIGUE; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 5, 2018

ADDRESSES: Comments should refer to docket number MARAD–2018–0091. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel INTRIGUE is:

—Intended Commercial use of Vessel: ''Sportfishing''

—Geographic Region: ''California''

The complete application is given in DOT docket MARAD–2018–0091 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * *

By Order of the Maritime Administrator

Dated: May 31, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–12000 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0089]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BLAZE II; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 5, 2018.

ADDRESSES: Comments should refer to docket number MARAD–2018–0089. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140,

1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BLAZE II is:

—*Intended Commercial Use of Vessel:* ''Luxury overnight catered charters with our captain and crew''

—*Geographic Region:* ''Hawaii''

The complete application is given in DOT docket MARAD–2018–0089 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator

Dated: May 31, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–11997 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2017–0142; Notice No. 2017–11]

Hazardous Materials: Notice of Updated Rail Tank Car Thermal Protection Systems List

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) issues this notice in coordination with the Federal Railroad Administration (FRA) to notify the public of four systems that have been added to the thermal protection systems list since its most recent publication, as well as to solicit comments or updates to information on the current list. The thermal protection systems included on the list are compliant and are acceptable for use, without further test verification, on U.S. Department of Transportation (DOT) specification tank cars. DOT manages the list through the PHMSA Records Center and periodically publishes an updated list in the **Federal Register** for public awareness.

DATES: Interested persons are invited to submit comments on or before September 4, 2018.

ADDRESSES: You may submit comments identified by Docket No. PHMSA–2017–0142 via any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this notice. Internet users may access comments received by DOT at: *http://www.regulations.gov.* Please note that comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT:

Pipeline and Hazardous Materials Safety Administration: Leonard Majors, Sciences, Engineering and Research Division (PHH–22), U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, East Building, 2nd Floor, Washington, DC 20590–0001, Telephone (202) 366–4545, *leonard.majors@dot.gov.*

Federal Railroad Administration: Dr. Phani Raj, Hazardous Materials Division, Office of Railroad Safety (FRA–RRS–12), U.S. Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE, West Building, 3rd Floor, Washington, DC 20590–0001, Telephone (202) 493–6306, *phani.raj@dot.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
II. Background
III. A List of Thermal Protection Systems Excepted From Test Verification
IV. Revisions to the List of Thermal Protection Systems Excepted From Test Verification

I. Executive Summary

The Pipeline and Hazardous Materials Safety Administration (PHMSA) issues this notice in coordination with the Federal Railroad Administration (FRA) to notify the public of four systems that have been added to the thermal protection systems list since its most recent publication, as well as to solicit comments or updates to information on

the current list. The thermal protection systems included on the list have passed the pool fire and torch fire tests specified in appendix B to 49 CFR part 179 and are acceptable for use, without further test verification, on certain U.S. Department of Transportation (DOT) specification tank cars. The list is maintained and updated in the PHMSA Records Center in accordance with § 179.18.

The thermal protection systems list was last published in the **Federal Register** on May 13, 1993 (Notice No. 93–12; 58 FR 28436). PHMSA is issuing this notice to inform the public of four thermal protection systems that have been added to the list since the previous notice was published in the **Federal Register** and to solicit comments or updates to the information on the current list. Information updates may include, but are not limited to, the following: Company name and location changes; material or tradename updates; and information on the use of these systems.

PHMSA is providing a 90-day comment period for responses and will publish a future **Federal Register** notice to address the information received and update the list with revisions, if necessary. This notice is not a rulemaking action, as it simply provides the rail industry with the information necessary to equip DOT specification rail tank cars. PHMSA will continue to maintain the list of thermal protection systems in the PHMSA Records Center and will also post a copy of the list to our website at *http://www.phmsa.dot.gov,* where future additions and revisions will be published.

II. Background

Thermal protection systems, when required by regulation for DOT specification tank cars, must meet the requirements of the Hazardous Materials Regulations (HMR). To qualify, the thermal protection system must conform to the performance standard and demonstrate such compliance through analysis of pool fire and torch fire tests required by § 179.18. Thermal protection systems that no longer require testing must demonstrate successful testing as specified in appendix B to 49 CFR part 179—Procedures for Simulated Pool and Torch-Fire Testing. Specifically, the procedures are designed to measure the thermal effects of new or untried thermal protection systems and to test for system survivability when exposed to pool fire and torch fire environments.

- *Pool Fire Simulation Test:* Must be run for a minimum of 100 minutes. The thermal protection system covers a specified steel plate that meets the requirements of paragraph 2a(2) in appendix B to 49 CFR part 179. The thermal protection system is exposed to a simulated pool fire as specified in appendix B to 49 CFR part 179, and it must retard the heat flow to the plate so that none of the thermocouples on the non-protected side of the plate indicate a plate temperature in excess of 427 °C (800 °F).
- *Torch Fire Simulation Test:* Must be run for a minimum of 30 minutes. The thermal protection system covers a specified steel plate that meets the requirements of paragraph 3a(2) in appendix B to 49 CFR part 179. The thermal protection system is exposed to a simulated torch fire as specified in appendix B to 49 CFR part 179, and it must retard the heat flow to the plate so that none of the thermocouples on the backside of the bare plate indicate a plate temperature in excess of 427 °C (800 °F).

When the HMR require a thermal protection system on a tank car, the tank car must have sufficient thermal resistance so that there will be no release of any lading within the tank car, except release through the pressure release device (§ 179.18(a)). Compliance with these requirements is verified by analyzing the fire effects on the entire surface of the tank car (§ 179.18(b)). The analysis must consider the fire effects on and heat flux through tank discontinuities, protective housings, underframes, metal jackets, insulation, and thermal protection. A complete record of each analysis shall be made, retained, and—upon request—made available for inspection and replication by an authorized representative of DOT.

DOT maintains a list of thermal protection systems that comply with the requirements of appendix B to 49 CFR part 179 and no longer require test verification (§ 179.18(c)). FRA receives test data from manufacturers to validate that the thermal protection systems meet the HMR requirements. PHMSA and FRA evaluate the test data to determine whether the system is appropriate for inclusion on the list. Once accepted, the material characteristics and the information necessary to apply any of the systems on this list to DOT specification rail tank cars is communicated to the public. This information is available in the PHMSA Records Center, Pipeline and Hazardous Materials Safety Administration, East Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

The current thermal protection systems list was most recently published in the **Federal Register** on May 13, 1993, in Notice No. 93–12 (58 FR 28436). To add a thermal protection system to the list, persons must provide test data and technical specifications showing that the system successfully passes the pool and torch fire tests required by appendix B to 49 CFR part 179. This information may be submitted to FRA's Hazardous Materials Division, Office of Railroad Safety. See **FOR FURTHER INFORMATION CONTACT**.

III. A List of Thermal Protection Systems Excepted From Test Verification

The two previous lists of thermal protection systems excepted from test verification were published in the **Federal Register** on May 13, 1993 (58 FR 28436) and January 31, 1986 (51 FR 4063). The current list identifies thermal protection systems by their 1993 system application number, with the 1986 system application number shown in parentheses, if applicable. Furthermore, the four new systems that have been approved by DOT since 1993 are: Nutec Fibratec SA de CV of Mexico's ½-Inch Thick Ceramic Fire Blanket; Jotun Paints, Inc.'s Jotachar JF750 Intumescent Paint; Premier Refractories' Cer-Wool FP Blanket; and Thermal Ceramics' Superwool Plus Insulation Tank Car Blanket. The current list of thermal protection systems is as follows:

1. Carborundum Company, Niagara Falls, New York

Fiberfrax

- *System Application 01 (6):* Apply 1.651 cm (0.65 inches) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m^3 (4.5 lbs/ft^3), then an 11-gauge steel jacket.
- *System Application 02 (22):* (<288 °C) Apply 1.27 cm (0.5 inch) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m^3 (4.5 lbs/ft^3)), compressed no less than 0.635 cm (0.25 inch) with froth-in-place rigid urethane foam, then an 11-gauge steel jacket. The total thickness of the Fiberfrax thermal protection and the urethane foam combination must be at least 5.08 cm (2.0 inches).
- *System Application 03 (23):* (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m^3 (4.5 lbs/ft^3)), compressed no less than 1.372 cm (0.54 inches) with froth-in-place rigid urethane foam, then an 11-gauge steel jacket. The total thickness of the Fiberfrax thermal protection and the urethane foam combination must be at least 5.08 cm (2.0 inches).

• *System Application 04 (24):* (<288 °C) Apply 1.27 cm (0.5 inch) minimum thickness Fiberfrax thermal protection (density ≥68.9 kg/m³ (4.3 lbs/ft³)), then apply 10.16 cm (4.0 inches) minimum thickness glass fiber insulation compressed to 8.89 cm (3.5 inches), and then an 11-gauge steel jacket.

• *System Application 05 (29):* Apply 1.27 cm (0.50 inch) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m³ (4.5 lbs/ft³)), then an 11-gauge steel jacket.

• *System Application 06:* Persons may use this system provided the tank car is constructed from at least 1.905 cm (0.75 inch) carbon steel plate. Apply 1.27 cm (0.50 inch) minimum thickness Fiberfrax thermal protection and the glass fiber insulation combination must be at least 8.89 cm (3.5 inches).

2. Courtaulds Aerospace, Incorporated, Des Plaines, Illinois

Thermal Shield Coating

System Application 01 (4): Apply 0.002 cm (7/10-mil) primer (a 2:1 ratio by volume of 513–003 base component and 9110x350 activator component). Next, apply 0.597 cm (235 mils) of Thermal Shield Coating (a nominal 5:1 ratio by volume of 821x359 base component and 9110x407 activator component) to the primed surface, then 0.005 cm (2 mils) of topcoat (a 2:1 ratio by volume of 821x317 base component and 9110x376 activator component).

3. Fibrex, Incorporated, Aurora, Illinois

A. Tank Wrap Insulation

System Application 01 (8): Apply 3.81 cm (1.5 inches) minimum thickness Tank Wrap Insulation (density ≥96.1 kg/m³ (6 lbs/ft³)), compressed to 2.54 cm (1.0 inch), then an 11-gauge steel jacket.

B. Tank Car Insulation

System Application 01 (25): (<288 °C) Apply 3.81 cm (1.5 inches) minimum thickness Tank Car Insulation (density ≥96.1 kg/m³ (6 lbs/ft³)), and 7.62 cm (3.0 inches) minimum thickness glass fiber insulation compressed to 6.35 cm (2.5 inches), then an 11-gauge steel jacket.

4. Holmes, Insulation Limited, Ontario, Canada

HILBLOK 1212

System Application 01 (7): Apply 2.54 cm (1.0 inch) minimum thickness of HILBLOK 1212 (density ≥200.2 kg/m³ (12.5 lbs/ft³)), then an 11-gauge steel jacket.

5. Nutec Fibratec SA de CV of Mexico

½-Inch Thick Ceramic Fire Blanket

System Application 01: Apply 12.7 mm (0.50 inches) minimum thickness ½-inch thick Ceramic Fire Blanket manufactured by Nutec Fibratec SA de CV of Mexico with an average mass density equal to or greater than 99.0 kg/m³ (6.18 lb/ft³), and then apply a 3.18 mm thick (11-gauge) steel jacket.

6. Jotun Paints, Inc., Belle Chasse, Louisiana

Jotachar JF750 Intumescent Paint

System Application 01: Apply 5.0 mm (0.20 inches) minimum thickness Jotachar JF750 Intumescent Paint manufactured by Jotun Paints, Inc. The coating is a proprietary mixture of two products, Jotachar JF750 Comp A and Jotachar JF750 Comp B that is applied in two coats for a nominal thickness of 5.0 mm (0.20 inches).

7. Premier Refractories, Erwin, Tennessee

Cer-Wool FP Blanket

System Application 01: (<288°C) Apply 1.17 cm (0.46 inches) minimum thickness Cer-Wool FP Blanket (weight per unit area ≥1.04 kg/m² (0.21 lbs/ft²)), then apply 10.16 cm (4.0 inches) minimum thickness fiber insulation (density ≥11.1 kg/m³) compressed to 8.89 cm (3.5 inches), and then an 11-gauge steel jacket.

8. Rock Wool Manufacturing, Leeds, Alabama

Delta Board

System Application 01 (1): Apply 2.54 cm (1.0 inch) minimum thickness of Delta Board (density ≥192.2 kg/m³ (12 lbs/ft³)), then an 11-gauge steel jacket.

9. Textron Specialty Materials, Lowell, Massachusetts

Chartek 59

• *System Application 01 (3):* Apply 0.008 cm (3 mils) of primer (Military Standard MIL–P–5219B), then apply a 2.54 cm (1.0 inch) hexagonal, 22-gauge, wire mesh to the primed surface. Next, apply 0.457 cm (180 mils) Chartek 59 thermal protection, then 0.008 cm (3 mils) of AMERCOAT 383 (Brea, California) to the cured surface.

• *System Application 02 (18):* (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness polyurethane foam then an 11-gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. Next, apply 0.53 cm (210 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

• *System Application 03 (19):* (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness glass fiber then an 11-gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

• *System Application 04 (21):* (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness polyurethane foam then an 11-gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

• *System Application 05 (30):* (<288 °C) Apply 0.008 cm (3 mils) of primer (Military Standard MIL–P- 52192B) to the clean surface. The use of a primer is optional when facilities complete the surface preparation and coating operations within six hours and the atmosphere has a dew point above 3 °C (37.4 °F). When desired, applicators may place a 2.54 cm (1.0 inch) hexagonal 22-gauge wire mesh to the primed surface. Next, apply 0.457 cm (180 mils) of Chartek 59 thermal protection to the cured surface, then apply 0.008 cm (3 mils) of an AMERCOAT 383 topcoat (Brea, California) to the Chartek 59 thermal protection to the cured surface.

• *System Application 06 (31):* (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness polyurethane foam then an 11-gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. When desired, applicators may place a 2.54 cm (1.0 inch) hexagonal 22-gauge wire mesh to the primed surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

• *System Application 07 (34):* (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness glass fiber insulation then an 11-gauge steel jacket, then apply 0.005 cm (2 mils) minimum of a polyamide epoxy primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. When desired, applicators may place a 2.54 cm (1.0 inch) hexagonal 22-gauge wire mesh to the primed surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

• *System Application 08:* Apply 0.008 cm (3 mils) of primary (Military Standard MIL–P–5219B), then apply a 2.54 cm (1.0 inch) hexagonal, 22-gauge, wire mesh to the primed surface. Next, apply 0.46 cm (180 mils) Chartek 59 thermal protection, then apply 0.008 cm (3 mils) of AMERCOAT (Brea, California) to the Chartek 59 thermal protection to the cured surface.

10. Thermal Ceramics, Augusta, Georgia

A. Kaowool Tank Car Blanket

• *System Application 01 (5):* Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥32.7 kg/m³ (2.04 lbs/ft³)), then an 11-gauge steel jacket.

• *System Application 02 (10):* Apply 1.32 cm (0.52 inches) minimum thickness of Kaowool Tank Car Blanket (density ≥76.9 kg/m³ (4.8 lbs/ft³)), then an 11-gauge steel jacket.

• *System Application 03 (32):* (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥72.1 kg/m³ (4.5 lbs/ft³)), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 7.62 cm (3.0 inches), then an 11-gauge steel jacket.

• *System Application 04 (33):* (<288 °C) Apply 1.321 cm (0.52 inches) minimum thickness of Kaowool Tank Car Blanket (density ≥76.9 kg/m³ (4.8 lbs/ft³)), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 8.89 cm (3.5 inches), then an 11-gauge steel jacket.

• *System Application 05 (35):* (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥72.1 kg/m³ (4.5 lbs/ft³)), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 7.62 cm (3.0 inches), then an 11-gauge steel jacket.

• *System Application 06 (36):* (<288 °C) Apply 1.321 cm (0.52 inches) minimum thickness of Kaowool Tank Car Blanket (density ≥76.9 kg/m³ (4.8 lbs/ft³)), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 8.89 cm (3.5 inches), and then an 11-gauge steel jacket.

• *System Application 07:* Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥64.1 kg/m³ (4 lbs/ft³)), then an 11-gauge steel jacket having an annular space of 1.016 cm (0.4 inches) between the thermal protection and the steel jacket.

B. Cerawool Tank Car Blanket

• *System Application 01 (9):* Apply 1.524 cm (0.6 inch) minimum thickness of Cerawool Tank Car Blanket (density ≥64.1 kg/m³ (4 lbs/ft³)), then an 11-gauge steel jacket having an annular space of 1.016 cm (0.4 inches) between the thermal protection and the jacket.

• *System Application 02:* Apply 2.54 cm (1.0 inch) minimum thickness of Cerawool Tank Car Blanket (density ≥54.9 kg/m³ (3.43 lbs/ft³)), and 5.08 cm (2.0 inches) minimum thickness polyurethane foam, then an 11-gauge steel jacket.

C. Superwool Plus Insulation Tank Car Blanket

• *System Application 01:* Apply 12.7 mm (0.50 inches) minimum thickness Superwool Plus Insulation Tank Car Blanket with an average mass density ≥60.2 kg/m³ (3.76 lbs/ft³), then apply 101.6 mm (4.0 inches) minimum thickness of glass fiber insulation with density ≥12.0 kg/m³ (0.75 lbs/ft³). The insulation components are compressed to 101.6 mm (4.0 inches), and then apply a 3.18 mm thick (11-gauge) steel jacket.

• *System Application 02:* Apply 12.7 mm (0.50 inches) minimum thickness Superwool Plus Insulation Tank Car Blanket with an average mass density equal to or greater than of 60.2 kg/m³ (3.76 lbs/ft³), and then apply a 3.18 mm thick (11-gauge) steel jacket over the insulation.

11. Thermal Sciences, Incorporated, St. Louis, Missouri

A. Thermo-lag 330–1 Subliming Material System

• *System Application 01 (2):* Apply 0.005 cm (2 mils) of Thermo-lag Primer 351, 0.127 cm (5 mils) Thermo-lag 351–EX176 Primer, or 0.02 cm (8 mils) of PLASITE 7156 Primer, then apply 0.419 cm (165 mils) of Thermo-lag 330–1 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350. Thermo-lag 330–CA cure accelerator may be added to the above components.

• *System Application 02:* Apply 0.020 cm (8 mils) of Wisconsin Protective Coatings' Plasite 7156 (Green Bay, Wisconsin), then apply 0.419 cm (165 mils) of Thermo-lag 330–1 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermolag Topcoat 350.

B. Thermo-lag 330–3 Subliming Material System

• *System Application 01 (12):* Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket. Next, apply 0.32 cm (125 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound, and then apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

• *System Application 02 (13):* Apply 5.08 cm (2.0 inches) minimum thickness of polyurethane, then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket, and then apply 0.32 cm (125 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

• *System Application 03 (14):* Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the exterior tank jacket, and then apply 0.34 cm (135 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

• *System Application 04 (16):* (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum film thickness of Thermo-lag Primer 351–3 primer to the tank jacket, and then apply 0.48 cm (188 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

• *System Application 05 (17):* (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness of polyurethane then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket. Next, apply 0.48 cm (188 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

C. Thermo-lag 330–3 Subliming Material System

• *System Application 01 (15):* Apply 5.08 cm (2.0 inches) minimum thickness of polyurethane foam then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 to the tank jacket, and then apply 0.343 cm (135 mils) minimum thickness of Thermo-lag 330–30 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

• *System Application 02 (27):* Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket, and then apply 0.46 cm (180 mils)

minimum thickness of Thermo-lag 330–30 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

• *System Application 03 (28):* Apply 2.54 cm (1.0 inch) minimum thickness of polyurethane foam then an 11-gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 to the tank jacket, and then apply 0.457 cm (180 mils) minimum thickness of Thermo-lag 330–30 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

D. Thermo-Lag 440 Subliming Material System

System Application 01: Apply 0.013 cm (5 mils) of Thermo-lag 351–176 Primer to the tank surface, then apply 0.419 cm (165 mils) of Thermo-lag 440 Subliming Material to the surface. Next, apply 0.005 cm (2 mils) of Thermo-lag 350–31 Topcoat.

12. United States Gypsum Company, Chicago, Illinois

A. Thermafiber Tank Car Fire Proofing

• *System Application 01 (11):* Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fire proofing (density ≥112.1 kg/m^3 (7 lbs/ft^3)), then an 11-gauge steel jacket.

• *System Application 02 (20):* (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fire proofing (density >112.1 kg/m^3 (7 lbs/ft^3)), with a foil scrim polyethylene facing, then apply 10.16 cm (4.0 inches) of glass fiber compressed to 7.62 cm (3.0 inches), and then an 11-gauge steel jacket.

• *System Application 03 (26):* (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fire proofing (density >112.1 kg/m^3 (7 lbs/ft^3)), with a foil scrim polyethylene facing, then apply 2.54 cm (1.0 inch) minimum thickness polyurethane facing followed by 2.54 cm (1.0 inch) minimum thickness polyurethane foam, and then an 11-gauge steel jacket.

• *System Application 04:* (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fire proofing (density ≥112.1 kg/m^3 (7 lbs/ft^3)), then apply 8.89 cm (3.5 inches) glass fiber insulation compressed to 7.62 cm (3.0 inches) and then an 11-gauge steel jacket.

B. Inswool HP

System Application 01: (<288 °C) Apply 3.81 cm (1.5 inch) minimum thickness of INSWOOL HP ceramic fiber blanket (density <80.1 kg/m^3 (5 lbs/ft^3)), then an 11-gauge steel jacket.

IV. Revisions to the List of Thermal Protection Systems Excepted From Test Verification

Given that this list was last published in the **Federal Register** on May 13, 1993, (Notice No. 93–12; 58 FR 28436), PHMSA and FRA anticipate that changes have inevitably occurred since its most recent publication—including the potential that companies on the list have moved, changed tradenames, closed, merged with other companies, or have been purchased by other companies. Therefore, PHMSA is providing stakeholders with the opportunity to comment on and request revisions to the current list of thermal protection systems excepted from test verification. This notice is not a solicitation for systems not identified on the list. Any proposed revisions submitted in response to this notice must meet the criteria for revision in this section.

For revisions to entries on the list:

• Persons requesting only a tradename change must submit information that the revision or change is not a new thermal protection system. Persons requesting further changes must submit a certification statement or test data and technical specifications demonstrating that the physical properties of the system have not changed. (See **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**.)

PHMSA and FRA will evaluate the revisions and comments received in response to this notice, including review of certification statements, test data, and technical specifications demonstrating the system is compliance with appendix B to 49 CFR part 179. Once all comments have been evaluated, PHMSA will publish a follow-up notice in the **Federal Register** to provide the most up-to-date list of thermal protection systems excepted from test verification, including any revised entries. PHMSA will continue to maintain the list of thermal protection systems in the PHMSA Records Center and will also post a copy of the list to our website at *http://www.phmsa.dot.gov,* where future additions and revisions will be published.

Signed in Washington, DC, on May 24, 2018.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2018–11988 Filed 6–4–18; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4422 and Form 15056

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 4422, Application for Certificate Discharging Property Subject to Estate Tax Lien and Form 15056, Escrow Agreement for Estates.

DATES: Written comments should be received on or before August 6, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Roberto Mora-Figueroa, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Sara Covington at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at (202) 317–6038 or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Titles: Form 4422—Application for Certificate Discharging Property Subject to Estate Tax Lien and Form 15056—Escrow Agreement for Estates.

OMB Number: 1545–0328.

Form Numbers: 4422 and 15056.

Abstract: Form 4422 is completed by either an executor, administrator, or other interested party for requesting release of any or all property of an estate from the Estate Tax Lien. Form 15056 is a contractual agreement between three parties (the IRS, taxpayer and escrow agent) to hold funds from property sales subject to the federal estate tax lien. The only information it requires is a quarterly statement reflecting the balance in the escrow account as proof that the funds are being held in accordance with the agreement.

Current Actions: There are changes in the paperwork burden previously approved by OMB, due to the reduction of filers, revision of form 4422 that

resulted in reduction of burden hours and adding a new form 15056 to this collection.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Gov't.

Estimated Number of Respondents: 2500.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 22, 2018.

Roberto Mora-Figueroa,

IRS Supervisory Tax Analyst.

[FR Doc. 2018–12028 Filed 6–4–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the Grants for Transportation of Veterans in Highly Rural Areas

AGENCY: Department of Veterans Affairs.

ACTION: Notice of funding availability (new applicants).

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds under the Grants for Transportation of Veterans in Highly Rural Areas program. This Notice of Funding Availability (Notice) contains information concerning the Grants for Transportation of Veterans in Highly Rural Areas program, grant application process, and amount of funding available.

Informational Webinar: Organizations who are interested in applying for this grant can view an informational Webinar about the Highly Rural Transportation Grants program at the following link: *http://va-eerc-ees.adobeconnect.com/p552nvc4m5e/.*

Announcement Type: Notice of Funding Availability.

Funding Opportunity Number: VA–HRTG–NEW–2018.

Catalog of Federal Domestic Assistance (CFDA) Number: 64.035.

DATES: Applications for assistance under the Grants for Transportation of Veterans in Highly Rural Areas program must be submitted to *www.grants.gov* by 4:00 p.m. eastern daylight time on July 30, 2018. In the interest of fairness to all competing applicants and with the single exception described below regarding unforeseen technical problems beyond the control of the applicant with the *Grants.gov* website, this deadline is firm as to date and hour, and VA will not consider any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of *grants.gov*), or other delivery-related problems.

ADDRESSES:

Access to the Application

The application can be found at *http://www.grants.gov/web/grants/search-grants.html,* utilizing the ''search by Catalog of Federal Domestic Assistance number'' function, and entering in that search field the number 64.035. Questions should be referred to the Veterans Transportation Program Office at (404) 828–5380 (this is not a toll-free number) or by email at *HRTG@va.gov.* For further information on Grants for Transportation of Veterans in Highly Rural Areas program requirements, see the Final Rule published in the **Federal Register** (78 FR 19586) on April 2, 2013, which is codified in 38 CFR 17.700–730.

Submission of Application Package

Applications may not be sent by facsimile. Applications must be submitted to *www.grants.gov* by the application deadline. Applications must be submitted as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. All applicable forms cited in the application description must be included.

FOR FURTHER INFORMATION CONTACT: Mindy LaCrone, Acting National Coordinator, Highly Rural Transportation Grants, Veterans Transportation Program, Member Services (10NF4), 2957 Clairmont Road, Atlanta, GA 30329; (918) 348–5564 (this is not a toll-free number); and Mindy LaCrone at *Mindy.LaCrone@va.gov.*

SUPPLEMENTARY INFORMATION:

Funding Opportunity Description

Overview

Access to VA care for veterans that are in highly rural areas continues to be an issue across the United States. VA has established this program to help address barriers to access to care. This program funds innovative approaches to transporting veterans in highly rural areas who typically have longer commute times to Department of Veterans Affairs medical centers (VA medical centers).

Purpose

VA Veterans Transportation Program (VTP) is pleased to announce that it is seeking grant applications for the Grants for Transportation of Veterans in Highly Rural Areas program. This Highly Rural Transportation Grant program furthers the Department's mission by offering this Notice for new grantees to assist veterans in highly rural areas through innovative transportation services to travel to VA medical centers and to otherwise assist in providing transportation services in connection with the provision of VA medical care to these veterans.

Definitions: 38 CFR 17.701 contains definitions of terms used in the Grants for Transportation of Veterans in Highly Rural Areas program. Definitions of key terms are also provided below for reference; however, 38 CFR 17.701

should be consulted for a complete list of definitions.

Applicant means an eligible entity that submits an application for a grant announced in a Notice of Funding Availability.

Eligible entity means either a Veterans Service Organization or a State Veterans Service Agency.

Grantee means an applicant that is awarded a grant under this NOFA.

Highly rural area means an area consisting of a county or counties having a population of less than seven persons per square mile. *NOTE: A listing of these highly rural areas may be found with the application materials on grants.gov, or* at this website under additional resources: *http://www.va.gov/HEALTHBENEFITS/vtp/grant_applicants.asp.*

Notice means a Notice of Funding Availability published in the **Federal Register** in accordance with 38 CFR 17.710.

Participant means a veteran in a highly rural area who is receiving transportation services from a grantee.

Provision of VA medical care means the provision of hospital or medical services as authorized under sections 1710, 1703, and 8153 of title 38 United States Code (U.S.C.).

State Veterans Service Agency means the element of a State government that has responsibility for programs and activities of that government relating to veterans benefits.

Subrecipient means an entity that receives grant funds from a grantee to perform work for the grantee in the administration of all or part of the grantee's program.

Transportation services means the direct provision of transportation, or assistance with transportation, to travel to VA medical centers and other VA or non-VA facilities in connection with the provision of VA medical care.

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

Veterans Service Organization means an organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

Authority

Grants applied for under this Notice are authorized by section 307 of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111–163, (the 2010 Act), as implemented by regulations codified at 38 CFR 17.700–.730, Grants for Transportation of Veterans in Highly Rural Areas. Funds made available under this Notice are subject to the requirements of the aforementioned regulations and other applicable laws and regulations.

Award Information

In accordance with 38 CFR 17.710, VA is issuing this Notice for grants under the Grants for Transportation of Veterans in Highly Rural Areas program for fiscal year 2018. Approximately $1 million is authorized to be appropriated for this fiscal year. VA is issuing this additional Notice to permit other applicants to apply for grants under the program (in accordance with the terms and conditions of this Notice). The following requirements apply to grants awarded under this Notice:

- One grant may be awarded to each grantee for fiscal year 2018 for each highly rural area in which the grantee provides transportation services. (The available counties that are not being serviced by a current grantee will be included in the full announcement on *www.grants.gov*).
- Transportation services may not be simultaneously provided by more than one grantee in any single highly rural area.
- No single grant will exceed $50,000.
- A veteran who is provided transportation services through a grantee's use of these grant monies will not be charged for such services.
- Grants awarded under this Notice will be for a 1-year period.
- All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by law.

Eligibility Information

Eligible Applicants

The only entities eligible to apply for and receive grants are Veterans Service Organizations that are recognized by the Secretary of Veterans Affairs and State Veterans Service Agencies. Current Highly Rural Transportation grantees are ineligible to apply for a grant under this notice. Interested eligible entities must submit a complete grant application package to be considered for a grant.

Cost Sharing or Matching

This solicitation does not require grantees to provide matching funds as a condition of receiving such grants.

Other

2 CFR part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards states that applicants that are awarded grant funds should operate by sound business practices. Organizations that are awarded funds under this Notice will be asked to submit organizational policies and procedures. Additional grant application requirements are specified in the application package. Submission of an incomplete application package will result in the application being rejected during the threshold review, the initial review conducted by VA to ensure the application package contains all required forms and certifications. Complete and accurate packages will then be subject to the evaluation/scoring and selection processes described in § 17.705(c) and (d), respectively. Applicants will be notified of any additional information needed to confirm or clarify information provided in the grant application and the deadline by which to submit such information.

Application and Submission Information

Applications will be submitted through *Grants.gov*. *Grants.gov* is a ''one-stop storefront'' that provides a unified process for all customers of federal awards to find funding opportunities and apply for funding. Complete instructions on how to register and submit a grant application can be found at *www.Grants.gov.* If the applicant experiences technical difficulties at any point during this process, please call the *Grants.gov* Customer Support Hotline at 800–518–4726, 24 hours a day, 7 days a week, except federal holidays.

Registration in *Grants.gov* is required prior to submission. VA strongly encourages registering with *Grants.gov* several weeks before the deadline for application submission. In addition, applicants who are new to applying for Federal grants or want to learn more about the Federal grant process should review the Grants 101 modules found at *https://grants101.usalearning.net/.* The deadline for applying for funding under this announcement is July 30, 2018.

Search for the funding opportunity on *Grants.gov* by using the following identifying information. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 64.035, titled ''Veterans transportation program,'' and the funding opportunity number is VA–HRTG–NEW–2018.

Submit an application consistent with this solicitation by following the directions in *Grants.gov*. Within 24–48 hours after submitting the electronic application, the applicant should receive an email validation message from *Grants.gov*. The validation message

will state whether the grant application has been received and validated, or rejected, with an explanation. Important: Applicants are urged to submit their applications at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

If an applicant experiences unforeseen *Grants.gov* technical issues beyond the applicant's control that prevents submission of its application by the deadline, the applicant must contact the VTP Office staff no later than 24 hours after the deadline and request approval to submit its application. At that time, VTP Office staff will instruct the applicant to submit specific information detailing the technical difficulties. The applicant must email the following: A description of the technical difficulties, a timeline of submission efforts, the complete grant application, the applicant's Data Universal Numbering System (DUNS) number, and *Grants.gov* Help Desk tracking number(s) received. After the program office reviews all of the information submitted, and contacts the *Grants.gov* Help Desk to validate the technical issues reported, VA will contact the applicant to either approve or deny the request to submit a late application. If the technical issues reported cannot be validated, the application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to begin the registration process in sufficient time, (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website, (3) failure to follow all of the instructions in the VA solicitation, and (4) technical issues experienced with the applicant's computer or information technology (IT) environment. Notifications regarding known technical problems with *Grants.gov,* if any, are posted on the *Grants.gov* website.

Content and Form of Application Submission

This section describes what a grant application must include. Failure to submit an application that contains all of the specified elements will result in the rejection of their application at the threshold review stage. Moreover, if applications are not adequately responsive to the scope of the solicitation, particularly to any critical element, or fail to include a program narrative, budget detail worksheet including a budget narrative, tribal resolution (if applicable), eligibly entity designation, or a list of the highly rural county or counties to be served, they will be rejected and receive no further consideration.

Threshold Review Criteria: (Critical Elements)

- *Application deadline:* Applications not received by the application deadline through *www.grants.gov* will not be reviewed.
- *Eligibility:* Applications that do not conform to the eligibility requirements at the beginning section of this document will not be reviewed.
- *Budget detail worksheet including a budget narrative:* VA strongly recommends use of appropriately descriptive file names (*e.g.,* ''Program Narrative,'' ''Budget Detail Worksheet and Budget Narrative,'' ''Timelines,'' ''Memoranda of Understanding,'' ''Resumes'') for all attachments. VA recommends that resumes be included in a single file.
- *Information to complete the Application for Federal Assistance (SF–424):* The SF–424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. *Grants.gov* takes information from the applicant's profile to populate the fields on this form.
- *Program Narrative:* Provide a detailed narrative of your program scope and specifically discuss the innovative modes and methods of transportation services to be provided. If the provision of transportation services will necessitate procurement or use of specific equipment, such equipment must be specifically listed.

Note on project evaluations: Applicants that propose to use funds awarded through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to knowledge) may constitute research. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet VA's performance measure data reporting requirements, likely do not constitute research. Research, for the purposes of VA-funded programs, is defined as, ''a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.'' 38 CFR 16.102(d). In addition, research involving human subjects is subject to certain added protections, as set forth in 38 CFR part 16. Applicants should provide sufficient information for VA to determine whether particular project activities they propose would either intentionally or unintentionally collect and/or use information in such a way that it meets VA's regulatory definition of research and thereby invoke the requirements and procedures set forth in 38 CFR part 16.

Budget Detail Worksheet and Budget Narrative

Budget Detail Worksheet: A sample SF 424A Budget Detail Worksheet can be found at the *www.grants.gov* website. Please submit a budget and label it, as the example above indicates. If the budget is submitted in a different format, the budget categories listed in the sample budget worksheet must be included.

Budget Narrative: The Budget Narrative should thoroughly and clearly describe *every* category of expense listed in the Budget Detail Worksheet. The narrative should be mathematically sound and correspond with the information and figures provided in the Budget Detail Worksheet. The narrative should explain how *all* costs were estimated and calculated and how they are relevant to the completion of the proposed project. The narrative may include tables for clarification purposes but need not be in a spreadsheet format. As with the Budget Detail Worksheet, the Budget Narrative must be broken down by year. **Note:** All non-federal entities have to comply with 2 CFR 200.400–475 Cost Principles and all Office of Management and Budget (OMB) Regulations and Circulars.

Budget Brief (example):

1. Our organization requests ____for the acquisition of_____ van(s).
2. The total cost of the van(s)_____. This is the amount requested from VA.
3. Our organization will utilize_____ for innovative approaches for transporting veterans. This is the amount requested from VA for a maximum of $50,000.

Indirect Cost Rate Agreement (If Applicable)

Indirect costs are allowed only if the applicant has a federally approved indirect cost rate. (This requirement does not apply to units of local government.) A copy of the rate approval must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant federal agency, which will review all documentation and approve a rate for the applicant organization or, if the applicant's accounting system permits, costs may be allocated in the direct cost categories. If VA is the cognizant federal agency,

obtain information needed to submit an indirect cost rate proposal from the contact person listed in this solicitation.

Tribal Authorizing Resolution (If Applicable)

If an application identifies a subrecipient that is either (1) a tribe or tribal organization or (2) a third party proposing to provide direct services or assistance to residents on tribal lands, then a current authorizing resolution of the governing body of the tribal entity or other enactment of the tribal council or comparable governing body authorizing the inclusion of the tribe or tribal organization and its membership must be included with the application. In those instances when an organization or consortium of tribes proposes to apply for a grant on behalf of a tribe or multiple specific tribes, then the application must include a resolution from all tribes that will be included as a part of the services/assistance provided under the grant. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (*i.e.,* without authorizing resolution or other enactment of each tribal governing body) may submit a copy of its consortium bylaws with the application in order to satisfy this requirement.

Submission Dates and Times

Grant applications under the Grants for Transportation of Veterans in Highly Rural Areas Program must be submitted to *www.grants.gov* by 4:00 p.m. eastern daylight time on July 30, 2018. In the interest of fairness to all competing applicants, this deadline is firm as to date and hour and with the single exception described above regarding unforeseen technical problems beyond the control of the applicant with the *Grants.gov* website, VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of *grants.gov*), or other delivery-related problems.

The application can be found at *http://www.grants.gov/web/grants/search-grants.html,* utilizing the ''search by Catalog of Federal Domestic Assistance number'' function, and entering in that search field the number 64.035. Questions should be referred to the Veterans Transportation Program Office at (404) 828–5380 (this is not a toll-free number) or by email at *HRTG@va.gov.* For further information on Grants for Transportation of Veterans in Highly Rural Areas program requirements, see the governing regulations codified at 38 CFR 17.700–730.

Grant applications may not be sent by facsimile. These applications must be submitted to *www.grants.gov* by the application deadline; they must also be submitted as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. All applicable forms cited in the application description must be included.

Intergovernmental Review

Some states require that applicants must contact their State's Single Point of Contact (SPOC) to find out and comply with the State's process, to comply with Executive Order (E.O.) 12372 (1982). Names and addresses of the SPOCs are listed in the Office of Management and Budget's homepage at: *https://www.whitehouse.gov/wp-content/uploads/2017/11/SPOC-Feb.-2018.pdf.*

Funding Restrictions

Grants will only be awarded to those organizations that are eligible under law as described in the eligibility information section.

Other Submission Requirements

For technical assistance with submitting the application, contact the *Grants.gov* Customer Support Hotline at 800–518–4726 or via email to *support@grants.gov.*

Note: The *Grants.gov* Support Hotline hours of operation are 24 hours a day, 7 days a week, except federal holidays. For assistance with any other requirement of this solicitation, contact Mindy LaCrone, Acting National Program Coordinator for Grants for Transportation of Veterans in Highly Rural Areas, at (918) 348–5564 (this is not a toll-free number) or by email to *Mindy.LaCrone@va.gov.*

Additional forms that may be required in connection with an award are available for download on *www.grants.gov.* Examples of these forms can be viewed at the *www.grants.gov* website. For successful applicants, receipt of funds will be contingent upon submission of all necessary forms. Please note in particular the following forms: Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirement; Disclosure of Lobbying Activities (Required for any applicant that expends any funds for lobbying activities; this form must be downloaded, completed, and then uploaded); and Standard Assurances (SF 424B) (Required to be submitted to the VTP Office prior to the receipt of any award funds).

Application Review Information

Criteria

VA is committed to ensuring a fair and open process for awarding these grants. The VTP Office will review the grant application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. Peer reviewers will conduct a threshold review of all applications submitted under this solicitation to ensure they meet all of the critical elements and all other minimum requirements as identified herein. The VTP Office may use either internal peer reviewers, external peer reviewers, or a combination to review the applications under this solicitation. An external peer reviewer is an expert in the field of the subject matter of a given solicitation who is NOT a current VA employee. An internal reviewer is a current VA employee who is well-versed or has expertise in the subject matter of this solicitation. Eligible applications will then be evaluated, scored, and rated by a peer review panel. Peer reviewers' ratings and any resulting recommendations are advisory only.

The VTP, Member Services Office conducts a financial review of applications for potential discretionary awards to evaluate the fiscal integrity and financial capability of applicants; examines proposed costs to determine if the Budget Detail Worksheet and Budget Narrative accurately explain project costs; and determines whether costs are reasonable, necessary, and allowable under applicable federal cost principles and agency regulations.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Veterans Health Administration, through the VTP Office, will forward the reviewers' recommendations for award to the Secretary of VA, who will then review and approve each award decision. Such determinations by the Secretary will be final. VA will also give consideration to factors including, but not limited to: underserved populations, geographic diversity, strategic priorities, and available funding when making awards.

Review and Selection Process

1. *Initial Grant Scoring:* Selection of Renewal Grants for Transportation of Veterans in Highly Rural Areas is very competitive. Applications will be scored using the following selection criteria:

A. VA will award up to 40 points (an applicant must score a minimum of 20 points) based on the program's plan for successful implementation, as demonstrated by the following:

(1) Program scope is defined, and applicant has specifically indicated the mode(s) or method(s) of transportation services to be provided.

(2) Program budget is defined, and applicant has indicated that grant funds will be sufficient to completely implement the program.

(3) Program staffing plan is defined, and applicant has indicated that there will be adequate staffing for delivery of transportation services according to program scope.

(4) Program timeframe for implementation is defined, and applicant has indicated that the delivery of transportation services will be timely.

B. VA will award up to 30 points (an applicant must score a minimum of 15 points) based on the program's evaluation plan, as demonstrated by the following:

(1) Measurable goals for determining the success of delivery of transportation services.

(2) Ongoing assessment of B.(1), with a means of adjusting the program if required.

C. VA will award up to 20 points (an applicant must score a minimum of 10 points) based on the applicant's community relationships in the areas to be serviced, as demonstrated by the following:

(1) Applicant has existing relationships with state or local agencies or private entities, or will develop such relationships, and has shown these relationships will enhance the program's effectiveness.

(2) Applicant has established past working relationships with state or local agencies or private entities which have provided services similar to those offered by the program.

D. VA will award up to 10 points (an applicant must score a minimum of 5 points) based on the innovative aspects of the program, as demonstrated by the following:

(1) How the program will identify and serve veterans who otherwise would be unable to obtain care.

(2) How the program will utilize or integrate existing public resources (VA, State, or Other).

2. *Initial Grant Selection:* VA will use the following process to award initial grants:

A. VA will rank those applications who receive at least the minimum amount of total points (50) and points per category set forth in this Notice. The applications will be ranked in order from highest to lowest scores.

B. VA will use the grantee's ranking as the basis for selection for funding. VA will fund the highest ranked grantees for which funding is available.

3. *Renewal Grant Scoring:* There is a separate NOFA for renewal applications. However, we are including scoring for renewal grants for the further information of new applicants. Renewal applications will be scored using the following selection criteria:

A. VA will award up to 55 points (an applicant must score at a minimum of 27.5 points) based on the success of the grantee's program, as demonstrated by the following: Application shows that the grantee or identified subrecipient provided transportation services which allowed participants to be provided medical care timely and as scheduled; and application shows that participants were satisfied with the transportation services provided by the grantee or identified subrecipient, as described in the Notice;

B. VA will award up to 35 points (an applicant must score at a minimum of 17.5 points) based on the cost effectiveness of the program, as demonstrated by the following: The grantee or identified subrecipient administered the program on budget and grant funds were utilized in a sensible manner, as interpreted by information provided by the grantee to VA under 38 CFR 17.725(a)(1–7); and

C. VA will award up to 15 (an applicant must score at a minimum of 7.5 points) points based on the extent to which the program complied with the grant agreement and applicable laws and regulations.

4. *Renewal Grant Selection:* Selection of Renewal Grants for Transportation of Veterans in Highly Rural Areas is very competitive. VA will use the following process to award renewal grants:

A. VA will rank those grantees who receive at least the minimum amount of total points (52.5) and points per category set forth in the Notice. The grantees will be ranked in order from highest to lowest scores.

B. VA will use the grantees' ranking as the basis for selection for funding. VA will fund the highest-ranked grantees for which funding is available.

Award Administration Information

Award Notices and Grant Agreements

After an applicant is selected for a grant in accordance with 38 CFR 17.705(d), VA will send a notice of award (NoA) letter with an enclosed grant agreement to be executed by the Assistant Deputy Under Secretary for Health for Administrative Operations in VA and the grantee. Upon execution of the grant agreement, VA will obligate the approved amount provided that:

1. The grantee must operate the program in accordance with the provisions of this section and the grant application;

2. If a grantee's application identified a subrecipient, such subrecipient must operate the program in accordance with the provisions of this section and the grant application; and

3. If a grantee's application identified that funds will be used to procure or operate vehicles to directly provide transportation services, the following requirements must be met:

A. Title to the vehicles must vest solely in the grantee or in the identified subrecipient or with leased vehicles in an identified lessor;

B. The grantee or identified subrecipient must, at a minimum, provide motor vehicle liability insurance for the vehicles to the same extent they would insure vehicles procured with their own funds;

C. All vehicle operators must be licensed in a U.S. State or Territory to operate such vehicles;

D. Vehicles must be safe and maintained in accordance with the manufacturer's recommendations; and

E. Vehicles must be operated in accordance with applicable Department of Transportation regulations concerning transit requirements under the Americans with Disabilities Act.

Recipients will use the U.S. Department of Health and Human Services Payment Management System for grant drawdowns. Instructions for submitting requests for payment may be found at *http://www.dpm.psc.gov/.*

The Grant Agreement will be sent through the U.S. Postal Service to the awardee organization as listed on its SF 424. Note that any communication between the VTP Office and awardees prior to the issuance of the NoA is *not* authorization to begin performance on the project.

Unsuccessful applicants will be notified of their status by letter, which will likewise be sent through the U.S. Postal Service to the applicant organization as listed on its SF 424.

Administrative and National Policy Requirements

Successful applicants selected for awards must agree to comply with additional applicable legal requirements upon acceptance of an award. (VA strongly encourages applicants to review the information pertaining to these additional requirements prior to submitting an application.) As to those

additional requirements, we note that while their original grants were subject to additional legal requirements as set forth in 38 CFR parts 43 and 49 those regulatory provisions have since been superseded by the Common Rule governing all Federal Grant Programs. The Common Rule is codified at 2 CFR part 200. Thus, grantees and identified subrecipients awarded grants under the Program must agree as part of their grant agreement to comply with all requirements of the Common Rule, as applicable.

Reporting

Progress Reports

Awardees must agree to cooperate with any VA evaluation of the program and provide required quarterly, annual, and final (at the end of the fiscal year) reports in a form prescribed by VTP. A final report consists of a summation of grant activities which include progress toward goals, financial administration of grant funds, grant administration issues and barriers. Reports are to be submitted electronically. These reports must outline how grant funds were used, describe program progress and barriers, and provide measurable outcomes.

Required quarterly and annual reports must include the following information:

- Record of time expended assisting with the provision of transportation services;
- Record of grant funds expended assisting with the provision of transportation services;
- Trips completed;
- Total distance covered;
- Veterans served;
- Locations which received transportation services; and
- Results of veteran satisfaction survey.

Program Monitoring

The VTP is responsible for program monitoring. All awardees will be required to cooperate in providing the necessary data elements to the VTP. The goal of program monitoring is to ensure program requirements are met; this will be accomplished by tracking performance and identifying quality and compliance problems through early detection. Methods of program monitoring may include: Monitoring the performance of a grantees or subrecipient's personnel, procurements, and/or use of grant-funded property; collecting, analyzing data, and assessing program implementation and effectiveness; assessing costs and utilization; and providing technical assistance when needed. Site visit monitoring will include the above-described activities, in addition to the conduct of safety assessments and, if applicable, verification of both current driver's licenses and vehicle insurance coverage.

Federal Financial Report

Awardees are required to submit the FFR SF 425 on a quarterly basis. More details will be announced in the NoA.

Audit Requirements

Awardees must comply with the audit requirements of Office of Management and Budget (OMB) Uniform Guidance 2 CFR part 200 subpart F. Information on the scope, frequency and other aspects of the audits can be found on the internet at *https://federalregister.gov/a/2013-30465.*

Program Variations

Any changes in a grantee's program activities which result in deviations from the grant agreement must be reported to VA.

Additional Reporting

Additional reporting requirements may be requested by VA to allow VA to fully assess program effectiveness.

Notice of New Post-Award Reporting Requirements

All recipients (excluding an individual recipient of Federal assistance) of awards of $25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), Public Law 109–282 (Sept. 26, 2006), will be required to report award information on the subaward reporting system of any first-tier subawards totaling $25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding.

It is expected that reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS) found at *https://www.fsrs.gov.* The FFATA Subaward Reporting System is the reporting tool Federal prime awardees (*i.e.*, prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded and prime grant awardees will report against sub-grants awarded. Prime Contractors awarded a Federal contract or order that is subject to Federal Acquisition Regulation clause 52.204–10 (Reporting Executive Compensation and First-Tier Subcontract Awards) are required to file a FFATA subaward report by the end of the month following the month in which the prime contractor awards any subcontract greater than $25,000.

Please note also that no subaward of an award made under this solicitation may be made to a subrecipient that is subject to the terms of FFATA unless the potential subrecipient acquires and provides a DUNS number.

Other Information

Pursuant to 38 CFR 17.730(a), VA may recover from the grantee any funds that are not used in accordance with a grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover grant funds, and the grantee will then have 30 days to submit documentation demonstrating why the grant funds should not be recovered. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds. When VA determines action will be taken to recover grant funds from the grantee, the grantee is then prohibited under 38 CFR 17.730(b) from receiving any further grant funds.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Peter M. O'Rourke, Chief of Staff, Department of Veterans Affairs, approved this document on May 24, 2018, for publication.

Dated: May 24, 2018.

Jeffrey M. Martin,

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

[FR Doc. 2018–11944 Filed 6–4–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the Grants for Transportation of Veterans in Highly Rural Areas

AGENCY: Department of Veterans Affairs.

ACTION: Notice of funding availability (grant renewals).

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds under the Grants for Transportation of Veterans in Highly Rural Areas. This Notice of Funding Availability (Notice) contains information concerning the Grants for Transportation of Veterans in Highly Rural Areas program, grant renewal application process, and amount of funding available.

DATES: Applications for assistance under the Grants for Transportation of Veterans in Highly Rural Areas Program must be submitted to *www.grants.gov* by 4:00 p.m. Eastern Daylight Time on July 30, 2018. In the interest of fairness to all competing applicants and with the single exception described farther below regarding unforeseen technical problems beyond the control of the applicant with the *Grants.gov* website, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of *grants.gov*), or other delivery-related problems.

ADDRESSES:

Access to the Application

The application can be found at *http://www.grants.gov/web/grants/search-grants.html,* utilizing the ''search by Catalog of Federal Domestic Assistance number'' function, and entering in that search field the number 64.035. Questions should be referred to the Veterans Transportation Program Office at (918) 348–5564 (this is not a toll-free number) or by email at *HRTG@va.gov.* For further information on Grants for Transportation of Veterans in Highly Rural Areas Program requirements, see the Final Rule published in the **Federal Register** (78 FR 19586) on April 2, 2013, which is codified in 38 CFR 17.700–730.

Submission of Application Package

Applications may not be sent by facsimile. Applications must be submitted to *www.grants.gov* by the application deadline. Applications must be submitted as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. All applicable forms cited in the application description must be included.

FOR FURTHER INFORMATION CONTACT: Mindy LaCrone, Acting National Program Coordinator, Highly Rural Transportation Grants, Veterans Transportation Program, Member Services (10NF4), 2957 Clairmont Road, Atlanta, GA 30329; (918) 348–5564 (this is not a toll-free number); and Mindy LaCrone at *Mindy.LaCrone@va.gov.*

Announcement Type: Notice of Funding Availability (Grant Renewals).

Funding Opportunity Number: VA–HRTG–2018.

Catalog of Federal Domestic Assistance (CFDA) Number: 64.035.

SUPPLEMENTARY INFORMATION:

Funding Opportunity Description

Overview

Access to VA care for veterans that are in highly rural areas continues to be an issue across the United States. VA has established this program to help address barriers to access to care. This program funds innovative approaches to transporting veterans in highly rural areas who typically have longer commute times to Department of Veterans Affairs medical centers (VA Medical Centers).

Purpose

VA Veterans Transportation Program (VTP) is pleased to announce that it is seeking grant renewal applications for Grants for Transportation of Veterans in Highly Rural Areas. This program furthers the Department's mission by offering renewal grants to current grantees to enable them to continue to assist veterans in highly rural areas through innovative transportation services to travel to VA medical centers and to otherwise assist in providing transportation services in connection with the provision of VA medical care to these veterans.

Authority

Funding applied for under this Notice is authorized by section 307 of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111–163, 307 (the 2010 Act), as implemented by regulations codified at 38 CFR 17.700–730, Grants for Transportation of Veterans in Highly Rural Areas. Funds made available under this Notice are subject to the requirements of the aforementioned regulations and other applicable laws and regulations.

Award Information

In accordance with 38 CFR 17.710, VA is issuing this Notice for renewal grants under the Grants for Transportation of Veterans in Highly Rural Areas Program for fiscal year 2016. Approximately $2 million is authorized to be appropriated for this fiscal year. If additional funding becomes available, VA will issue additional Notices of Funding Availability to permit other grantees to apply for Grants under the Program (in accordance with the terms and conditions of such Notices of Funding Availability). The following requirements apply to grants awarded under this Notice:

- One renewal grant may be awarded to each grantee for fiscal year 2018 for each highly rural area in which the grantee provides transportation services. (A listing of the highly rural counties can be found at this website under additional resources: *http://www.va.gov/HEALTHBENEFITS/vtp/grant_applicants.asp*)
- Transportation services may not be simultaneously provided by more than one grantee in any single highly rural area.
- No single grant will exceed $50,000 USD per highly rural area.
- A veteran who is provided transportation services through a grantee's use of these grant monies will not be charged for such services.
- Renewal grants awarded under this Notice will be for a one (1) year period.
- All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by law.

Eligibility Information

Eligible Applicants

Current 2017 grantees are the only entities that are eligible to apply for a renewal grant. Interested eligible entities must submit a complete renewal grant application package to be considered for a grant renewal. Further, a renewal grant will only be awarded if the grantee's program will remain substantially the same as the program for which the original grant was awarded. How the grantee will meet this requirement must be specifically addressed in the renewal grant application.

Cost Sharing or Matching

This solicitation does not require grantees to provide matching funds as a condition of receiving such grants.

Other

Additional grant application requirements are specified in the application package. Submission of an incorrect or incomplete application package will result in the application being rejected during the threshold review, the initial review conducted by

VA, to ensure the application package contains all required forms and certifications. Complete packages will then be subject to the evaluation/scoring and selection processes described in § 17.705(c) and (d), respectively. Applicants will be notified of any additional information needed to confirm or clarify information provided in the renewal grant application and the deadline by which to submit such information.

Application and Submission Information

Renewal applications will be submitted through *Grants.gov*. *Grants.gov* is a ''one-stop storefront'' that provides a unified process for all customers of federal awards to find funding opportunities and apply for funding. Complete instructions on how to register and submit a renewal grant application can be found at *www.Grants.gov.* If the applicant experiences technical difficulties at any point during this process, please call the *Grants.gov* Customer Support Hotline at 800–518–4726, 24 hours a day, 7 days a week, except federal holidays.

Registration in *Grants.gov* is required prior to submission. VA strongly encourages registering with *Grants.gov* several weeks before the deadline for application submission. The deadline for applying for funding under this announcement is July 30, 2018.

In order to locate the funding opportunity, please visit the *Grants.gov* website and perform a search using the identifying information below. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 64.035, titled ''Veterans Transportation Program'' and the funding opportunity number is VA–HRTG–2018.

Submit an application consistent with this solicitation by following the directions in *Grants.gov*. Within 24–48 hours after submitting the electronic application, the applicant should receive an email validation message from *Grants.gov*. The validation message will state whether the renewal grant application has been received and validated, or rejected, with an explanation. Important: Applicants are urged to submit their applications at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

If an applicant experiences unforeseen *Grants.gov* technical issues beyond the applicant's control that prevents submission of its application by the deadline, the applicant must contact the VTP Office staff no later than 24 hours after the deadline and request approval to submit its application. At that time, VTP Office staff will instruct the applicant to submit specific information detailing the technical difficulties. The applicant must email: A description of the technical difficulties, a timeline of submission efforts, the complete grant application, the applicant's Data Universal Numbering System (DUNS) number, and *Grants.gov* Help Desk tracking number(s) received. After the program office reviews all of the information submitted, and contacts the *Grants.gov* Help Desk to validate the technical issues reported, VA will contact the applicant to either approve or deny the request to submit a late application. If the technical issues reported cannot be validated, the application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to begin the registration process in sufficient time, (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website, (3) failure to follow all of the instructions in the VA solicitation, and (4) technical issues experienced with the applicant's computer or information technology (IT) environment. Notifications regarding known technical problems with *Grants.gov*, if any, are posted on the *Grants.gov* website.

Content and Form of Application Submission

Applicants should anticipate that failure to submit an application that contains all of the specified elements will result in the rejection of their application at the threshold review stage. Moreover, applicants should anticipate that if applications are not adequately responsive to the scope of the solicitation, particularly to any critical element, or fail to include a program narrative, budget detail worksheet including a budget narrative, tribal resolution (if applicable), eligibly entity designation, or a list of the highly rural county or counties to be served, they will be rejected and receive no further consideration.

Threshold Review Criteria: (Critical Elements)

- Interim Final Report (A report of your organizations performance for the last three quarters through June 2018).
- *Application deadline:* Applications not received by the application deadline through *www.grants.gov* will not be reviewed.
- *Eligibility:* Only applications conforming to the eligibility requirements at the beginning section of this document will be reviewed.
- *Budget detail worksheet including a budget narrative:* VA strongly recommends use of appropriately descriptive file names (*e.g.,* ''Program Narrative,'' ''Budget Detail Worksheet and Budget Narrative,'' ''Timelines,'' ''Memoranda of Understanding,'' ''Resumes'') for all attachments. VA recommends that resumes be included in a single file.
- *Information to complete the Application for Federal Assistance (SF–424):* The SF–424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. *Grants.gov* takes information from the applicant's profile to populate the fields on this form.
- *Program Narrative:* Provide a detailed narrative of your program scope and specifically discuss the innovative modes and methods of transportation services to be provided. If the provision of transportation services will necessitate procurement or use of specific equipment, such equipment must be specifically listed.

Note on project evaluations: Applicants that propose to use funds awarded through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to knowledge) may constitute research. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet VA's performance measure data reporting requirements, likely do not constitute research. Research, for the purposes of VA-funded programs, is defined as, ''a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.'' 38 CFR 16.102(d). In addition, research involving human subjects is subject to certain added protections, as set forth in 38 CFR part 16. Applicants should provide sufficient information for VA to determine whether particular project activities they propose would either intentionally or unintentionally collect and/or use information in such a way that it meets VA's regulatory definition of research and thereby invoke the requirements and procedures set forth in 38 CFR part 16.

Budget Detail Worksheet and Budget Narrative

Budget Detail Worksheet: A sample SF 424A Budget Detail Worksheet can be found at the *www.grants.gov* website. Please submit a budget and label it, as the example above indicates. If the budget is submitted in a different format, the budget categories listed in the sample budget worksheet must be included.

Budget Narrative: The Budget Narrative should thoroughly and clearly describe *every* category of expense listed in the Budget Detail Worksheet. The narrative should be mathematically sound and correspond with the information and figures provided in the Budget Detail Worksheet. The narrative should explain how *all* costs were estimated and calculated and how they are relevant to the completion of the proposed project. The narrative may include tables for clarification purposes but need not be in a spreadsheet format. As with the Budget Detail Worksheet, the Budget Narrative must be broken down by year. Note: All non-federal entities have to be in compliance with 2 CFR 200.400–475 Cost Principles and all Office of Management and Budget (OMB) Regulations and Circulars.

Budget Brief (Example)

1. Our organization requests_____for the acquisition of_____van(s).

2. The total cost of the van(s)_____. This is the amount requested from VA.

3. Our organization will utilize_____for innovative approaches for transporting veterans. This is the amount requested from VA for a maximum of $50,000 USD.

Indirect Cost Rate Agreement (If Applicable)

Indirect costs are allowed only if the applicant has a federally approved indirect cost rate. (This requirement does not apply to units of local government.) A copy of the rate approval must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant federal agency, which will review all documentation and approve a rate for the applicant organization or, if the applicant's accounting system permits, costs may be allocated in the direct cost categories. If VA is the cognizant federal agency, obtain information needed to submit an indirect cost rate proposal at the contact person listed in this solicitation.

Tribal Authorizing Resolution (If Applicable)

If an application identifies a sub-recipient that is either (1) a tribe or tribal organization or (2) a third party proposing to provide direct services or assistance to residents on tribal lands, then a current authorizing resolution of the governing body of the tribal entity or other enactment of the tribal council or comparable governing body authorizing the inclusion of the tribe or tribal organization and its membership must be included with the application. In those instances when an organization or consortium of tribes proposes to apply for a grant on behalf of a tribe or multiple specific tribes, then the application must include a resolution from all tribes that will be included as a part of the services/assistance provided under the grant. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (*i.e.,* without authorizing resolution or other enactment of each tribal governing body) may submit a copy of its consortium bylaws with the application in order to satisfy this requirement.

Submission Dates and Times

Renewal grant applications under the Grants for Transportation of Veterans in Highly Rural Areas Program must be submitted to *www.grants.gov* by 4:00 p.m. Eastern Daylight Time on July 30, 2018. In the interest of fairness to all competing applicants, this deadline is firm as to date and hour and with the single exception described above regarding unforeseen technical problems beyond the control of the applicant with the *Grants.gov* website, VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of *grants.gov*), or other delivery-related problems.

The application can be found at *http://www.grants.gov/web/grants/search-grants.html,* utilizing the ''search by Catalog of Federal Domestic Assistance number'' function, and entering in that search field the number 64.035. Questions should be referred to the Veterans Transportation Program Office at (404) 828–5380 (this is not a toll-free number) or by email at *HRTG@va.gov.* For further information on Grants for Transportation of Veterans in Highly Rural Areas Program requirements, see the governing regulations codified at 38 CFR 17.700–730.

Renewal grant applications may not be sent by facsimile. These applications must be submitted to *www.grants.gov* by the application deadline; they must also be submitted as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. All applicable forms cited in the application description must be included.

Intergovernmental Review

Some states require that applicants must contact their State's Single Point of Contact (SPOC) to find out and comply with the State's process, to comply with Executive Order (E.O.) 12372 (1982). Names and addresses of the SPOCs are listed in the Office of Management and Budget's homepage at:*https://www.whitehouse.gov/wp-content/uploads/2017/11/SPOC-Feb.-2018.pdf.*

Funding Restrictions

Grants will only be awarded to those organizations that are eligible under law as described in the eligibility information section.

Other Submission Requirements

For technical assistance with submitting the application, contact the *Grants.gov* Customer Support Hotline at 800–518–4726 or via email to *support@grants.gov.* Note: The *Grants.gov* Support Hotline hours of operation are 24 hours a day, 7 days a week, except federal holidays. For assistance with any other requirement of this solicitation, contact Mindy LaCrone, Acting National Program Coordinator for Grants for Transportation of Veterans in Highly Rural Areas, at (918) 348–5564 (this is not a toll-free number) or by email to *Mindy.LaCrone@va.gov.*

Additional forms that may be required in connection with an award are available for download on *www.grants.gov.* Examples of these forms can be viewed at the *www.grants.gov* website. For successful applicants, receipt of funds will be contingent upon submission of all necessary forms. Please note in particular the following forms: Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirement; Disclosure of Lobbying Activities (Required for any applicant that expends any funds for lobbying activities; this form must be downloaded, completed, and then uploaded); and Standard Assurances (SF 424B) (Required to be submitted to

the VTP Office prior to the receipt of any award funds).

Application Review Information

Criteria

VA is committed to ensuring a fair and open process for awarding these renewal grants. The VTP Office will review the renewal grant application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. Peer reviewers will conduct a threshold review of all applications submitted under this solicitation to ensure they meet all of the critical elements and all other minimum requirements as identified herein. The VTP Office may use either internal peer reviewers, external peer reviewers, or a combination to review the applications under this solicitation. An external peer reviewer is an expert in the field of the subject matter of a given solicitation who is NOT a current VA employee. An internal reviewer is a current VA employee who is well-versed or has expertise in the subject matter of this solicitation. Eligible applications will then be evaluated, scored, and rated by a peer review panel. Peer reviewers' ratings and any resulting recommendations are advisory only.

The VTP, Member Services Office conducts a financial review of applications for potential discretionary awards to evaluate the fiscal integrity and financial capability of applicants; examines proposed costs to determine if the Budget Detail Worksheet and Budget Narrative accurately explain project costs; and determines whether costs are reasonable, necessary, and allowable under applicable federal cost principles and agency regulations.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Veterans Health Administration, through the VTP Office, will forward the reviewers' recommendations for award to the Secretary of Veterans Affairs, who will then review and approve each award decision. Such determinations by the Secretary will be final. VA will also give consideration to factors including, but not limited to: Underserved populations, geographic diversity, strategic priorities, and available funding when making awards.

Review and Selection Process

Selection of Renewal Grants for Transportation of Veterans in Highly Rural Areas is very competitive. Listed below are the scoring and selection criteria:

1. *Renewal Grant Scoring:* Renewal applications will be scored using the following selection criteria:

A. VA will award up to 55 points (an applicant must score at a minimum of 27.5 points) based on the success of the grantee's program, as demonstrated by the following: Application shows that the grantee or identified sub-recipient provided transportation services which allowed participants to be provided medical care timely and as scheduled; and application shows that participants were satisfied with the transportation services provided by the grantee or identified sub-recipient, as described in the Notice;

B. VA will award up to 35 points (an applicant must score at a minimum of 17.5 points) based on the cost effectiveness of the program, as demonstrated by the following: The grantee or identified sub-recipient administered the program on budget and grant funds were utilized in a sensible manner, as interpreted by information provided by the grantee to VA under 38 CFR 17.725(a)(1–7); and

C. VA will award up to 15 (an applicant must score at a minimum of 7.5 points) points based on the extent to which the program complied with the grant agreement and applicable laws and regulations.

2. *Renewal Grant Selection:* VA will use the following process to award renewal grants:

A. VA will rank those grantees who receive at least the minimum amount of total points (52.5) and points per category set forth in the Notice. The grantees will be ranked in order from highest to lowest scores.

B. VA will use the grantee's ranking as the basis for selection for funding. VA will fund the highest-ranked grantees for which funding is available.

Award Administration Information

Award Notices

Successful applicants will receive a Notice of Award (NoA) signed and dated by the Assistant Deputy Under Secretary for Health for Administrative Operations that will set forth the amount of the award and other pertinent information. The NoA is the legal document/instrument issued to notify the awardee that an award has been made and that funds may be requested. It will also include standard Terms and Conditions related to participation in the Program.

The NoA will be sent through the U.S. Postal Service to the awardee organization as listed on its SF424. Note that any communication between the VTP Office and awardees prior to the issuance of the NoA is *not* authorization to begin performance on the project.

Recipients will use the U.S. Department of Health and Human Services Payment Management System for grant drawdowns. Instructions for submitting requests for payment may be found at *http://www.dpm.psc.gov/.*

Unsuccessful applicants will be notified of their status by letter, which will likewise be sent through the U.S. Postal Service to the applicant organization as listed on its SF 424.

Renewal Grant Agreements

After an applicant is selected for a renewal grant in accordance with 38 CFR 17.705(d), VA will draft a renewal grant agreement to be executed by the Assistant Deputy Under Secretary for Health for Administrative Operations in VA and the grantee. Upon execution of the renewal grant agreement, VA will obligate the approved amount. The renewal grant agreement will provide that:

1. The grantee must operate the program in accordance with the provisions of this section and the grant application;

2. If a grantee's renewal application identified a sub-recipient, such sub-recipient must operate the program in accordance with the provisions of this section and the grant application; and

3. If a grantee's application identified that funds will be used to procure or operate vehicles to directly provide transportation services, the following requirements must be met:

A. Title to the vehicles must vest solely in the grantee or in the identified sub-recipient or with leased vehicles in an identified lender;

B. The grantee or identified sub-recipient must, at a minimum, provide motor vehicle liability insurance for the vehicles to the same extent they would insure vehicles procured with their own funds;

C. All vehicle operators must be licensed in a U.S. State or Territory to operate such vehicles;

D. Vehicles must be safe and maintained in accordance with the manufacturer's recommendations; and

E. Vehicles must be operated in accordance with applicable Department of Transportation regulations concerning transit requirements under the Americans with Disabilities Act.

Administrative and National Policy Requirements

Successful applicants selected for awards must agree to comply with additional applicable legal requirements upon acceptance of an award. (VA strongly encourages applicants to

review the information pertaining to these additional requirements prior to submitting a renewal application.) As to those additional requirements, we note that while their original grants were subject to additional legal requirements as set forth in 38 CFR parts 43 and 49 those regulatory provisions have since been superseded by the Common Rule governing all Federal Grant Programs. The Common Rule is codified at 2 CFR part 200. Thus, grantees and identified sub-recipients awarded renewal grants under the Program must agree as part of their grant agreement to comply with all requirements of the Common Rule, as applicable.

Reporting

Progress Reports

Awardees must agree to cooperate with any VA evaluation of the program and provide required quarterly, annual, and final (at the end of the fiscal year) reports in a form prescribed by VTP. A final report consists of a summation of grant activities which include progress toward goals, financial administration of grant funds, grant administration issues and barriers. Reports are to be submitted electronically. These reports must outline how grant funds were used, describe program progress and barriers, and provide measurable outcomes.

Required quarterly and annual reports must include the following information:

- Record of time expended assisting with the provision of transportation services;
- Record of grant funds expended assisting with the provision of transportation services;
- Trips completed;
- Total distance covered;
- Veterans served;
- Locations which received transportation services; and
- Results of veteran satisfaction survey.

Program Monitoring

The VTP is responsible for program monitoring. All awardees will be required to cooperate in providing the necessary data elements to the VTP. The goal of program monitoring is to ensure program requirements are met; this will be accomplished by tracking performance and identifying quality and compliance problems through early detection. Methods of program monitoring may include: Monitoring the performance of a grantee's or sub-recipient's personnel, procurements, and/or use of grant-funded property; collecting, analyzing data, and assessing program implementation and effectiveness; assessing costs and utilization; and providing technical assistance when needed. Site visit monitoring will include the above-described activities, in addition to the conduct of safety assessments and, if applicable, verification of both current driver's licenses and vehicle insurance coverage.

Federal Financial Report

Awardees are required to submit the FFR SF 425 on a quarterly basis. More details will be announced in the NoA.

Audit Requirements

Awardees must comply with the audit requirements of Office of Management and Budget (OMB) Uniform Guidance 2 CFR part 200 subpart F. Information on the scope, frequency and other aspects of the audits can be found on the internet at *https://federalregister.gov/a/2013-30465.*

Program Variations

Any changes in a grantee's program activities which result in deviations from the grant renewal agreement must be reported to VA.

Additional Reporting

Additional reporting requirements may be requested by VA to allow VA to fully assess program effectiveness.

Notice of New Post-Award Reporting Requirements

Applicants should anticipate that all recipients (excluding an individual recipient of Federal assistance) of awards of $25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), Public Law 109–282 (Sept. 26, 2006), will be required to report award information on the subaward reporting system of any first-tier subawards totaling $25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier sub-recipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding.

It is expected that reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS) found at *https://www.fsrs.gov.* The FFATA Subaward Reporting System is the reporting tool Federal prime awardees (*i.e.* prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded and prime grant awardees will report against sub-grants awarded. Prime Contractors awarded a Federal contract or order that is subject to Federal Acquisition Regulation clause 52.204–10 (Reporting Executive Compensation and First-Tier Subcontract Awards) are required to file a FFATA subaward report by the end of the month following the month in which the prime contractor awards any subcontract greater than $25,000.

Please note also that applicants should anticipate that no subaward of an award made under this solicitation may be made to a sub-recipient that is subject to the terms of FFATA unless the potential sub-recipient acquires and provides a DUNS number.

Other Information

Pursuant to 38 CFR 17.730(a), VA may recover from the grantee any funds that are not used in accordance with a grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover grant funds, and the grantee will then have 30 days to submit documentation demonstrating why the grant funds should not be recovered. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds. When VA determines action will be taken to recover grant funds from the grantee, the grantee is then prohibited under 38 CFR 17.730(b) from receipt of any further grant funds.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Peter O'Rourke, Chief of Staff, Department of Veterans Affairs, approved this document on May 24, 2018, for publication.

Approved: May 24, 2018.

Jeffrey M. Martin,

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

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Part II

Department of Homeland Security

Coast Guard

46 CFR Parts 401 and 404

Great Lakes Pilotage Rates—2018 Annual Review and Revisions to Methodology; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401 and 404

[Docket No. USCG–2017–0903]

RIN 1625–AC40

Great Lakes Pilotage Rates—2018 Annual Review and Revisions to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: In accordance with the Great Lakes Pilotage Act of 1960, the Coast Guard is establishing new base pilotage rates and surcharges for the 2018 shipping season. Additionally, the Coast Guard is making several changes to the Great Lakes pilotage ratemaking methodology. These additional changes include creating clear delineation between the Coast Guard's annual rate adjustments and the Coast Guard's requirement to conduct a full ratemaking every 5 years; the adoption of a revised compensation benchmark; reorganization of the text regarding the staffing model for calculating the number of pilots needed; and certain editorial changes.

DATES: This rule will be effective July 5, 2018.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Executive Summary
III. Basis and Purpose
IV. Background and Comment Topics
V. Discussion of Comments and Changes to Methodology
A. Rationale for Change in Compensation Benchmark
1. Challenges With Canadian Comparison
2. Comparison With U.S. Pilotage Associations
B. Revised Compensation Benchmark Issues
1. Use of AMO 2015 Aggregate Rate
2. Overtime Compensation
3. Calculation of Number of Days in Pay
C. Inflation Adjustment Factor for Adjustment Years
D. Staffing Model Relocation and Calculations
E. Working Capital Fund Basis and Use
F. Use of 10-Year Traffic Baseline
G. Calculation of Surcharges and Incorporation Into Operating Costs
H. Other Issues Relating to Pilotage Oversight
1. Unnecessary Pilot Orders for Use of Tugs
2. Mechanisms To Prevent or Discourage Delays
3. Delays Related to Labor Disputes
4. Over-Realization of Revenues
VI. Discussion of Rate Adjustments
A. Step 1—Recognition of Operating Expenses
B. Step 2—Projection of Operating Expenses
C. Step 3—Estimate Number of Working Pilots
D. Step 4—Determine Target Pilot Compensation
E. Step 5—Calculate Working Capital Fund
F. Step 6—Calculate Revenue Needed
G. Step 7—Calculate Initial Base Rates
H. Step 8—Calculate Average Weighting Factors by Area
I. Step 9—Calculate Revised Base Rates
J. Step 10—Review and Finalize Rates
K. Surcharges
VII. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. Abbreviations

AMO American Maritime Officers Union
CATEX Unique Categorical Exclusions for the U.S. Coast Guard
CFR Code of Federal Regulations
CPA Certified public accountant
CPI Consumer Price Index
DHS Department of Homeland Security
ECI Employment Cost Index
FOMC Federal Open Market Committee
FR Federal Register
GLPA Great Lakes Pilotage Authority (Canadian)
GLPAC Great Lakes Pilotage Advisory Committee
GLPMS Great Lakes Pilotage Management System
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
PCE Personal Consumption Expenditures
RA Regulatory analysis
SBA Small Business Administration
§ Section Symbol
The Act Great Lakes Pilotage Act of 1960
U.S.C. United States Code

II. Executive Summary

Pursuant to the Great Lakes Pilotage Act of 1960 (''the Act''),[1] the Coast Guard regulates pilotage for oceangoing vessels on the Great Lakes—including setting the rates for pilotage services and adjusting them on an annual basis. The rates, which in the 2017 shipping year ranged from $218 to $601 per pilot hour (depending on the specific area where pilotage service is provided), are paid by shippers to pilot associations. The three pilot associations that are the exclusive source of United States registered pilots on the Great Lakes use this revenue to cover operating expenses, maintain infrastructure, compensate working pilots, and train new pilots. We have developed a ratemaking methodology in accordance with our statutory requirements and regulations. Our ratemaking methodology calculates the revenue needed for each pilotage association (including operating expenses, compensation, and infrastructure needs), and then divides that amount by the expected shipping traffic over the course of the year to produce an hourly rate. This process is currently effected through a 10-step methodology and supplemented with surcharges, which are explained in detail in the notice of proposed rulemaking (NPRM) published on January 18, 2018.[2]

In this final rule, the Coast Guard is modifying the ratemaking methodology and establishing new pilotage rates for 2018 based on the new methodology. The modifications to the ratemaking methodology consist of a new compensation benchmark, updates and revisions to annually adjusted figures such as inflation rates and traffic volumes, organizational changes, and clarifications. In this final rule, we are establishing a new compensation benchmark based on input from the American Maritime Officers Union (AMO) 2015 contracts. Also, based on comments to the proposed rule that the Coast Guard received, we are changing the inflation adjustment index from the Consumer Price Index (CPI) to the Employment Cost Index (ECI). Additionally, from an organizational standpoint, we are moving, but not changing, the requirements of the staffing model from their current location in title 46 of the Code of Federal Regulations (CFR) 404.103 (as part of ''Step 3'' of the ratemaking process), to the general regulations governing pilotage in 46 CFR 401.220(a). For clarification purposes, we are setting forth separate regulatory paragraphs detailing the differences between how we undertake an annual adjustment of the pilotage rates, and a

[1] 46 U.S.C. Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

[2] Great Lakes Pilotage Rates—2018 Annual Review and Revisions to Methodology, 83 FR 2581, January 18, 2018.

full reassessment of the rates, which must be undertaken once every 5 years.

As part of our annual review, we are setting new rates for the 2018 shipping season. Based on the ratemaking model discussed in this final rule, we are establishing the rates shown in Table 1.

TABLE 1—PREVIOUS AND NEW PILOTAGE RATES ON THE GREAT LAKES

Area	Name	Final 2017 pilotage rate	Proposed 2018 pilotage rate	Final 2018 pilotage rate
District One: Designated	St. Lawrence River	601	622	653
District One: Undesignated	Lake Ontario	408	424	435
District Two: Undesignated	Lake Erie	429	454	497
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	580	553	593
District Three: Undesignated	Lakes Huron, Michigan, and Superior	218	253	271
District Three: Designated	St. Mary's River	514	517	600

This final rule is not economically significant under Executive Order 12866. This rule impacts 49 U.S. Great Lakes pilots, 7 applicant pilots, 3 pilot associations, and the owners and operators of approximately 215 oceangoing vessels that transit the Great Lakes annually. The estimated overall annual regulatory economic impact of this rate change is a net increase of $2,830,061 in payments made by shippers from the 2017 shipping season. Because we must review, and, if necessary, adjust rates each year, we analyze these as single year costs and do not annualize them over 10 years. This rule does not affect the Coast Guard's budget or increase Federal spending. In Section VII of this preamble, we discuss the regulatory impact analyses of this final rule.

III. Basis and Purpose

The legal basis of this final rule is the Great Lakes Pilotage Act of 1960 (''the Act''), which requires U.S. vessels operating ''on register'' and foreign merchant vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[3] For the U.S. Registered Great Lakes Pilots (''pilots''), the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.''[4] The Act requires that rates be established or reviewed and adjusted each year, not later than March 1. The Act also requires that base rates be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The Secretary's duties and authority under the Act have been delegated to the Coast Guard.[5]

This final rule establishes new changes to the methodology in projecting pilotage rates, as well as revised pilotage rates and surcharges. Our goals for this and future rates are to ensure safe, efficient, and reliable pilotage services on the Great Lakes, and to provide adequate funds to maintain infrastructure. Additionally, we believe that the new methodology will increase transparency and predictability in the ratemaking process and help complete annual rate adjustments in a timely manner.

IV. Background and Comment Topics

Pursuant to the Act, the Coast Guard, in conjunction with the Canadian Great Lakes Pilotage Authority (GLPA), regulates shipping practices and pilotage rates on the Great Lakes. Under Coast Guard regulations, all U.S. vessels sailing on register, and all non-Canadian, foreign merchant vessels (often referred to as ''salties''), are required to engage U.S. or Canadian pilots during their transit through regulated waters. United States and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not subject to the Act.[6] Generally, vessels are assigned a U.S. or Canadian pilot depending on the order in which they transit a particular area of the Great Lakes, and do not choose the pilot they receive. If a vessel is assigned a U.S. pilot, that pilot will be assigned by the pilotage association responsible for the particular district in which the vessel is operating, and the vessel operator will pay the pilotage association for the pilotage services. For a more thorough summary of the background of Great Lakes Pilotage, see the summary in the 2018 pilotage rate NPRM (2018 NPRM).[7]

The ratemaking methodology, currently outlined in 46 CFR 404.101 through 404.110, consists of 10 steps that are designed to account for the revenues needed and total traffic expected in each district. The result is an hourly rate (determined separately for each of the areas administered by the Coast Guard).

Steps 1 and 2 of the ratemaking methodology concern accounting for the operating expenses of the pilotage associations. In Step 1, ''Recognize previous operating expenses'' (§ 404.101), the Coast Guard reviews audited operating expenses from each of the three pilotage associations. This number forms the baseline amount that each association is budgeted. In Step 2, ''Project operating expenses, adjusting for inflation or deflation'' (§ 404.102), we develop the 2018 projected operating expenses. To do this, we apply inflation adjustors for 3 years to the operating expense baseline received in Step 1. The inflation factors used in Step 2 are multiplied by the baseline from Step 1. These inflation factors are from the Bureau of Labor Statistics CPI for the Midwest Region, or, if those factors were not available, from the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation (See Section V.C. for a policy discussion about inflation adjustments). This step produces the total operating expenses for each area and district. We did not receive comments on the operating expenses portion of the methodology this year.

In Step 3, ''Determine number of pilots needed'' (§ 404.103), the Coast Guard calculates how many pilots are needed for each district. To do this, we employ a ''staffing model,'' described in § 404.103(a) through (c), to estimate how

[3] See 46 U.S.C. 9301(2) and 9302(a)(1).

[4] See 46 U.S.C. 9303(f).

[5] Department of Homeland Security (DHS) Delegation No. 0170.1, para. II (92.f).

[6] See 46 U.S.C. 9302. A ''laker'' is a commercial cargo vessel especially designed for, and generally limited to, use on the Great Lakes.

[7] 83 FR 2581, at 2583.

many pilots would be needed to handle shipping at the start and close of the season. This number is helpful in providing guidance to the Director of the Coast Guard Great Lakes Pilotage Office in approving an appropriate number of credentials for pilots.

For the purpose of the ratemaking calculation, the Coast Guard determines the number of working pilots provided by the pilotage associations (see § 404.103(d)), which is what we use to determine how many pilots need to be compensated via the pilotage fees collected. We compare that number against the number provided by the staffing model, and we use the lesser of the two as the final result for Step 3.

In Step 4, ''Determine target pilot compensation benchmark'' (§ 404.104), the Coast Guard determines the revenue needed for pilot compensation in each area and district. This step contains two processes. In the first process, we calculate the total compensation for each pilot using a ''compensation benchmark.'' In the 2018 NPRM, we proposed using a new benchmark based on the AMO-provided daily aggregate rates for first mates. We received numerous comments on the propriety and accuracy of that figure, which are addressed in the discussion below. We also proposed a system for adjusting that benchmark for inflation in future years. With regard to that proposal, we received comments on how to best account for inflation, which we address in Section V.C of this preamble.

Next, the Coast Guard multiplies the individual pilot compensation by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation. Because pilots are paid by the associations, but the costs of pilotage are divided up by area for accounting purposes, we assign a certain number of pilots for the designated areas and a certain number of pilots for the undesignated areas to determine the revenues needed for each area.

In Step 5, ''Project working capital fund'' (§ 404.105), we calculate a return on investment by adding the total operating expenses (from Step 2) and the total pilot compensation (from Step 4), and multiplying that figure by the preceding year's average annual rate of return for new issues of high-grade corporate securities. This figure constitutes the ''working capital fund'' for each area and district. We received comments on the calculation and use of the working capital fund, which we address in Section V.E of this preamble.

In Step 6, ''Project needed revenue'' (§ 404.106), we add up the totals produced by the preceding steps. For each area and district, we add the projected operating expense (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The total figure, calculated separately for each area and district, is the ''revenue needed.''

In Step 7, ''Calculate initial base rates'' (§ 404.107), we calculate an hourly pilotage rate to cover the revenue needed (from Step 6). We first calculate the 10-year traffic average for each area. Next, we divide the revenue needed in each area (from Step 6) by the 10-year traffic average to produce an initial base rate. We received comments on the propriety of the 10-year average traffic baseline figure, which we address in Section V.F of this preamble.

An additional element, the ''weighting factor,'' is required under § 401.400. Pursuant to that section, ships pay a multiple of the ''base rate'' as calculated in Step 7 by a factor ranging from 1.0 (for the smallest ships, or ''Class I'' vessels) to 1.45 (for the largest ships, or ''Class IV'' vessels). Because this significantly increases the revenue collected, we need to account for the added revenue produced by the weighting factors to ensure that the formula doesn't require shippers to overpay for pilotage services.

In Step 8, ''Calculate average weighting factors by area'' (§ 404.108), we calculate how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 9, ''Calculate revised base rates'' (§ 404.109), we modify the base rates by accounting for the extra revenue generated by the weighting factors. We do this by dividing the initial pilotage rate for each area (from Step 7) by the corresponding average weighting factor (from Step 8), to produce a revised rate.

In Step 10, ''Review and finalize rates'' (§ 404.110), often referred to informally as ''director's discretion,'' we review the revised base rates (from Step 9) to ensure that they meet the goals set forth in the Act and 46 CFR 404.1(a), which include promoting efficient, safe, and reliable pilotage service on the Great Lakes; generating sufficient revenue for each pilotage association to reimburse necessary and reasonable operating expenses; fairly compensating pilots who are trained and rested; and providing appropriate profit to allow for infrastructure improvements. Because we want to be as transparent as possible in our ratemaking procedure, we use this step sparingly to adjust rates. The Coast Guard is not using this discretion in this final rule.

Finally, after the base rates are set, under § 401.401 the Coast Guard considers whether surcharges are necessary this year. Currently, we use surcharges to allow the pilotage associations to collect extra money to pay for the training of new pilots, rather than incorporating training costs into the overall ''revenue needed'' that is used in the calculation of the base rates. In recent years, the Coast Guard has allocated $150,000 per applicant pilot to be collected via surcharges. This amount is calculated as a percentage of total revenue for each district, and that percentage is applied to each bill. When the total amount of the surcharge has been collected, the pilot associations are prohibited from collecting further surcharges. Thus, in years where traffic is heavier than expected, shippers that employ pilots early in the season could pay more than shippers that employ pilots later in the season, after the surcharge cap has been met. We received comments on the method by which surcharges are collected and on the amounts collected, which we address in Section V.G of this preamble.

V. Discussion of Comments and Changes to Methodology

In response to the January 18, 2018, NPRM, we received five substantive comment letters. We received three comment letters from organizations representing pilot associations on the Great Lakes: One comment from the president of the Western Great Lakes Pilots Association,[8] one comment from the president of the St. Lawrence Seaway Pilots' Association,[9] and one comment from the law firm K&L Gates, which represents the interests of the three Great Lakes pilot associations.[10] We received one comment from the law firm Thompson Coburn, which represents the interests of the Shipping Federation of Canada, the American Great Lakes Ports Association, and the United States Great Lakes Shipping Association (hereinafter ''Industry commenters'').[11] Additionally, we received one comment from the AMO.[12] Each of these commenters touched on numerous issues, and so for each

[8] Docket number USCG–2017–0903–0004, available at *www.regulations.gov*.

[9] Docket number USCG–2017–0903–0007, available at *www.regulations.gov*.

[10] Docket number USCG–2017–0903–0006, available at *www.regulations.gov*.

[11] Docket number USCG–2017–0903–0008, available at *www.regulations.gov*.

[12] Docket number USCG–2017–0903–0005, available at *www.regulations.gov*.

response below, we note which commenters raised the specific points being addressed. In situations where multiple commenters raised similar issues, we attempt to provide one response to those issues.

Overall, the issues raised by the commenters fell into eight categories. The most substantive comments were in regard to the issue of the proposed interim compensation benchmark, which we address in Sections V.A and B of this preamble. We also received comments on the proper measure of inflation by which to adjust compensation figures annually. Other parts of the ratemaking methodology were raised by commenters as well, including questions regarding the placement and application of the staffing model used to calculate the needed number of pilots, the amount and application of the working capital fund charges, the use of a 10-year average to calculate expected vessel traffic, and the collection and calculation of surcharges. Finally, commenters raised a variety of pilotage issues not directly related to calculating the 2018 shipping rates. We address each of these items in the subsections that follow.

A. Rationale for Change in Compensation Benchmark

The most substantive change proposed in the 2018 NPRM was the change in the benchmark compensation model, with the proposed switch from using the GLPA as a baseline to the ''interim benchmark,'' which uses the AMO [13] 2015 aggregated wage and benefit information. In the NPRM, we stated that we proposed this change because, pursuant to litigation [14] filed by the industry, a court had found that the Coast Guard ''failed to justify'' [15] its decision to apply a 10-percent addition to the Canadian GLPA benchmark, and thus was arbitrary and capricious.[16] As this opinion was handed down in November 2017, the Coast Guard noted that ''there is a need for an interim benchmark level to be developed on short notice and with limited time to gather new data.'' [17] We based the new benchmark on data provided by the AMO regarding its contract for first mates on the Great Lakes in the 2011 to 2015 period. We used the information from 2015, adjusting it for inflation to an equivalent 2018 rate, because it was the most recent publically-available information to which we had access. We stated that we proposed to use this benchmark to calculate compensation until we identify another suitable standard. We are currently conducting a comprehensive, multi-year analysis of pilot compensation that we hope will inform a new benchmark. This study will not be available before the 2020 ratemaking proceeding.

Nearly all commenters made arguments regarding the proposal to change the compensation benchmark. Many commenters stated that the Coast Guard should not have stopped using the Canadian compensation benchmark, but simply should have reanalyzed and adjusted the ten-percent increase it applied to account for health and pension differences. Alternatively, some commenters suggested that instead of using Canadian GLPA or AMO comparative information to establish a benchmark, the Coast Guard should use the benefit and salary information for other U.S. pilotage associations. We address these issues below.

1. Challenges With Canadian Comparison

In the 2016 ratemaking, the Coast Guard originally established a benchmark for target pilot compensation based on the total compensation of Canadian GLPA.[18] We chose the GLPA because ''Canadian GLPA pilots provide service that is almost identical to the service provided by U.S. Great Lakes Pilots.'' [19] To calculate this benchmark, we started with the 2013 Canadian GLPA salaries, which we calculated to be $273,145 in Canadian dollars, or $255,037 U.S.[20] We then inflated that amount using Midwest CPI–U data for 2014 and 2015, and Federal Reserve inflation data for 2016, to arrive at an inflation-adjusted figure of $267,534.[21] Next, to match average annual wage increases of GLPA pilots, we applied an additional 3.5 percent annual real wage increase factor for each of the 3 years, to arrive at $296,467 as the final equivalent compensation figure for 2016.[22] Finally, we increased that figure by an additional 10 percent to address the ''difference in status between GLPA employees and independent U.S. pilots,'' [23] for a final ''GLPA plus 10 percent'' benchmark figure of $326,114. While we were not certain that a 10 percent adjustment for these differences was appropriate, we did note that the figure had been cited in a July 2014 Great Lakes Pilotage Advisory Committee (GLPAC) meeting as balancing the different status of the U.S. and GLPA pilots.

This GLPA-plus-10-percent benchmark of $326,114 formed the basis for our target compensation until the 2017 memorandum opinion [24] found it to be arbitrary and capricious and in violation of the Administrative Procedure Act. Specifically, the court found that certain statements made at the 2014 GLPAC meeting did not constitute an adequate basis for the 10-percent adjustment.[25] Based on the 2017 memorandum opinion, in the 2018 NPRM, we proposed adopting the interim benchmark, based on AMO information.[26] However, several commenters suggested that we had not responded appropriately to the court's 2017 opinion. These commenters argued that because the court found that only the 10-percent increase was arbitrary and capricious, the Coast Guard should replace only that portion. One commenter stated that ''all the Coast Guard needs to do is return to the administrative record for the 2016 rulemaking, analyze the multiple comments in support of a 25- to 37-percent adjustment, and explain its reasoning for the adjustment it determines is most appropriate.[27] Another commenter stated that the court ''require[d] the Coast Guard to reconsider more carefully the pilots'

[13] We note that in the NPRM, we referred to the American Maritime Officers Union as the ''AMOU'', but in their comments, they referred to themselves as ''AMO''. We use their preferred acronym in this document except when citing direct quotes that use other terminology.

[14] *American Great Lakes Ports Association, et al.,* v. *Admiral Paul F. Zukunft,* Civil Action No. 16–1019, D.C. District Court, November 3, 2017.

[15] *American Great Lakes Ports Association, et al.,* v. *Admiral Paul F. Zukunft,* Civil Action No. 16–1019, D.C. District Court, November 3, 2017, p. 5.

[16] 83 FR 2581, at 2587.

[17] 83 FR 2581, at 2588.

[18] In this final rule, we refer to the U.S. dollar equivalent of the combined wages and benefits of Canadian Great Lakes pilots, using the conversion methodology described above, as the ''Canadian benchmark,'' although we did not use that terminology in the 2016 ratemaking documents.

[19] Great Lakes Pilotage Rates—2016 Annual Review and Changes to Methodology, Notice of Proposed Rulemaking (September 10, 2015), 80 FR 54484, at 54497.

[20] See 81 FR 11908, at 11933 to determine how we arrived at 2013 compensation. We then converted that number to U.S. dollars at the 2013 exchange rate of 1.071 CAD to USD.

[21] See 81 FR 11908, at 11933, Figure 19.

[22] See 81 FR 11908, at 11933, Figure 21.

[23] 80 FR 54484, at 54498. This referred to the fact that ''GLPA pilots are Canadian government employees and therefore have guaranteed minimum compensation with increases for high-traffic periods, retirement, healthcare and vacation benefits, and limited professional liability. In addition, GLPA pilots have guaranteed time off while U.S. pilots must be available for service throughout the shipping season and without any guaranteed time off.'' See 80 FR 54484, at 54497.

[24] *American Great Lakes Ports Association, et al.,* v. *Admiral Paul F. Zukunft,* Civil Action No. 16–1019, D.C. District Court, November 3, 2017, p. 25.

[25] *American Great Lakes Ports Association, et al.,* v. *Admiral Paul F. Zukunft,* Civil Action No. 16–1019, D.C. District Court, November 3, 2017, p. 25.

[26] 83 FR 2581, at 2587–88.

[27] USCG–2017–0903–0004, p. 3.

position that the Canadian benchmark compensation should be increased by 25 to 37 percent to account for differences between the two pilotage groups, particularly the government health care and pensions received by the Canadians.'' [28]

We agree with the commenters that the court found only the 10-percent addition to be unjustified, and that the Coast Guard would legally be able to propose using the GLPA wages and benefits as a starting point to develop a revised benchmark. Indeed, when considering a revised benchmark for the 2018 ratemaking, we did reanalyze GLPA compensation. To update our information regarding the value of the Canadian benchmark, we analyzed the 2016 GLPA annual report to calculate a new average total compensation figure. Using that information, and applying the same methodology as we did in the 2016 ratemaking, we calculated that the 2016 GLPA pilot average compensation was $235,136.[29] Next, we inflated that amount using 2017 ECI data and 2018 Federal Reserve PCE inflation data,[30] to arrive at an inflation-adjusted figure of $247,510. Finally, we applied an additional 3.5 percent annual real wage increase factor for the 2 years, to match the calculation we performed in 2016 for annual wage increases of GLPA pilots, to arrive at a final $265,139 equivalent compensation figure for 2018.

Comparing the previously calculated $312,069 (without the 10-percent increase, in 2018 dollars [31]) Canadian GLP total compensation with the $265,139 (in 2018 dollars) Canadian GLP compensation calculated in 2018—using the same methodology—reveals a substantial problem with using GLPA compensation as a benchmark for U.S. pilots.[32] Specifically, the exchange rate between the U.S. and Canadian dollars underwent a shift of over 25 percent in 3 years, which caused the benchmark to shift substantially as well. An analysis of the U.S. to Canadian exchange rates reveals that this rate can fluctuate substantially, as shown using IRS data [33] in Table 2.

TABLE 2—U.S./CANADIAN DOLLAR EXCHANGE RATES

Year	2012	2013	2014	2015	2016	2017
Exchange Rate (USD/CAD)	1.040	1.071	1.149	1.329	1.379	1.350

This fluctuation reveals a fundamental challenge with using the GLPA compensation as a benchmark. If we were to continue to use it, we would have to adjust it every 5 years using the current exchange rate. As shown, doing so could lead to very substantial fluctuations in the benchmark, which would not relate to economic conditions in the United States or to the state of the U.S. labor market. Such an increase in volatility would be counter to the Coast Guard's goals of rate and compensation stability and promoting recruitment and retention of qualified United States registered pilots.

We note that two commenters representing pilotage associations argued that the Coast Guard should not have abandoned the Canadian GLPA compensation benchmark, because using the interim benchmark resulted in a proposed lower level of compensation.[34] One commenter stated that one problem with using the proposed revised benchmark is that it ''*reduces* the compensation target by at least $20,000 relative to retaining the GLPA benchmark and adjusting it for another year of inflation—resulting in the very ''substantial volatility regarding compensation'' that the Coast Guard says it wants to avoid . . . .'' [35] We note two flaws with this argument. First, as shown above, continuing to use the GLPA benchmark would have resulted in a significant decrease in target compensation, even below the level derived from the interim benchmark. Second, the Coast Guard believes the commenters misinterpret the issue of volatility. The fact that the target compensation can decrease when it is re-benchmarked is a feature of the system. It would hardly be fair if, upon a showing that the relevant compensation level had decreased, the Coast Guard resorted to a new benchmark as part of a scheme to keep compensation rising. We hope to reduce volatility by selecting a relatively stable compensation benchmark, but may still reduce target compensation and rates when warranted by the data.

In light of the court's opinion, the Coast Guard has also considered the commenters' assertions that we should re-analyze the 2016 comments on the ''adjustment factor'' that is applied to GLPA rates, and simply use that number, rather than use the interim compensation benchmark. One commenter suggested that the Coast Guard should ''analyze the multiple comments in support of a 25%–37% adjustment, and explain its reasoning for the adjustment it determines is most appropriate.'' [36] Another commenter asserted the D.C. District Court, in its 2017 opinion, ''require[d] the Coast Guard to reconsider more carefully the pilot's position that the Canadian benchmark compensation should be increased by 25–37% to account for differences between the two pilotage groups, particularly the government health care and pensions received by Canadians.'' [37] We note that the court itself not only suggested that the Coast Guard should have more closely analyzed the pilots' comments, but also suggested we consider the option of, ''as the shipping industry suggested, foregoing an adjustment altogether.'' [38]

In analyzing those comments, we found little evidence or data to warrant the substantial adjustments to arrive at the 25- and 37-percent figures suggested by the commenters. The 25-percent figure, suggested by the Great Lakes

[28] USCG–2017–0903–0006, p. 5.

[29] We performed the 2016 calculation as follows: We used 2016 pilot compensation from the GLPA (available in the docket as USCG–2017–0903) to derive the average Canadian pilot compensation of approximately $324,252 CAD. To do so, we divided $17,769,000 total wages and benefits by 54.8 pilots. We then converted that number to U.S. dollars at the 2016 exchange rate of 1.379 CAD to USD, to derive a figure of $235,136.

[30] ECI for ''total compensation for private industry workers, transportation and material moving,'' for 12 months ended in December, is found in Table 5 (p. 71) of the following: *https://www.bls.gov/web/eci/echistrynaics.pdf*. ECI for 2017 is 3.3 percent. PCE inflation for 2018 is 1.9 percent, see *https://www.federalreserve.gov/monetarypolicy/fomcminutes20171213ep.htm*.

[31] This figure is the $296,467 we calculated in 2016, inflated to 2018 dollars using the ECI and PCE inflation.

[32] If we then added 10 percent, the resultant figure would be $291,653.

[33] This information is available at: *https://www.irs.gov/individuals/international-taxpayers/yearly-average-currency-exchange-rates*.

[34] USCG–2017–0903–0004, p. 5; USCG–2017–0903–0006, p. 8.

[35] USCG–2017–0903–0004, p. 5. Emphasis in original.

[36] USCG–2017–0903–0004, p. 3.

[37] USCG–2017–0903–0006, p. 5.

[38] *American Great Lakes Ports Association, et al.,* v. *Admiral Paul F. Zukunft,* Civil Action No. 16–1019, D.C. District Court, November 3, 2017, p. 25.

Pilots,[39] was not based on specific information, but instead was simply asserted in light of the listing of 10 general differences between U.S. and Canadian pilots (*e.g.,* ''Canadian pilots receive healthcare benefits as government employees. American pilots pay for their own healthcare.'' [40]) In the comment by the International Organization of Masters, Mates, and Pilots, which produced the figure of 37 percent, we found several questionable assumptions.[41] First, as noted in the 2016 final rule, the mathematical basis of adding a 37-percent premium to the Canadian compensation level in order to arrive at an equivalent level of compensation for a U.S. pilot requires increasing the salary proportion of the component by 15 percent to account for a purported cost of living differential between Detroit, Michigan, and Windsor, Ontario, resulting in an additional $35,156 in salary. As we noted in the 2016 final rule, ''we do not think the 15 percent COLA differential between Detroit, MI and Windsor, ON is relevant—a single comparison point should not be utilized to establish the regional comparison.'' [42] The commenter also makes the assumption that to match $49,716 in Canadian benefits, which includes health insurance, pension benefits, and tax ''true-ups,'' among other items, would require U.S. pilots be paid an additional $118,741 (which includes $43,231 in health insurance costs and $53,000 in pension contributions). We do not believe that taxation differences should be taken into account when determining whether compensation is equivalent for several reasons. First, taxation varies over time and by specific locality within both the U.S. and Canada. Second, services are received in exchange for taxes, and it would be unfair to pay an individual more to compensate for taxes that pay for services they receive. Finally, we note that tax policy is under the control of neither the USCG nor the GLPA, but we could control whether the pre-tax compensation is similar. We also do not accept the commenter's assertion that the pension costs require such a tremendous increase in compensation. Given that there is a mathematical basis of pension contributions (*i.e.,* there is no reason a properly-funded monetary pension should cost more in the United States than it does in Canada), we do not believe these calculations are sound. In this particular instance, the commenter stated that ''[f]or pension costs if we had used the MMP pension plan contribution rate of 18% of wages plus a 5% IRAP the cost would be $61,992. But the IRS has a cap on the contribution for self-employed individuals at $53,000 and we will use that number.'' [43] However, the commenter did not assert whether the Canadian pension plan is similar to the MMP pension plan, rendering it impossible to understand why the contributions needed to fund the two plans are so different.

Based on our analysis of the substantial changes in the exchange rate, and the uncertainty regarding the correct comparison of the Canadian and U.S. compensation systems, we decided not to continue using the GLPA information as a compensation benchmark. Instead, as described below, we believe that a comparison with a U.S. system is a better interim benchmark until the Coast Guard can complete its compensation study.

2. Comparison With U.S. Pilotage Associations

Several commenters also repeated a request that, instead of basing our compensation benchmark on Canadian pilots or U.S. mates, we should instead base it on a figure derived from the compensation of other U.S. pilotage organizations. One commenter argued that ''many pilots are comparably regulated in other U.S. jurisdictions and their rates and compensation set in open and evidence-based proceedings. The Coast Guard has never provided a convincing rationale for its failure to consider or adopt a benchmark based on the compensation of other U.S. pilots.'' [44] The commenter also provided examples of other U.S. pilot compensation, which it noted were considerably higher than any benchmark the Coast Guard had used in the past. The AMO, on whose contracts the proposed interim benchmark was based, argued that, rather than using AMO contracts with U.S. shipping companies as a basis to determine the target rate of compensation, ''it would make considerably more sense for the Coast Guard to use publicly available information on the compensation levels for other independent compulsory pilots throughout the United States.'' [45]

While we agree with the commenters that the final compensation information of some other U.S. pilots is publicly available, we are not, at this time, convinced that it is the best benchmark. We note that there are over 60 pilotage associations in the U.S., with huge variations in pay structure and levels. For example, in some of our research involving pilot compensation, we found that pilot compensation levels that ranged from a low of $173,554 annually [46] to a high of $758,922.[47] Such a wide range does not provide sufficient information about the proper compensation of Great Lakes pilots on its own.

At this time, we do not have sufficient, reliable information regarding how the baseline average compensation levels of other U.S. pilotage associations are set, only information on the rate changes from year to year. While the final compensation levels are public, the methods by which those compensation levels were benchmarked (as opposed to adjusted on a year-by-year basis) is not apparent. As we mention above, the Coast Guard continues to study the compensation structures of other pilotage systems as part of our comprehensive study, and in the course of that study, has reached out to numerous pilot associations and shipping interests as to how compensation levels and shipping rates are determined, but would certainly welcome input on how compensation is set and what factors contribute to that determination.

Further, as noted in the 2018 NPRM, the Coast Guard commissioned a study to better understand the direct and secondary impacts of the U.S. pilotage charges. The report is titled ''Analysis of the Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges'' [48] and assessed the baseline economic conditions of maritime commerce on the Great Lakes, quantified the cost of operating vessels on the Great Lakes, compared the cost of foreign trade on the Great Lakes to other modes of transportation and coastal ports, and assessed the impact of changes in

[39] This comment is available at *www.regulations.gov,* docket number USCG–2015–0497–0052.

[40] USCG–2015–0497–0052, p.16. We note that health benefits were included in the estimate of Canadian compensation used to create the benchmark.

[41] This comment is available at *www.regulations.gov,* docket number USCG–2015–0497–0038.

[42] 81 FR 11908, at 11915.

[43] USCG–2015–0497–0038, p.5. Acronyms were undefined in original comment, internal citations to U.S. statutes omitted.

[44] USCG–2017–0903–0006, p. 6.

[45] USCG–2017–0903–0005, p. 1.

[46] *https://www.governmentjobs.com/careers/lacity/jobs/1823743/port-pilot-5151?keywords=port%20pilot&pagetype=jobOpportunitiesJobs.*

[47] See ''NOBRA 2017 Income Disclosure,'' docket # USCG–2017–0903–0009.

[48] ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges,'' prepared by John C. Martin Associates, LLC, June 28, 2017 (hereinafter the ''2017 Pilotage Cost Analysis'').

pilotage rates to the Great Lakes shipping industry, including surrounding ports. This study demonstrated that pilotage costs play a role in determining the amount of cargo shipped on the Great Lakes. Because the Coast Guard considers the impact of shipping costs on Great Lakes pilotage as part of its ratemaking considerations, this study provided evidence that large increases in pilotage rates could negatively affect shipping on the Great Lakes. While we recognize that the study itself is not a comprehensive analysis of all economic factors, it is one factor that the Coast Guard considered when setting rates for shipping.

To assess the potential impact of the U.S. pilotage charges on the competitive cost position of the Great Lakes/St. Lawrence Seaway System and the associated impact on tonnage moving via the Great Lakes ports, the 2017 Pilotage Cost Analysis considered the actual increases in pilotage charges between 2015 and 2016, and assuming numerous other economic factors remained constant,[49] projected potential impacts in the event that similar increases in U.S. pilotage charges were to occur in the following year. While the 2017 rates did not actually increase in accordance with the model's assumption, and thus the projected impacts did not actually occur, the study provides evidence of the Great Lakes/St. Lawrence Seaway System's sensitivity to changes in the cost of U.S. pilotage, as a percentage of total voyage costs.

The 2017 Pilotage Cost Analysis is informative to our ratemaking process and supports the notion that there is an upper limit to the amount that can be charged for pilotage services before shippers consider diverting cargo to other locations or other modes of transportation. As pilot compensation costs constitute the bulk of the input into pilotage fees, the Coast Guard continues to carefully consider the direct and secondary impacts of our annual rate adjustments.

B. Revised Compensation Benchmark Issues

In the preceding subsections, we described why we did not continue to use the Canadian GLPA data or data from the other U.S. pilotage associations as the basis for the interim compensation benchmark in the 2018 NPRM. In this section, we respond to comments regarding our choice to use the 2015 AMO contract information as the basis for the compensation benchmark instead. We received several comments on the AMO contract information's validity and how to implement it, which we address in several subsections that follow. In the first subsection, we address why we chose the 2015 rate. In the second subsection, we discuss comments from the AMO about the application of overtime compensation to the daily aggregate rate. Finally, in the third subsection, we address industry comments regarding the application of the daily aggregate rate to the 270-day shipping season on the Great Lakes.

1. Use of AMO 2015 Aggregate Rate

In addition to suggestions that we continue using the Canadian GLPA compensation as a benchmark or that we base our compensation on those of other U.S. pilotage associations, we received several comments specifically regarding our decision to make use of the AMO aggregate daily rates from 2015 (note this is separate from the discussion of comments, in Section V.B.2., regarding how to apply the AMO aggregate daily rates). A discussion of the comments regarding use of AMO 2015 aggregate rates and our responses follows.

One commenter supported the use of AMO data, stating that this approach was ''a more rational approach to identification of some analogous field of endeavor against which to test the reasonableness of pilot compensation levels.'' [50] The commenter also stated that comparisons with AMO members aboard U.S.-flag vessels avoid difficulties, identified above in Section V.A.2, in trying to develop comparisons across countries. However, the commenter criticized the Coast Guard's acceptance of the AMO's decision to withhold contract information and obtain compensation data from other sources, and stated that the commenters ''lack information necessary to validate the stated 'daily aggregate rates' identified in the NPRM.'' [51] In response, we note that (1) we do not have the authority to compel anyone to provide confidential contract information; (2) we have been working to obtain other compensation data, and have commissioned a comprehensive review of that data; and (3) it may be possible for shipping industry personnel to acquire data about AMO contracts with shipping companies on their own.

One commenter argued that basing the compensation on the 2015 AMO data was inappropriate. The commenter stated that ''the use of old, disputed, extrapolated AMOU data does not adhere to the Coast Guard's own regulations (as proposed) in 404.104,'' [52] which state that the Coast Guard will set a compensation benchmark after considering the most relevant currently available non-proprietary information. The commenter argued that the information is old (it is from October 2013), irrelevant (stating that it relates to laker-masters, not pilots), and proprietary (as actual data from 2018 is not available), and thus should not be used as a basis for pilot compensation.

We disagree with the commenter, and believe that the data supplied in the October 4, 2013, letter from the AMO describing aggregate daily rates,[53] meets the standard in 46 CFR 404.104 of being the ''most relevant currently-available non-proprietary information'' for the reasons described below.

First, we believe that the data in the AMO letter is the 'most relevant' information. Notwithstanding AMO's statement that ''. . . the AMO is disappointed to learn that the U.S. Coast Guard is again attempting to rely on the use [of] AMO contracts with U.S. shipping companies on the Great Lakes as a basis to determine the 'target rate of compensation' for U.S.-registered pilots on the Great Lakes,'' for the reasons described in the NPRM,[54] we believe that it provides a highly relevant gauge for how much experienced mariners working on the Great Lakes are compensated. While AMO's position on the matter are certainly highly relevant, we still believe that the compensation of U.S. masters on Great Lakes ships provides a useful proxy for the compensation of U.S. pilots on Great Lakes ships, and the interim benchmark methodology is an effective manner to translate the AMO figure into a useable number for the latter. The interim benchmark is based on the idea that a Great Lakes pilot should earn, on average, about 1.5 times the salary of a

[49] This study is a single sector analysis, which means it assumes that numerous other factors that affect the cost of international shipping in the Great Lakes/St. Lawrence Seaway System are held constant. If the other factors or sectors were not held constant, but instead were allowed to fluctuate as they actually do, it is likely that the impact from changing pilotage rates would be different. It is important to note that the results of a single sector analysis should not be interpreted as a full regional or national impact analysis.

[50] USCG–2017–0903–0008, p. 4.

[51] USCG–2017–0903–0008, p. 5, footnote 5.

[52] USCG–2017–0903–0004, p. 4.

[53] We refer to this document as the ''AMO letter,'' which is available at *www.regulations.gov,* docket number USCG–2013–0534–0007. For a discussion about how the information from the 2013 AMO letter was extrapolated to derive the 2015 baseline compensation figures, see Section VII of the 2018 NPRM, entitled ''Revised Compensation Benchmark,'' 83 FR 2581, at 2587.

[54] See Section entitled ''Revised Compensation Benchmark'', 83 FR 2581, 2587–2590.

first mate,[55] given the demanding nature of Great Lakes pilotage work and the experience required. On that basis, the AMO data—which describes what a first mate earns for a day of work—is highly relevant, and perhaps the most relevant piece of information possible.[56]

Second, we believe that the data in the AMO letter is currently-available. We interpret this term to mean ''available at the current time.'' As the letter has been posted in the public docket for years and is still available, we believe it meets the definition of ''currently available.'' The purpose of this provision is to prohibit the use of data that is in existence but not available for public release.

Finally, we believe the data in the AMO letter is non-proprietary. While the AMO asserts that the underlying contract data is proprietary, and so we did not rely on that information in setting the interim benchmark, the AMO has publically released the daily aggregate compensation figure. Indeed, the commenter cites language from our 2016 pilotage rates NPRM (2016 NPRM), the year the AMO stopped making its information publically available, saying ''the union *now regards* that data as proprietary and will *no longer disclose it* [emphasis added].'' [57] We consider this an acknowledgement that the earlier data, which we are using, is not proprietary information. We note that there are other non-proprietary sources of information, and simply noting that a data source is non-proprietary does not mean that it necessarily provides information that the Coast Guard is obligated to incorporate into its ratemaking calculations. For example, several pilotage organizations also provided overall information about pilot compensation without explaining the factors that went into that information, but for the reasons described above in Section V.A.2., we did not use that information to determine the target compensation for Great Lakes pilots.

2. Overtime Compensation

In the 2018 NPRM, we used the public figures provided by AMO for its 2014 compensation rate, expressed as a daily aggregate rate, to determine the target compensation figure for the interim compensation benchmark. These figures were provided by AMO in its letter to the Coast Guard in 2013, and represented the most current information we had to implement this method of computing a benchmark. However, in its comments on the 2018 NPRM, the AMO indicated that the information it provided in the 2013 letter was incomplete. Specifically, it stated that the daily aggregate rates the Coast Guard is using to determine the benchmark compensation do not take into account ''standard overtime compensation that is consistently earned by U.S. merchant mariners under AMO contracts.'' [58] The AMO stated that the average overtime for a U.S. credentialed chief mate under AMO contracts is 40 hours per month, which at the 2018 hourly pay rate would be $60.07 per hour, or $21,625 for a 9-month period. This was also stated by the pilot associations, which stated that ''this 'overtime' compensation is planned and expected (by both the shipping companies and the AMO merchant mariners) [as] part of the AMO-negotiated compensation package, and represents a *guaranteed payment* [emphasis added], for an average of 40 hours per month or more, for overtime work (including clerical work) that is expected and intended each mate will perform.'' [59]

The information on guaranteed overtime is new to the Coast Guard. In the past, when we based our compensation rates on the daily aggregate rates provided by the AMO, guaranteed overtime was not included in those calculations. Nor was information on guaranteed overtime provided to the Coast Guard by the AMO in the ''settlement agreements'' from 2011,[60] which listed factors that go into the daily aggregate wages. These factors included wages, medical plan contributions, and pension plan contributions. We used this information to validate the daily aggregate rates provided in the 2013 AMO letter.[61] However, this formula did not include a guaranteed overtime bonus. We note the footnote in the shipping industry's comment that they ''lack information necessary to validate the stated 'daily aggregate rates' identified in the NPRM and submit that the underlying calculation of those rates should have been explained. . . .'' [62] The Coast Guard agrees that it would be better to have incorporated the new information into the daily aggregate rates at the proposed rule stage. However, we cannot now ignore highly relevant information simply because it was not apparent at the beginning of the rulemaking process, and we further note that the Coast Guard has been criticized for not using AMO data provided during the course of the rulemaking process in the past.[63] Because it is our goal to base our target compensation on the actual compensation of mates under the AMO contract, we believe it is appropriate to include the guaranteed overtime in the daily aggregate rates. We note that the use of ''overtime'' as part of the AMO contract terms does not mean there is overtime compensation for U.S. pilots, and shippers only pay for actual hours worked at the levels proscribed in the regulatory text.

We have modified the overtime number provided by the AMO to account for the fact that they provided 2018 information. As stated in the 2018 NPRM, we are basing the target compensation on the 2015 AMO contract information, which contains the last information that is publically available, and using an inflation index to arrive at a comparable 2018 rate. Because our rates are based on 2015 information, and not 2018 information, we are not using the 2.5 percent annual wage adjustment figures from 2015 through 2018 that the AMO provides and the Great Lakes Pilots reiterate, even though they assert that those are the actual wage increases. While this may be true, it is not relevant for the purposes of determining the 2015 daily aggregate rate. As stated above in this section, in order to base the compensation on 2015 rates, we are adjusting the 2015 rates for inflation to reach a 2018 rather than tracking contract permutations. To incorporate the 2018 average overtime figure, we first deflated the hourly overtime rate to 2015, using the 2.5 percent annual rate [64] provided by the AMO, to derive its 2015 value, which is $55.68. We then broke down the 40 hours per month of overtime into a daily average of 80 minutes over 30 days (or one and one third hours per day), to arrive a total value of $74.24 ($55.68 × 1.3333) in

[55] For a full discussion of how the interim benchmark was derived, see 83 FR 2581, at 2587–2590.

[56] We also note that the commenters' assertion that the AMO data relates to 'laker-masters' is incorrect; it relates to first mates.

[57] USCG–2017–0903–0004, p. 5, citing 80 FR 54484.

[58] USCG–2017–0903–0005, p. 2.

[59] USCG–2017–0903–0006, pp. 9–10.

[60] These settlement agreements, between the AMO, Key Lakes, and Mittal Steel (Agreements ''A'' and ''B'', respectively), are not public information. Therefore, we cannot publicly reveal detailed information about their contents.

[61] See 83 FR 2581, at 2588. The formula to derive the aggregate daily rate multiplies the wage (including weekend, holiday, and bonus days) by 1.5, adds a 5-percent 401k contribution, and adds the medical plan and pension plan contributions.

[62] USCG–2017–0903–0008, p. 5, footnote 5.

[63] See *St. Lawrence Seaway Pilots Association, Inc., et al.* v. *United States Coast Guard,* No. 14–cv–392, (D.D.C., March 27, 2015), p. 11–12.

[64] While the 2.5 percent rate is not relevant for calculating the 2018 aggregate total, it is appropriate for translating the AMO-provided 2018 dollar figure to an actual 2015 figure, as that was the actual amount by which it was inflated, per the AMO.

overtime compensation per day. We then added that value to the provided daily aggregate rates to provide revised daily aggregate rates of $1,216.30 for Agreement A, and $1,198.96 for Agreement B.[65] From that point, the calculations are similar to those performed in the NPRM, as shown in Table 3.

TABLE 3—CALCULATION OF SEASONAL RATES BY AGREEMENT

	Aggregate daily rate	Seasonal compensation (aggregate daily rate × 270)
Agreement A	$1,216.30	$328,401
Agreement B	1,198.96	323,719

Next, we apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. As shown in Table 4, approximately 70 percent of cargo was carried under the Agreement A contract, while approximately 30 percent of cargo was carried under the Agreement B contract.

TABLE 4—WEIGHTED AVERAGE OF EACH AGREEMENT

	Tonnage	Percentage of tonnage (total tonnage/1,215,811)
Agreement A	361,385	29.7237811
Agreement B	854,426	70.2762189
Total tonnage	1,215,811	100.00

Third, we develop an average of compensation based on the total compensation under the two contracts, weighting each contract by its percentage of total tonnage, as shown in Table 5. Based on this calculation, we developed a figure of $325,110 for total compensation in 2015.

TABLE 5—CALCULATION OF AVERAGED COMPENSATION

	Percentage of tonnage	Weighted compensation (seasonal compensation × percentage of tonnage) (rounded)
Agreement A—weighted	29.7237811	$97,613
Agreement B—weighted	70.2762189	227,497
Total Compensation (Agreement A + B)	100.00	325,110

3. Calculation of Number of Days in Pay

As stated above, in the NPRM, we proposed to set the compensation benchmark by multiplying the aggregate daily rate by 270, the number of days in the shipping season, to derive a ''seasonal average compensation figure.''[66] Industry commenters argued that the use of the 270-day figure was inappropriate. They stated that, while ''in past ratemaking proceedings [the Coast Guard] has used the 270-day assumption as a basis for extrapolating AMOU compensation data to pilot compensation . . . the Coast Guard has since (see 2016 final rule) imposed mandatory rest periods on pilots that limit their working days each month and has imposed on rate payers additional costs attributable to increased staffing levels that are, in large part, attributable to mandatory rest periods.''[67] The industry commenters suggest that, instead of multiplying the daily aggregate rate by 270, the aggregate rate should be multiplied by only 200, given that the AMO figures are tied to working days and that Great Lakes pilots are only expected to work 200 days.[68]

First, the Coast Guard notes that the industry commenters have mischaracterized the 10 days of rest that we have incorporated into the staffing model. Unlike Canadian pilots, AMO mates, or other U.S. pilots, United States registered pilots do not have guaranteed days off during the shipping season. Instead, Great Lakes pilots are expected to be on call and available for work each day during the entire 270-day season. However, it is our goal that when pilot demand is not at its highest level (during the 7 months that are not the opening or closing of the season), pilots are able to rest for 10 days, and we have set the number of pilots so that there are approximately ⅓ more pilots than necessary to handle traffic during these times, allowing an average pilot 10 days of rest during an average non-peak traffic month. As we noted in the 2016 NPRM when we proposed this system, ''we propose building into our base seasonal work standard only 200 workdays per pilot per season. The 70-day difference should facilitate a 10-day recuperative rest period for each pilot in each of the seven months (mid-April to mid-November) between peak traffic periods.''[69] As we noted in that document, ''our goal is to regulate the pilotage system to *maximize the likelihood* [emphasis added] for

[65] $1,142.06 + $74.24 = $1,216.30 for Agreement A; $1,124.72 + $74.24 = $1,198.96 for Agreement B.

[66] 83 FR 2581, at 2589.

[67] USCG–2017–0903–0008, p. 5, footnote 7.

[68] USCG–2017–0903–0008, p. 5.

[69] 80 FR 54484, at 54490.

providing the full 10 days per month.'' [70]

The industry commenters suggest that, like AMO mates, Great Lakes pilots should be compensated only for days that they are actually expected to work, and thus that the aggregate daily wage be multiplied by 200, rather than 270. This calculation would mean that Great Lakes pilots would receive zero compensation for being ''on call'' during those additional 70 days of the season.[71] On the other hand, we recognize that multiplying the aggregate daily wage by 270 means that Great Lakes pilots would receive full compensation for days on call, even if the system is designed so that they are not expected to work for those days. While neither number is perfect, we acknowledge that this is a consequence of using the AMO compensation model, which has a sharp delineation between guaranteed days worked and guaranteed days off, and of applying it to the Great Lakes pilots, where a day on the tour-de-roll may not correlate to a day actively undertaking pilotage duties.

The Coast Guard's mission in regulating pilotage on the Great Lakes is to ''promote safe, efficient, and reliable pilotage service on the Great Lakes.'' [72] However, there is a natural balancing in this mission. To promote safe pilotage, the Coast Guard strives to attract the most experienced pilots, and to attract sufficient numbers, so that each vessel assigned a pilot is assured an experienced, well-rested pilot. To promote reliable pilotage, we must ensure there are sufficient numbers of pilots so that a rested pilot is available for duty at the required location at the required time, even in periods where traffic is more than expected. Both of these goals recommend that we hire more pilots, and ensure competitive compensation, thus advocating for higher pilotage rates. On the other hand, the promotion of efficient pilotage pulls in the opposite direction. We can lower pilotage rates by more efficiently utilizing a lower number of pilots—moving them around more, or giving them less rest—with the understanding that this may result in less reliable service when traffic is higher than predicted. Similarly, we can lower compensation—improving efficiency by hiring less experienced pilots who will work for less compensation—with the understanding that this could have consequences for safety.

While we believe that the industry commenters' suggestion of multiplying the aggregate daily wage by 200, rather than 270, has merit, we have decided that in the interests of recruiting and retaining a suitable number of experienced pilots, a multiplier of 270 is the preferable course of action. While we have considered the argument that it would be more efficient to pay pilots less or have fewer of them to generate lower shipping rates, we believe the effect on safety and reliability warrant a multiplier of 270. In the past, when compensation levels were lower, the pilot associations asserted that they had trouble attracting and retaining qualified pilots, and we believe offering higher compensation will help the pilot associations attract and retain higher numbers of more experienced pilots. Furthermore, we continue to note that the Great Lakes pilots' target compensation is within the range compensation of other U.S. pilotage associations (although we note we are still gathering data as to how the compensation and tariff levels of other U.S. pilotage associations are set). We also note that our economic analysis of shipping on the Great Lakes, discussed above, demonstrates that pilotage costs remain low enough to enable a robust trade of commodities.

Additionally, we point to an issue raised by commenters as an additional reason to ensure that safety and reliability are emphasized in the Coast Guard's analysis of Great Lakes pilotage. One commenter noted that cruise ships are becoming an increasingly important source of business on the Great Lakes, and that unlike cargo ships, which can weather delays with relatively little impact, cruise ships are severely impacted by delays as they cannot keep to their schedules.[73] We believe that with cruise ships becoming a large share of business, the need to minimize delays by having an adequate number of pilots grows in importance.

C. Inflation Adjustment Factor for Adjustment Years

In the NPRM, we proposed that in non-benchmark years, the target compensation for Great Lakes pilots be increased by an inflation factor to promote predictability and increase the efficiency of the ratemaking process. All commenters who discussed this issue were supportive of an automatic increase for inflation. However, several commenters recommended that the inflation benchmark used was inappropriate. While we proposed to use the CPI for the Midwest Region,[74] several commenters recommended different inflation adjustments.

One commenter questioned why the Coast Guard expected the CPI for the Midwest Region to track actual AMO wage increases year after year, and stated that the AMO contract increased wages at 3 percent per year.[75] Another commenter argued that the Coast Guard's method of ''guessing at current AMOU compensation'' using the CPI was inherently flawed.[76] In response, we note that the NPRM never proposed that the compensation rate should track yearly increases in the AMO rate, and that its intent was to set a compensation benchmark at a rate derived from the 2015 AMO rate, and then increase that rate by an inflation factor. The Coast Guard explicitly stated that the goal was not to track AMO rates developed after 2015,[77] and thus believes the commenters' suggestions are not warranted.

Several commenters suggested that instead of adjusting the compensation benchmark by the CPI, we should instead adjust it by the ECI for the transportation and material moving sector.[78] One commenter noted that ''the [ECI] is the more relevant index because unlike the CPI, it tracks the parameter we're talking about: employment cost in the transportation sector.'' [79] We agree with the commenters that, for the purposes of inflating compensation costs, the ECI provides a better gauge of compensation inflation than the CPI does. Our goal is to promote recruitment and retention of skilled pilots, and that goal is undermined if the wages of Great Lakes pilots increase less than the wages of other skilled maritime professionals in the transportation sector as the result of an inflationary gauge that was not as accurate as possible. Thus, we have substituted the ECI for the CPI in our annual inflation adjustor for target compensation. We note that this logic does not apply to the increase in

[70] 80 FR 54484, at 54490, footnote 30.

[71] Or longer, as some recent shipping seasons have lasted longer than 270 days due to changes in ice patterns on the Great Lakes. For example, we note that the 2017 shipping season in District 1 lasted 296 days.

[72] See 46 CFR 404.1(a).

[73] USCG–2017–0903–0004, p. 11. We note that the commenter also requested that the Coast Guard adjust its regulations to allow pilots to give priority to cruise ships for this reason. While such a request is outside the scope of the ratemaking procedure, we will give the idea consideration.

[74] Specifically, we proposed to use the Midwest Region CPI or the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation. The PCE figure would be used for years where CPI data is not available.

[75] USCG–2017–0903–0006, p. 9.

[76] USCG–2017–0903–0004, p. 7.

[77] See 83 FR 2581, at 2588.

[78] USCG–2017–0903–0004, p. 9; USCG–2017–0903–0007.

[79] USCG–2017–0903–0004, p. 9.

operating costs, for which we will continue to use CPI as the benchmark for inflation, because the ECI measures the change in the cost of labor.

Finally, we note that in instances where BLS ECI or CPI inflation data is not available, the Coast Guard has historically used the FOMC median PCE estimates. We have included language to that extent in the language for 46 CFR 404.102 and 404.104, respectively, to make the process more transparent. We note that we did not include this as proposed language in the NPRM, but given that the particular inflationary gauges used in the rule have been raised as a serious issue in comments, believe that being more explicit about the exact figures used in the calculations of both the NPRM and final rule is a logical outgrowth of that issue.

D. Staffing Model Relocation and Calculations

In the NPRM, we proposed to relocate the staffing model regulations from 46 CFR 404.103(a) through (c) to 46 CFR 401.220(a). We did not propose making any modification to the text of the staffing model. We stated that the rationale for moving the text was to improve the clarity of the regulations and simplify the process for preparing the annual rulemaking documents. Noting that, under the current organizational scheme, ''Ratemaking Step 3'' produces two sets of pilot numbers (one produced by the staffing model and a different one used in the ratemaking calculation), the staffing model text should be moved to part 401, where other pilotage inputs that inform the ratemaking process, but are not part of the annual calculation, are located.[80]

We received one comment from a pilotage organization that protested this organizational change. The commenter argued that this proposal allows the Director of Great Lakes Pilotage to conduct the calculations whenever he or she believes it is necessary, which could allow long periods of neglect.[81] We note that, if the commenter believes the staffing levels are being neglected, the commenter is able to raise this concern in the many public forums, such as GLPAC meetings, that are available for input into the ratemaking process. We also note that analyzing the number of pilots required is not a process currently conducted once per year, but something that is continuously done. It is similar to the system for determining the number of applicant pilots, which, while it informs the methodology, is not part of it. Instead, those regulations are located in § 401.211 of the Great Lakes Pilotage Regulations. We believe placing the staffing model text in part 401 is the best way to ensure transparency in the regulations, and makes clear that it is the number of working pilots that we authorize in the regulations—which may not correspond to the number generated by the staffing model—that is the relevant value for establishing pilotage rates.

One commenter stated that the Coast Guard had miscalculated the number of pilots needed in Districts One and Two, and that we should add an additional pilot to each of those Districts pursuant to the staffing model. In the calculations for those Districts, we determined that 17.25 and 15.41 pilots were needed, which we rounded down to 17 and 15, respectively.[82] The commenter argued that ''the [staffing] model contemplates additional duties of the Association Presidents as a basis for rounding pilot numbers. It is entirely nonsensical to round down to account for extra workload and duties.'' [83]

We disagree with the commenter's analysis, and believe that the commenter is referring to a rounding convention that was applicable to a different staffing model. We did state, in the 2017 pilotage rates NPRM, that ''[i]n all districts, when the calculation results in a fraction of a pilot, we round pilot numbers up to the nearest whole pilot. We do this to avoid shortening our demand calculation and also to compensate for the role of the district presidents as both working pilots and representatives of their associations.'' [84] However, that statement was made in regard to a proposal to switch from a ''peak staffing model'' to an ''average staffing model.'' The proposed average staffing model, which, based on comments we received, was never finalized, derived the number of pilots from their average workload during the year. Because a pilot association has responsibilities beyond pilotage, which takes up some of each pilot's time, the Coast Guard proposed to round up to account for those responsibilities. However, this situation does not apply to the staffing model currently used, which is based on the number of pilots needed at the beginning and close of the season, when traffic is highest and treacherous conditions often require double pilotage. Under the current staffing model, during the first and last months of the season, we expect all pilots to focus on pilotage duties, while allowing an average of 10 days of rest for pilots during the remaining 7 months. Pilot association presidents can undertake their administrative responsibilities during this time, so there is no need to round up, and a traditional rounding system can be used.

E. Working Capital Fund Basis and Use

One commenter suggested that the Coast Guard eliminate the working capital fund, or alternatively, that the Coast Guard promulgate regulations that segregate the working capital funds and govern their use, and prevent their distribution as compensation. While we did not propose any modifications to the calculation or use of working capital funds and are not incorporating them into the 2018 ratemaking procedure at this late stage, we do believe that some of the ideas expressed by the commenter merit discussion.

First, we discuss the commenter's argument that the value of the working capital fund ''appears to be an entirely arbitrary 'adder' that bears no clear relationship to its supposed function or nomenclature.'' [85] The commenter stated that ''the term 'working capital' is commonly understood to be a balance sheet measure that is the difference between current assets and current liabilities.'' The commenter also stated that the relationship between the amount of money collected pursuant to Step 5 of the ratemaking process and the infrastructure costs of the District is unclear. Finally, the commenter raised the point that, in the past, surcharges had been used to fund infrastructure improvements, and there should be a mechanism to ensure that it is used for that purpose.

In the 2016 NPRM, we discussed both the purpose of the working capital fund as well as its name.[86] In our discussion of why we proposed to change the name of this step from ''return on investment'' to ''working capital fund,'' we stated that ''the intent of [this section of the ratemaking methodology is] to provide the pilots with working capital for future expenses associated with capital improvements, technology investments, and future training needs, *with the goal of eliminating the need for surcharges* [emphasis added].'' [87] We also agree that there may be merit in a mechanism to ensure that the funds are set aside for future projects, and will investigate the need for such regulation and how to best effect it. We encourage commenters

[80] 83 FR 2581, at 2586.

[81] USCG–2017–0903–0004, p.11.

[82] 82 FR 41466, at 41480, Table 6. For District 3, we calculated 21.55 pilots, which was rounded up to 22.

[83] USCG–2017–0903–0007.

[84] 81 FR 72011, at 72015–16.

[85] USCG–2017–0903–0008, p. 6.

[86] 81 FR 72011, at 72017.

[87] 81 FR 72011, at 72017.

to engage with the Coast Guard on this issue with additional information.

The commenter also suggested that the amount of money collected by the working capital fund calculation was incorrect, and that the Coast Guard should re-evaluate what is the working capital fund's function and relationship to pilot-compensation. However, the commenter did not suggest an alternative value for the fund. In the 2017 final rule, we stated that the fund ''is structured so that the pilot associations can demonstrate credit worthiness when seeking funds from a financial institution for needed infrastructure projects, and those projects can produce a return on investment at a rate commensurate to repay a financial institution.'' [88] Because the purpose of the working capital fund is that the pilot associations can demonstrate credit worthiness when seeking funds from a financial institution for needed infrastructure projects, the value of the working capital fund contribution is tied to pilot association revenue and prevailing corporate interest rate.

Separate from the amount of the working capital fund, the commenter suggested that the use of money collected as part of the working capital fund be clearly bounded, and any unspent money should be segregated and carried forward from year to year, and not be distributed as compensation.[89] The commenter stated that a number of surcharges have been imposed on rate payers over the years for specific capital projects and expenses, and so the purpose of the working capital fund is unclear.

Since 2016, when the ratemaking methodology was updated, we have not used surcharges to finance infrastructure improvements or maintenance, only to train new pilots. The purpose of the working capital fund is to demonstrate that pilots can achieve a return on investment, and thus have the ability to acquire loans to finance needed capital improvements. In the event that loans are taken out for this purpose, we would expect the working capital funds to be used to finance those loans, and so we would not permit the financing expenses to be counted as operating expenses.

Currently, there are no requirements for how money collected under this provision is spent or distributed. However, we agree that the idea has merit. We believe that the money is meant to secure the financing for infrastructure improvements, and should not be used as compensation. While we believe that this ratemaking proceeding is not the proper venue to determine whether and how the Coast Guard could or should implement some limitations on the use of working capital fund money, we will take the idea under advisement.

F. Use of 10-Year Traffic Baseline

One issue raised by industry commenters concerns the use of a 10-year moving average to calculate average traffic. The commenters noted that ''the 10-year average is depressed by the significant reduction of traffic that occurred in the 2008–2013 period,'' [90] which was caused by the global recession of 2008 and 2009. Noting that in years since 2013, traffic has been substantially higher, the commenters assert that ''it [is] rational to assume that 2018 hours will be generally comparable to levels in the 2014–2017 period.'' [91] If those traffic numbers are reached, then actual revenue would be substantially higher than the ''revenue needed'' under Step 7 of the ratemaking methodology, and pilots will exceed their target compensation.

To rectify this, the industry commenters recommend that instead of using a 10-year average traffic volume to calculate revenue needed, the Coast Guard should use a 3-year period instead. This would result in substantially lower shipping costs, as the total revenue needed ($22,438,782, as identified in Step 7 of the NPRM [92]) would be divided by 51,607 hours of traffic, rather than the 43,384 hours of traffic using the 10-year average. Applying this change would lower the average rate across all areas from $517.21 per hour to $434.80 per hour, a reduction of approximately 16 percent.

Commenters assert that a 3-year traffic average convention would make more sense than a 10-year average, as the Coast Guard's other parts of the ratemaking methodology that feed into the ''Revenue Needed'' use more recent data.[93] The commenters note that operating expenses, used in Step 1 of the ratemaking methodology, are based on data that is 3 years old, and staffing levels, used in Step 3 of the ratemaking methodology, are based on current year data. The industry commenters assert that ''the Coast Guard's chronic underestimation of revenue in 2014–2016 . . . is [partly] caused by asymmetry in the time span of data in the Revenue Needed and Time on Task data in Step 7.'' [94]

While we agree that, for the purposes of the 2018 calculations, hourly pilotage rates would be lower if we used a 3-year window, we do not believe that this argument is convincing. Given a normal distribution of traffic, approximately 5 years out of every 10 will have traffic above the 10-year average level, and approximately 5 will have traffic below it. We note that traffic volumes on the Great Lakes can vary significantly from year to year, and a 10-year average is a good way to smooth out variations in traffic caused by global economic conditions. Industry commenters provide data showing actual traffic numbers from 2007 through 2016; those numbers clearly demonstrate that traffic can dramatically change from one year to the next.[95] We do not see this as support for the industry's assertion that it would be rational to assume 2018 hours will be generally comparable to the 2014 through 2017 period.

Unlike operating expenses, which do not have wide swings from year to year, and pilot staffing levels, which can be determined with a high degree of precision, traffic averages are the hardest part of the ratemaking inputs to predict. Using a 3-year average would lead to dramatic swings from year to year, while a 10-year average smooths out those transitions. For that reason, we have decided to continue using the 10-year average in our calculations. With regard to the idea that, in 2018, this number may underestimate traffic, we note that in some years, the use of the 10-year average overestimated traffic.

G. Calculation of Surcharges and Incorporation Into Operating Costs

In the NPRM, we proposed to add surcharges totaling $1,050,000 to subsidize the training of seven applicant pilots. This was based on the fact that there are seven apprentice pilots, and we use the figure of $150,000 as an estimate for the total training costs of a pilot (this includes a stipend). In their comments, industry commenters noted that they support adequate training for pilot trainees, but stated that ''the content and cost of all elements of the training program must be put to a

[88] 82 FR 41466, at 41484.

[89] USCG–2017–0903–0008, p. 6.

[90] USCG–2017–0903–0008, p. 6.

[91] USCG–2017–0903–0008, p. 7.

[92] 83 FR 2581, at 2595. This figure is derived by adding the totals from Tables 20, 21, and 22. Note that it does not include revenues from surcharges.

[93] We note that ''revenue needed'' is determined by adding operating expenses, pilot compensation, and working capital fund contributions, and then dividing by total number of hours. These numbers are calculated on an area-by-area basis.

[94] USCG–2017–0903–0008, p. 7.

[95] See, *e.g.,* the change from 2009 to 2010, increasing by over 50% from 28,201 hours to 43,960 hours.

process of public review.'' [96] The commenter asserted that this element of the NPRM should be withdrawn and a supplemental NPRM should be issued to permit public comment on the elements of a training program.

We disagree that industry commenters have not had a chance to comment on the propriety of the $150,000 figure. This amount has been used each year since 2016, without change. In the 2016 NPRM, when it was introduced, we discussed the basis for that figure. We stated that ''[b]ased on historic pilot costs, the stipend, per diem, and training costs for each applicant pilot are approximately $150,000.'' [97] More detail is provided in the financial reports submitted by pilotage associations. For example, the 2016 financial reports submitted by the pilotage associations [98] contain the following line items for applicant pilots:

- Salaries—Applicant Pilots
- Benefits—Applicant Pilots
- Housing Allowance—Applicant Pilots
- Subsistence/Travel—Applicant Pilots
- Training—Applicant Pilots
- Payroll Taxes—Applicant Pilots

If it is unclear, the purpose of using surcharges to cover anticipated pilotage costs, instead of operating expenses, is so that retiring pilots do not have to pay costs that they will be unable to recoup, as operating expenses are factored into the ratemaking calculations only after a 3-year delay.

We also note that while the $150,000 figure is an approximation of the amount required to train a new pilot, the number is ultimately balanced with the actual cost through the modifications of operating expenses. This means that pilotage associations will provide audited information relating to pilotage training costs each year as part of the public ratemaking process. Because operating expenses are analyzed using a 3-year delay (see Step 1 of the ratemaking process), and 2016 was the first year we authorized a surcharge for training applicant pilots, these figures will become subject to public review beginning with the 2019 ratemaking. When actual operating expenses are provided, pilotage associations will be able to add to their operating costs any expenditures that exceeded the $150,000 collected surcharge. Similarly, if they did not spend that much, the excess monies will be deducted from their authorized operating expenses. In this way, ratepayers will never pay more or less than the actual cost incurred to train a new pilot. We note that this would not cause any additional paperwork costs, because pilot organizations already provide the Coast Guard with their operating expenses on a yearly basis. As we noted in Section VII.D below, this rule will not change the burden in the collection currently approved by OMB under OMB Control Number 1625–0086.

While the current $150,000 surcharge practice began only in 2016, the process of providing money up front for training, and then balancing that later through the accounting of operating expenses, is one we have used in the past. For example, in 2014, we authorized a 3 percent surcharge in District One to recoup $48,995 in expenses that the association incurred for training.[99] However, because realized traffic in 2014 exceeded projections (and at the time, there was no mechanism to prevent the over collection of surcharges), we note that the pilot association collected $146,424.01.[100] The amount of the 2014 surcharge that exceeded actual training costs was deducted from operating expenses in the next 2 years. In the 2015 final rule, for example, we disallowed the $48,314 ''pilot training'' item from the operating expenses, because pilot training expenses are deducted from surcharges.[101] We made a further ''surcharge adjustment'' in the 2016 operating expenses to deduct for the remaining amount of $97,429.[102]

We also received a comment from a pilotage organization relating to the surcharge provision. Specifically, the commenter argued that, in some instances, pilot associations do not collect the full amount of the authorized surcharge during the shipping season. The commenter pointed out that, because the 2017 rates did not become effective until later in the season, the pilot associations did not collect the entirety of the authorized sum. Noting that there is a provision to stop collecting surcharges when the authorized amount is reached, the commenter requested that the Coast Guard revise 46 CFR 401.401 to ''protect the pilots from surcharge under-generation in the same way it protects users from surcharge over-generation.'' [103] We do not believe such a mechanism is necessary at this time, and again point to the mechanism above where collected surcharges and audited training expenditures are ultimately balanced via adjustment to the operating expenses. In the case where the collected surcharges did not cover the actual cost of training a pilot, either because the surcharge was too low or it was not collected, the pilot association would be able to include any extra expenses in their allowable operating expenses 3 years later.

H. Other Issues Relating to Pilotage Oversight

We received several comments from the shipping industry that did not relate to the specific ratemaking in this rule, but touched on areas regulated by the Coast Guard. While we are unable to make changes to the regulations in this final rule due to the fact that the scope of the NPRM covered only the proposed 2018 adjustments to pilotage rates, we acknowledge that some of these matters are important issues and should be addressed in the appropriate forum.

1. Unnecessary Pilot Orders for Use of Tugs

One comment concerned situations in which vessel masters or owners disagreed with pilots on the matter of whether extra tugs were required. The commenter asserted that there has been a sharp increase in ''questionable pilot tug callouts'' [104] and requested that the Coast Guard implement a procedure whereby protests over these callouts can be registered with the Captain of the Port or District Commander. The commenter further requested that, if the tug is ruled unnecessary, the relevant pilot association be required to reimburse the vessel owner for the costs of the tug callout. At this time, there is no mechanism by which a vessel owner can contest such a charge, but we would welcome additional discussion of this issue at an appropriate venue.

2. Mechanisms To Prevent or Discourage Delays

Industry commenters also raised concerns that they were experiencing significant charges for pilotage attributable to time on board vessels that are not in active navigation, but are delayed by issues beyond the control of the vessel. These issues included items such as congestion, lack of available pilots at a change point, and unavailability of pilot boats. The commenters made two suggestions: (1)

[96] USCG–2017–0903–0008, p. 8.

[97] 80 FR 54484, at 54500.

[98] Available at *www.regulations.gov,* docket number USCG–2016–0268.

[99] Great Lakes Pilotage Rates—2014 Annual Review and Adjustment, final rule, 79 FR 12084, at 12088 (March 4, 2014).

[100] See 81 FR 11908 at 11929, Figure 8, footnote.

[101] Great Lakes Pilotage Rates—2015 Annual Review and Adjustment, final rule, 80 FR 10365, at 10370, Table 2 (February 26, 2015).

[102] 81 FR 11908, at 11929, Figure 8. In the footnote to the table, we noted that ''the adjustment represents the difference between the collected amount and the authorized amount of $48,995 authorized in the 2014 final rule.''

[103] USCG–2017–0903–0004, p. 10.

[104] USCG–2017–0903–0008, p. 9.

The Coast Guard should forbid pilotage charges when vessels are not under active navigation; or (2) the Coast Guard should develop a separate, lower rate structure for pilot charges in these circumstances, possibly including a cap or limit for situations where the vessel is stopped at anchor. The commenters also noted that these charges are particularly significant in the parts of the season before May 1 and after November 30.[105]

We note that existing regulations in § 401.420 speak to these situations. In situations where a delay occurs, a pilotage association cannot charge for pilotage if the delay is caused by the pilotage association or the pilot (such as in the situation of a lack of a pilot boat). Delays caused by weather are, however, charged to the vessel before May 1 or after November 30. We disagree with the commenters that this provision should be changed. During these ''peak'' periods of the season, pilot time is a scarce resource, and we want to encourage the most efficient use of the pilot's time. There is a risk of delay when using the Great Lakes during parts of the year where delays caused by ice is common, and we want shippers, who decide when to use the Great Lakes, to incorporate the risks of those delays into their business decisions. Excluding fees for weather delays, at times when weather is a known risk, encourages inefficient use of pilot time and puts pressure on the system to increase the number of pilots, thus increasing rates for all.

3. Delays Related to Labor Disputes

Industry commenters also raised the issue of delays caused by labor disputes. The commenters stated that there were incidents in which pilots delayed vessel operations, citing pickets or demonstrations by labor interests at terminal facilities being used by a vessel required by law to use pilot services.[106] The commenters requested that the Coast Guard establish mechanisms to require pilot associations to reimburse the vessel operator for any delay costs associated with these actions.

We believe that there is currently no specific regulation that would require or enable the Coast Guard to impose monetary or damages for delays associated with a pilot or pilot association refusing service to a vessel based on labor protests. If a vessel operator believes this situation is occurring, he or she may use the procedures in § 401.510, ''Operation without registered pilots,'' to determine the best course of action. If an owner or operator believes he or she has accrued monetary damages from an improper delay, that person may wish to pursue those claims in a civil venue.

4. Over-Realization of Revenues

Industry commenters raise the issue of over-realization of revenues on the part of the pilot associations, and said the Coast Guard is failing to give this matter sufficient attention in the NPRM. The commenters argued that high U.S. pilotage rates had an adverse effect on the economy, and were substantively higher than Canadian rates for similar routes.

We note that, while we did not write at length on the issue of over-realization of revenues in the NPRM, it is because it is not a highly salient issue at this time. In the past, over-realization of revenues was caused by two factors, as the industry commenters note in their remarks: The lack of incorporation of weighting factor fees into the ratemaking methodology (revised per the suggestion of industry commenters), and a traffic level higher than the 10-year average. As we stated earlier in this preamble, higher traffic than expected translating into more revenues than expected is a feature of the pay-for-service economic model on the Great Lakes, not a shortcoming of the methodology. Furthermore, we note that, contrary to the commenter's assertion, we have considered the secondary economic impact of pilotage rates—the 2017 Pilotage Cost Analysis the commenters cite being an example of how we analyze them. The results of the study are clear: although pilotage rates have by necessity increased substantially (given our focus on increasing the number of pilots and their compensation to encourage recruitment and retention), they have not increased to levels that threaten the economic viability of Great Lakes shipping.

VI. Discussion of Rate Adjustments

Having made the adjustments to the ratemaking methodology and inputs as described in the previous section, in this section, we discuss the revised 2018 ratemaking model used to derive the new pilotage rates. We note that several of the inputs have changed from the NPRM because this final rule was developed in 2018, and so various data points have been updated to include 2017 data that has become available. These changes include a revision of the Moody's rate for corporate securities, in Step 5, a revision to the 10-year average traffic figures, in Step 7, and a revision of the average weighting factors, in Step 8. Several inflation factors have been similarly adjusted to incorporate 2017 data and revised estimates. We have provided citations to all relevant data, where possible.

A. Step 1—Recognition of Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do this, we begin by reviewing the independent accountant's financial reports for each association's 2015 expenses and revenues.[107] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. In certain instances, for example, costs are applied to the undesignated or designated area based on where they were actually accrued. For example, costs for ''Applicant pilot license insurance'' in District One are assigned entirely to the undesignated areas, as applicant pilots work exclusively in those areas. For costs that accrued to the pilot associations generally, for example, insurance, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for the three districts are shown in Tables 6 through 8.

[105] USCG–2017–0903–0008, pp. 8 and 9. The commenter also stated that in 2016, the Coast Guard removed a $250/hour limitation on certain charges, but we are uncertain to what the commenter is referring.

[106] USCG–2017–0903–0008, p. 9.

[107] These reports are available in the docket for this rulemaking (see *https://www.regulations.gov,* Docket # USCG–2017–0903).

TABLE 6—2015 RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2015	District One		
	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$344,718	$267,669	$612,387
Applicant Pilot subsistence/travel	59,992	88,313	148,305
License insurance	26,976	26,976	53,952
Applicant Pilot license insurance	0	2,271	2,271
Payroll taxes	97,531	61,656	159,187
Applicant Pilot payroll taxes	8,200	12,583	20,783
Other	5,679	5,341	11,020
Total other pilotage costs	543,096	464,809	1,007,905
Pilot Boat and Dispatch Costs:			
Pilot boat expense	134,400	106,064	240,464
Dispatch expense	0	0	0
Payroll taxes	9,688	7,645	17,333
Total pilot and dispatch costs	144,088	113,709	257,797
Administrative Expenses:			
Legal—general counsel	12,388	9,733	22,121
Legal—shared counsel (K&L Gates)	904	710	1,614
Legal—USCG litigation	0	0	0
Insurance	16,261	12,832	29,093
Employee benefits	8,752	6,907	15,659
Payroll taxes	5,628	4,441	10,069
Other taxes	9,447	7,455	16,902
Travel	795	627	1,422
Depreciation/auto leasing/other	55,850	31,763	87,613
Interest	12,337	9,736	22,073
Dues and subscriptions	15,867	15,513	31,380
Utilities	9,573	461	10,034
Salaries	56,126	44,291	100,417
Accounting/Professional fees	5,254	4,146	9,400
Pilot Training	0	0	0
Applicant Pilot training	0	0	0
Other	9,118	6,446	15,564
Total Administrative Expenses	218,300	155,061	373,361
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	905,484	733,579	1,639,063
Adjustments (Independent certified public accountant (CPA)):			
Pilot subsistence/travel	0	−2,943	-2,943
Payroll taxes	0	0	0
Applicant Pilot payroll taxes	0	0	0
Total CPA Adjustments	0	−2,943	−2,943
Adjustments (Director):			
Legal—general counsel (corrected number)	904	710	1,614
Legal—general counsel (corrected number)	−12,388	−9,733	−22,121
Legal—shared counsel (K&L Gates) (corrected number)	12,388	9,733	22,121
Legal—shared counsel (K&L Gates) (corrected number)	−904	−710	−1,614
Legal—shared counsel—3% lobbying fee (K&L Gates)	−371	−292	−663
Total Director's Adjustments	−371	−292	−663
Total Operating Expenses (OpEx + Adjustments)	905,113	730,344	1,635,457

TABLE 7—2015 RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2015	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$163,276	$244,915	$408,191

TABLE 7—2015 RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2015	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Applicant Pilot subsistence/travel	0	0	0
License insurance	6,798	10,196	16,994
Applicant Pilot license insurance	0	0	0
Payroll taxes	53,242	79,863	133,105
Applicant Pilot payroll taxes	0	0	0
Other	457	686	1,143
Total other pilotage costs	223,773	335,660	559,433
Pilot Boat and Dispatch Costs:			
Pilot boat expense	175,331	262,997	438,328
Dispatch expense	9,000	13,500	22,500
Employee benefits	74,855	112,282	187,137
Payroll taxes	9,724	14,585	24,309
Total pilot and dispatch costs	268,910	403,364	672,274
Administrative Expenses:			
Legal—general counsel	10,282	15,422	25,704
Legal—shared counsel (K&L Gates)	8,346	12,520	20,866
Legal—USCG litigation	0	0	0
Office rent	26,275	39,413	65,688
Insurance	10,618	15,926	26,544
Employee benefits	23,930	35,896	59,826
Workman's compensation—pilots	47,636	71,453	119,089
Payroll taxes	5,428	8,141	13,569
Other taxes	29,220	43,830	73,050
Depreciation/auto leasing/other	19,757	29,636	49,393
Interest	4,159	6,238	10,397
APA Dues	11,827	17,741	29,568
Utilities	15,850	23,775	39,625
Salaries	51,365	77,048	128,413
Accounting/Professional fees	10,721	16,081	26,802
Pilot Training	0	0	0
Other	11,775	17,662	29,437
Total Administrative Expenses	287,189	430,782	717,971
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	779,872	1,169,806	1,949,678
Adjustments (Independent CPA):			
Pilot boat costs	−444	−666	−1,110
Total CPA Adjustments	−444	−666	−1,110
Adjustments (Director):			
Legal—shared counsel 3% lobbying fee (K&L Gates)	−250	−376	−626
Total Director's Adjustments	−250	−376	−626
Total Operating Expenses (OpEx + Adjustments)	779,178	1,168,764	1,947,942

TABLE 8—2015 RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2015	District Three		
	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$457,393	$152,465	$609,858
Applicant pilot subsistence/travel	0	.....	0
License insurance	16,803	5,601	22,404
Payroll taxes	160,509	53,503	214,012
Applicant pilot payroll taxes	0	.....	0
Other	1,546	515	2,061

TABLE 8—2015 RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported expenses for 2015	District Three		
	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Total other pilotage costs	636,251	212,084	848,335
Pilot Boat and Dispatch Costs:			
Pilot boat costs	488,246	162,748	650,994
Dispatch costs	128,620	42,873	171,493
Employee benefits	12,983	4,327	17,310
Payroll taxes	14,201	4,734	18,935
Total pilot and dispatch costs	644,050	214,682	858,732
Administrative Expenses:			
Legal—general counsel	16,798	5,599	22,397
Legal—shared counsel (K&L Gates)	18,011	6,004	24,015
Legal—USCG litigation	0		0
Office rent	6,372	2,124	8,496
Insurance	12,227	4,076	16,303
Employee benefits	93,646	31,215	124,861
Payroll Taxes	9,963	3,321	13,284
Other taxes	1,333	445	1,778
Depreciation/auto leasing/other	29,111	9,703	38,814
Interest	3,397	1,132	4,529
APA Dues	22,736	7,579	30,315
Utilities	32,716	10,906	43,622
Salaries	84,075	28,025	112,100
Accounting/Professional fees	19,696	6,565	26,261
Pilot Training	26,664	8,888	35,552
Other	25,228	8,409	33,637
Total Administrative Expenses	401,973	133,991	535,964
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,682,274	560,757	2,243,031
Adjustments (Independent CPA):			
Pilot subsistence/Travel	−67,933	−22,645	−90,578
Payroll taxes	−14,175	−4,725	−18,901
Other expenses	−4,058	−1,353	−5,411
Total CPA Adjustments	−86,166	−28,723	−114,890
Adjustments (Director):			
Legal—shared counsel 3% lobbying fee (K&L Gates)	−540	−180	−720
Total Director's Adjustments	−540	−180	−720
Total Operating Expenses (OpEx + Adjustments)	1,595,565	531,854	2,127,420

* Values may not sum due to rounding. District 3 provided the Coast Guard data for Areas 6, 7, and 8. However, the Coast Guard combined areas 6 and 8 to present the operating expenses by designated and undesignated areas.

B. Step 2—Projection of operating expenses

Having ascertained the recognized 2015 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. The Coast Guard calculated inflation using the Bureau of Labor Statistics data from the CPI for the Midwest Region of the United States [108] and reports from the FOMC median economic projections for PCE inflation.[109] Based on that information, the calculations for Step 2 for all three districts are shown in Tables 9 through 11.

TABLE 9—ADJUSTED OPERATING EXPENSES FOR DISTRICT ONE

	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$905,113	$730,344	$1,635,457
2016 Inflation Modification (@0.8%)	7,241	5,843	13,084

[108] Annual average CPI for 2017, 2016, and 2015 is 229.874, 226.115, and 224.21, respectively. Operating expenses were updated to 2016 using 0.8% and to 2017 using 1.7%, as shown in the last column of the table found at *https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical_midwest_table.pdf.*

[109] Operating expenses were updated to 2018 using the median PCE inflation for 2018 found in Table 1: Economic projections of Federal Reserve Board members and Federal Reserve Bank presidents, under their individual assessments of projected appropriate monetary policy, December 2017. Available at *https://www.federalreserve.gov/monetarypolicy/fomcminutes20171213ep.htm.*

TABLE 9—ADJUSTED OPERATING EXPENSES FOR DISTRICT ONE—Continued

	Designated	Undesignated	Total
2017 Inflation Modification (@1.7%)	15,510	12,515	28,025
2018 Inflation Modification (@1.9%)	17,629	14,225	31,854
Adjusted 2018 Operating Expenses	945,493	762,927	1,708,420

TABLE 10—ADJUSTED OPERATING EXPENSES FOR DISTRICT TWO

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$779,178	$1,168,764	$1,947,942
2016 Inflation Modification (@0.8%)	6,233	9,350	15,583
2017 Inflation Modification (@1.7%)	13,352	20,028	33,380
2018 Inflation Modification (@1.9%)	15,176	22,765	37,941
Adjusted 2018 Operating Expenses	813,939	1,220,907	2,034,846

TABLE 11—ADJUSTED OPERATING EXPENSES FOR DISTRICT THREE

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$1,595,565	$531,854	$2,127,420
2016 Inflation Modification (@0.8%)	12,765	4,255	17,020
2017 Inflation Modification (@1.7%)	27,342	9,114	36,456
2018 Inflation Modification (@1.9%)	31,078	10,359	41,437
Adjusted 2018 Operating Expenses	1,666,750	555,582	2,222,333

* Values may not sum due to rounding. District 3 provided the Coast Guard data for Areas 6, 7, and 8. However, the Coast Guard combined areas 6 and 8 to present the operating expenses by designated and undesignated areas.

C. Step 3—Estimate Number of Working Pilots

In accordance with the proposed text in § 404.103, we estimated the number of working pilots in each district. Based on input from the Saint Lawrence Seaway Pilots Association, we estimate that there will be 17 working pilots in 2018 in District One. Based on input from the Lakes Pilots Association, we estimate there will be 14 working pilots in 2018 in District Two. Based on input from the Western Great Lakes Pilots Association, we estimate there will be 18 working pilots in 2018 in District Three.

Furthermore, based on the staffing model employed to develop the total number of pilots needed, we assign a certain number of pilots to designated waters, and a certain number to undesignated waters. These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 12—AUTHORIZED PILOTS

	District One	District Two	District Three
Maximum number of pilots (per § 401.220(a)) [110]	17	15	22
2018 Authorized pilots (total)	17	14	18
Pilots assigned to designated areas	10	7	4
Pilots assigned to undesignated areas	7	7	14

D. Step 4—Determine Target Pilot Compensation

In Step 4, we determine the total pilot compensation for each area. Because we are conducting a ''full ratemaking'' this year, we follow the procedure outlined in the revised paragraph (a) of § 404.104, which requires us to develop a benchmark after considering the most relevant currently available nonproprietary information. The compensation benchmark for 2018 is $352,485 per pilot. We derived this figure by using the number we calculated for the 2015 AMO rate ($325,110), and then adjusting for inflation to arrive at the interim benchmark number for 2018, using the ECI and PCE inflation indexes as discussed in Section VI.C. The calculations are shown in Table 13.

[110] For a detailed calculation, see 82 FR 41466, Table 6 at 41480 (August 31, 2017).

TABLE 13—CALCULATION OF 2018 TARGET COMPENSATION BENCHMARK

	Inflation (%) [111]	Target compensation
2015 AMO Pilot Compensation		$325,110
2016 Inflation Adjustment (2016 ECI)	3.0	334,863
2017 Inflation Adjustment (2017 ECI)	3.3	345,913
2018 Inflation Adjustment (2018 PCE)	1.9	352,485

Next, we certify that the number of pilots estimated for 2018 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 17 pilots for District One, 15 pilots for District Two, and 22 pilots for District Three,[112] which is greater than or equal to the numbers of working pilots provided by the pilot associations.

Thus, in accordance with proposed § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of working pilots for each district, as shown in Tables 14 through 16.

TABLE 14—TARGET PILOT COMPENSATION FOR DISTRICT ONE

	Designated	Undesignated	Total
Target Pilot Compensation	$352,485	$352,485	$352,485
Number of Pilots	10	7	17
Total Target Pilot Compensation	$3,524,850	$2,467,395	$5,992,245

TABLE 15—TARGET PILOT COMPENSATION FOR DISTRICT TWO

	Undesignated	Designated	Total
Target Pilot Compensation	$352,485	$352,485	$352,485
Number of Pilots	7	7	14
Total Target Pilot Compensation	2,467,395	2,467,395	4,934,790

TABLE 16—TARGET PILOT COMPENSATION FOR DISTRICT THREE

	Undesignated	Designated	Total
Target Pilot Compensation	$352,485	$352,485	$352,485
Number of Pilots	14	4	18
Total Target Pilot Compensation	$4,934,790	$1,409,940	$6,344,730

E. Step 5—Calculate Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area.[113] First, we add the figures for projected operating expenses and total pilot compensation for each area. Then, we find the preceding year's average annual rate of return for new issues of high grade corporate securities. Using Moody's data, that number is 3.74 percent.[114] By multiplying the two figures, we get the working capital fund contribution for each area, as shown in Tables 17 through 19.

TABLE 17—WORKING CAPITAL FUND CONTRIBUTION FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$945,493	$762,927	$1,708,420
Total Target Pilot Compensation (Step 4)	3,524,850	2,467,395	5,992,245
Total 2018 Expenses	4,470,343	3,230,322	7,700,665

[111] ECI for total compensation, for private industry workers, Transportation and material moving, percent changes for 12 months ended in December, found in Table 5 (p. 71) of the following: *https://www.bls.gov/web/eci/echistrynaics.pdf.* Median PCE inflation can be found at *https://www.federalreserve.gov/monetarypolicy/fomcminutes20171213ep.htm.*

[112] See Table 6 of the 2017 final rule, 82 FR 41466 at 41480. The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

[113] We note that the policy discussion of this issue is located in Section V ("Discussion of Comments and Changes to Methodology"), above. The specific discussion about the working capital fund is located in Section V.E.

[114] Moody's Seasoned Aaa Corporate Bond Yield, average of 2017 monthly data (not seasonally adjusted), located at *https://fred.stlouisfed.org/series/AAA.* The Coast Guard uses the most recent complete year of data.

TABLE 17—WORKING CAPITAL FUND CONTRIBUTION FOR DISTRICT ONE—Continued

	Designated	Undesignated	Total
Working Capital Fund (3.74%)	167,191	120,814	288,005

TABLE 18—WORKING CAPITAL FUND CONTRIBUTION FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$813,939	$1,220,907	$2,034,846
Total Target Pilot Compensation (Step 4)	2,467,395	2,467,395	4,934,790
Total 2018 Expenses	3,281,334	3,688,302	6,969,636
Working Capital Fund (3.74%)	122,722	137,942	260,664

TABLE 19—WORKING CAPITAL FUND CONTRIBUTION FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,666,750	$555,582	$2,222,332
Total Target Pilot Compensation (Step 4)	4,934,790	1,409,940	6,344,730
Total 2018 Expenses	6,601,540	1,965,522	8,567,062
Working Capital Fund (3.74%)	246,898	73,511	320,409

F. Step 6—Calculate Revenue Needed

In Step 6, we add up all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The calculations are shown in Tables 20 through 22.

TABLE 20—REVENUE NEEDED FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$945,493	$762,927	$1,708,420
Total Target Pilot Compensation (Step 4)	3,524,850	2,467,395	5,992,245
Working Capital Fund (Step 5)	167,191	120,814	288,005
Total Revenue Needed	4,637,534	3,351,136	7,988,670

TABLE 21—REVENUE NEEDED FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$813,939	$1,220,907	$2,034,846
Total Target Pilot Compensation (Step 4)	2,467,395	2,467,395	4,934,790
Working Capital Fund (Step 5)	122,722	137,942	260,664
Total Revenue Needed	3,404,056	3,826,244	7,230,300

TABLE 22—REVENUE NEEDED FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,666,750	$555,582	$2,222,333
Total Target Pilot Compensation (Step 4)	4,934,790	1,409,940	6,344,730
Working Capital Fund (Step 5)	246,898	73,511	320,409
Total Revenue Needed	6,848,438	2,039,033	8,887,472

G. Step 7—Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, we divide that number by the expected number of hours of traffic to develop an hourly rate. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in each district. Because we are calculating separate figures for designated and undesignated waters, there are two parts for each calculation. The calculations are shown in Tables 23 through 25.

TABLE 23—TIME ON TASK FOR DISTRICT ONE

Year	Designated hours	Undesignated hours
2017	7,605	8,679
2016	5,434	6,217
2015	5,743	6,667
2014	6,810	6,853
2013	5,864	5,529
2012	4,771	5,121
2011	5,045	5,377
2010	4,839	5,649
2009	3,511	3,947
2008	5,829	5,298
Average	5,545	5,934

TABLE 24—TIME ON TASK FOR DISTRICT TWO

Year	Undesignated hours	Designated hours
2017	5,139	6,074
2016	6,425	5,615
2015	6,535	5,967
2014	7,856	7,001
2013	4,603	4,750
2012	3,848	3,922
2011	3,708	3,680
2010	5,565	5,235
2009	3,386	3,017
2008	4,844	3,956
Average	5,191	4,922

TABLE 25—TIME ON TASK FOR DISTRICT THREE

Year	Undesignated hours	Designated hours
2017	26,183	3,798
2016	23,421	2,769
2015	22,824	2,696
2014	25,833	3,835
2013	17,115	2,631
2012	15,906	2,163
2011	16,012	1,678
2010	20,211	2,461
2009	12,520	1,820
2008	14,287	2,286
Average	19,431	2,614

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate required to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are shown in Tables 26 through 28.

TABLE 26—RATE CALCULATIONS FOR DISTRICT ONE

	Designated	Undesignated
Revenue needed (Step 6)	$4,637,534	$3,351,136
Average time on task (hours)	5,545	5,934
Initial rate	$836	$565

TABLE 27—RATE CALCULATIONS FOR DISTRICT TWO

	Undesignated	Designated
Revenue needed (Step 6)	$3,404,056	$3,826,244
Average time on task (hours)	5,191	4,922
Initial rate	$656	$777

TABLE 28—RATE CALCULATIONS FOR DISTRICT THREE

	Undesignated	Designated
Revenue needed (Step 6)	$6,848,438	$2,039,033
Average time on task (hours)	19,431	2,614
Initial rate	$352	$780

H. Step 8—Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in Tables 29 through 34.

TABLE 29—AVERAGE WEIGHTING FACTOR FOR AREA 1

[District 1, designated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	41	1	41
Class 1 (2016)	31	1	31
Class 1 (2017)	28	1	28
Class 2 (2014)	285	1.15	327.75
Class 2 (2015)	295	1.15	339.25
Class 2 (2016)	185	1.15	212.75
Class 2 (2017)	352	1.15	404.8
Class 3 (2014)	50	1.3	65
Class 3 (2015)	28	1.3	36.4
Class 3 (2016)	50	1.3	65
Class 3 (2017)	67	1.3	87.1
Class 4 (2014)	271	1.45	392.95
Class 4 (2015)	251	1.45	363.95
Class 4 (2016)	214	1.45	310.3
Class 4 (2017)	285	1.45	413.25
Total	2,464		3,149.5
Average weighting factor (weighted transits/number of transits)		1.28	

TABLE 30—AVERAGE WEIGHTING FACTOR FOR AREA 2

[District 1, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	25	1	25
Class 1 (2015)	28	1	28
Class 1 (2016)	18	1	18
Class 1 (2017)	19	1	19
Class 2 (2014)	238	1.15	273.7
Class 2 (2015)	263	1.15	302.45
Class 2 (2016)	169	1.15	194.35
Class 2 (2017)	290	1.15	333.5
Class 3 (2014)	60	1.3	78
Class 3 (2015)	42	1.3	54.6
Class 3 (2016)	28	1.3	36.4
Class 3 (2017)	45	1.3	58.5
Class 4 (2014)	289	1.45	419.05
Class 4 (2015)	269	1.45	390.05
Class 4 (2016)	222	1.45	321.9
Class 4 (2017)	285	1.45	413.25
Total	2,290		2,965.75
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 31—AVERAGE WEIGHTING FACTOR FOR AREA 5

[District 2, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	35	1	35
Class 1 (2016)	32	1	32
Class 1 (2017)	21	1	21
Class 2 (2014)	356	1.15	409.4
Class 2 (2015)	354	1.15	407.1
Class 2 (2016)	380	1.15	437
Class 2 (2017)	222	1.15	255.3
Class 3 (2014)	20	1.3	26
Class 3 (2015)	0	1.3	0
Class 3 (2016)	9	1.3	11.7
Class 3 (2017)	12	1.3	15.6
Class 4 (2014)	636	1.45	922.2
Class 4 (2015)	560	1.45	812
Class 4 (2016)	468	1.45	678.6
Class 4 (2017)	319	1.45	462.55
Total	3,455		4,556.45
Average weighting factor (weighted transits/number of transits)		1.32	

TABLE 32—AVERAGE WEIGHTING FACTOR FOR AREA 4

[District 2, designated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	20	1	20
Class 1 (2015)	15	1	15
Class 1 (2016)	28	1	28
Class 1 (2017)	15	1	15
Class 2 (2014)	237	1.15	272.55
Class 2 (2015)	217	1.15	249.55
Class 2 (2016)	224	1.15	257.6
Class 2 (2017)	127	1.15	146.05
Class 3 (2014)	8	1.3	10.4
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	4	1.3	5.2
Class 3 (2017)	4	1.3	5.2
Class 4 (2014)	359	1.45	520.55
Class 4 (2015)	340	1.45	493
Class 4 (2016)	281	1.45	407.45
Class 4 (2017)	185	1.45	268.25
Total	2,072		2,724.2
Average weighting factor (weighted transits/number of transits)		1.31	

TABLE 33—AVERAGE WEIGHTING FACTOR FOR AREAS 6 AND 8

[District 3, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Area 6:			
Class 1 (2014)	45	1	45
Class 1 (2015)	56	1	56
Class 1 (2016)	136	1	136
Class 1 (2017)	148	1	148
Class 2 (2014)	274	1.15	315.1
Class 2 (2015)	207	1.15	238.05
Class 2 (2016)	236	1.15	271.4
Class 2 (2017)	264	1.15	303.6
Class 3 (2014)	15	1.3	19.5
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	10	1.3	13
Class 3 (2017)	19	1.3	24.7
Class 4 (2014)	394	1.45	571.3

TABLE 33—AVERAGE WEIGHTING FACTOR FOR AREAS 6 AND 8—Continued

[District 3, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 4 (2015)	375	1.45	543.75
Class 4 (2016)	332	1.45	481.4
Class 4 (2017)	367	1.45	532.15
Total for Area 6	2,886		3,709.35
Area 8:			
Class 1 (2014)	3	1	3
Class 1 (2015)	0	1	0
Class 1 (2016)	4	1	4
Class 1 (2017)	4	1	4
Class 2 (2014)	177	1.15	203.55
Class 2 (2015)	169	1.15	194.35
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	151	1.15	173.65
Class 3 (2014)	3	1.3	3.9
Class 3 (2015)	0	1.3	0
Class 3 (2016)	7	1.3	9.1
Class 3 (2017)	18	1.3	23.4
Class 4 (2014)	243	1.45	352.35
Class 4 (2015)	253	1.45	366.85
Class 4 (2016)	204	1.45	295.8
Class 4 (2017)	269	1.45	390.05
Total for Area 8	1,679		2,224.1
Combined total	4,565		5,933.45
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 34—AVERAGE WEIGHTING FACTOR FOR AREA 7

[District 3, Designated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	27	1	27
Class 1 (2015)	23	1	23
Class 1 (2016)	55	1	55
Class 1 (2017)	62	1	62
Class 2 (2014)	221	1.15	254.15
Class 2 (2015)	145	1.15	166.75
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	170	1.15	195.5
Class 3 (2014)	4	1.3	5.2
Class 3 (2015)	0	1.3	0
Class 3 (2016)	6	1.3	7.8
Class 3 (2017)	14	1.3	18.2
Class 4 (2014)	321	1.45	465.45
Class 4 (2015)	245	1.45	355.25
Class 4 (2016)	191	1.45	276.95
Class 4 (2017)	234	1.45	339.3
Total	1,892		2,451.65
Average weighting factor (weighted transits/number of transits)		1.30	

I. Step 9—Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors are considered, the total cost of pilotage will be equal to the revenue needed. To do this, we divide the initial base rates, calculated in Step 7, by the average weighting factors calculated in Step 8, as shown in Table 35.

TABLE 35—REVISED BASE RATES

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (initial rate/ average weighting factor)
District One: Designated	$836	1.28	$653
District One: Undesignated	565	1.30	435
District Two: Undesignated	656	1.32	497
District Two: Designated	777	1.31	593
District Three: Undesignated	352	1.30	271
District Three: Designated	780	1.30	600

J. Step 10—Review and Finalize Rates

In Step 10, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. As detailed in the discussion sections of the NPRM, the proposed rates incorporate appropriate compensation for enough pilots to handle heavy traffic periods, cover operating expenses and infrastructure costs, and take into account average traffic and weighting factors. Therefore, we believe that these rates meet the goal of ensuring safe, efficient, and reliable pilotage. Thus, we are not making any alterations to the rates in this step. The final rates are shown in Table 36, and we will modify the text in § 401.405(a) to reflect them.

TABLE 36—FINAL RATES

Area	Name	Final 2017 pilotage rate	Proposed 2018 pilotage rate	Final 2018 pilotage rate
District One: Designated	St. Lawrence River	$601	$622	$653
District One: Undesignated	Lake Ontario	408	424	435
District Two: Undesignated	Lake Erie	429	454	497
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	580	553	593
District Three: Undesignated	Lakes Huron, Michigan, and Superior	218	253	271
District Three: Designated	St. Mary's River	514	517	600

K. Surcharges

Because there are several applicant pilots in 2018, we are authorizing surcharges to cover the costs needed for training expenses. Consistent with previous years, we are assigning a cost of $150,000 per applicant pilot. To develop the surcharge, we multiply the number of applicant pilots by the average cost per pilot to develop a total amount of training costs needed. We then impose that amount as a surcharge to all areas in the respective district, consisting of a percentage of revenue needed. In this year, there are two applicant pilots for District One, one applicant pilot for District Two, and four applicant pilots for District Three. The calculations to develop the surcharges are shown in Table 37. While the percentages are rounded for simplicity, this rounding does not impact the revenue generated, as surcharges can no longer be collected once the surcharge total has been attained.

TABLE 37—SURCHARGE CALCULATIONS

	District One	District Two	District Three
Number of applicant pilots	2	1	4
Total applicant training costs	$300,000	$150,000	$600,000
Revenue needed (Step 6)	$7,988,670	$7,230,300	$8,887,472
Total surcharge as percentage (total training costs/revenue)	4%	2%	7%

VII. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

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

managed and controlled through a budgeting process.''

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

The purpose of this final rule is to establish new base pilotage rates and surcharges for training. This rule also makes changes to the ratemaking methodology and revises the compensation benchmark. The last full ratemaking was concluded in 2017.

Table 38 summarizes the regulatory changes that are expected to have no costs, and any qualitative benefits associated with them. The table also includes changes that affect portions of the methodology for calculating the base pilotage rates. While these changes affect the calculation of the rate, the costs of these changes are captured in the changes to the total revenue as a result of the rate change.

TABLE 38—REGULATORY CHANGES WITH NO COST OR COSTS CAPTURED IN THE RATE CHANGE

Change	Description	Basis for no costs	Benefits
Codification of compensation inflation adjustment.	Add regulatory text to § 404.104 to make the adjustment for inflation automatic.	Pilot compensation costs are accounted for in the base pilotage rates.	—Pilot compensation will keep up with regional inflation. —Improves consistency, transparency, and efficiency in our ratemaking procedures.
Target pilot compensation	—Due to the 2016 court opinion on pilot compensation, the Coast Guard is changing the pilot compensation benchmark.	Pilot compensation costs are accounted for in the base pilotage rates.	Improves transparency in our ratemaking procedures.
Relocation of staffing model regulations.	Move the discussion of the staffing model from 46 CFR 404.103 (as part of ''Step 3'' of the ratemaking process), to the general regulations governing pilotage in § 401.220.	We are not adjusting or modifying the regulatory text, but simply moving it to § 401.220.	Improves the clarity of the regulations and improves the regulatory process.
Delineation of full ratemakings and annual reviews.	Set forth separate regulatory paragraphs detailing the differences between how the Coast Guard undertakes an annual adjustment of the pilotage rates, and a full reassessment of the rates, which must be undertaken once every 5 years.	Change only clarifies that the benchmark level compensation will only be reconsidered during ''full ratemaking'' years.	Simplify ratemaking procedures in interim years and better effect the statutory mandate in section 9303(f) of the Great Lakes Pilotage Act.
Miscellaneous other changes	—Rename the step currently titled ''Initially calculate base rates'' to ''Calculate initial base rates'' for style purposes. —Adjust the reference to the staffing model in Step 7 to account for its relocation in text.	Minor editorial changes in this rule that do not impact total revenues.	Provides clarification to regulatory text and the rulemaking.

Table 39 summarizes the affected population, costs, and benefits of the rate changes that are expected to have costs associated with them.

TABLE 39—ECONOMIC IMPACTS DUE TO RATE CHANGES

Change	Description	Affected population	Costs	Benefits
Rate Changes	Under the Great Lakes Pilotage Act of 1960, the Coast Guard is required to review and adjust base pilotage rates annually.	Owners and operators of 215 vessels journeying the Great Lakes system annually, 49 U.S. Great Lakes pilots, and 3 pilotage associations.	$2,830,061 Due to change in Revenue Needed for 2018 ($25,156,442) from Revenue Needed for 2017 ($22,326,381) as shown in Table 40 below.	—New rates cover an association's necessary and reasonable operating expenses. —Provides fair compensation, adequate training, and sufficient rest periods for pilots. —Ensures the association receives sufficient revenues to fund future improvements.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Sections III and IV of this preamble for detailed discussions of the legal basis and purpose for this rulemaking and for background

information on Great Lakes pilotage ratemaking. Based on our annual review for this rulemaking, we are adjusting the pilotage rates for the 2018 shipping season to generate sufficient revenues for each district to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The rate changes in this final rule will lead to an increase in the cost per unit of service to shippers in all three districts, and result in an estimated annual cost increase to shippers.

In addition to the increase in payments that will be incurred by shippers in all three districts from the previous year as a result of the rate changes, we are authorizing a temporary surcharge to allow the pilotage associations to recover training expenses that will be incurred in 2018. For 2018, we anticipate that there will be two applicant pilots in District One, one applicant pilot in District Two, and four applicant pilots in District Three. With a training cost of $150,000 per pilot, we estimate that Districts One, Two, and Three will incur $300,000, $150,000, and $600,000, respectively, in training expenses. These temporary surcharges will generate a combined $1,050,000 in revenue for the pilotage associations. Therefore, after accounting for the implementation of the temporary surcharges across all three districts, the total payments that will be made by shippers during the 2018 shipping season are estimated at $2,830,061 more than the total payments that were estimated in 2017 (Table 41).[115]

Table 40 summarizes the changes in the RA from the NPRM to the final rule. These changes were made as a result of public comments received after publication of the NPRM.

TABLE 40—SUMMARY OF CHANGES FROM NPRM TO FINAL RULE

Element of the analysis	NPRM	Final rule	Resulting change in RA
Target Pilot Compensation	$319,617	$352,485	Data indirectly affects the calculation of projected revenues.
Updated analysis with 2017 inflation and securities return data, when available.	NPRM used data through 2016, as this was the most current year available.	Uses 2017 data, where applicable and available.	Data indirectly affects calculation of projected revenues.

Affected Population

The shippers affected by these rate changes are those owners and operators of domestic vessels operating ''on register'' (employed in foreign trade) and owners and operators of non-Canadian foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. United States-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required by 46 U.S.C. 9302 to have pilots. However, these U.S.- and Canadian-flagged lakers may voluntarily choose to engage a Great Lakes registered pilot. Vessels that are U.S.-flagged may opt to have a pilot for various reasons, such as unfamiliarity with designated waters and ports, or for insurance purposes.

We used billing information from the years 2014 through 2016 from the Great Lakes Pilotage Management System (GLPMS) to estimate the average annual number of vessels affected by the rate adjustment. The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes, and billing in accordance with the services. We found that a total of 387 vessels used pilotage services during the years 2014 through 2016. That is, these vessels had a pilot dispatched to the vessel, and billing information was recorded in the GLPMS. The number of invoices per vessel ranged from a minimum of 1 invoice per year to a maximum of 108 invoices per year. Of these vessels, 367 were foreign-flagged vessels and 20 were U.S.-flagged.

Vessel traffic is affected by numerous factors and varies from year to year. Therefore, rather than the total number of vessels over the time period, an average of the unique vessels using pilotage services from the years 2014 through 2016 is the best representation of vessels estimated to be affected by the rate in this final rule. From the years 2014 through 2016, an average of 215 vessels used pilotage services annually. On average, 206 of these vessels were foreign-flagged vessels and 9 were U.S.-flagged vessels that voluntarily opted into the pilotage service.

Total Cost to Shippers

The rate changes resulting from the methodology will generate costs to industry in the form of higher payments for shippers. We estimate the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2017 with the total projected revenues needed to cover costs in 2018, including any temporary surcharges we have authorized. We set pilotage rates so that pilot associations receive enough revenue to cover their necessary and reasonable expenses. Shippers pay these rates when they have a pilot as required by 46 U.S.C. 9302. Therefore, the aggregate payments of shippers to pilot associations are equal to the projected necessary revenues for pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services, and the change in revenue from the previous year is the additional cost to shippers discussed in this final rule.

The impacts of the rate changes on shippers are estimated from the District pilotage projected revenues (shown in Tables 20 through 22 of this preamble) and the surcharges described in Section VI of this preamble. We estimate that for the 2018 shipping season, the projected revenue needed for all three districts is $24,106,442. Temporary surcharges on traffic in Districts One, Two, and Three will be applied for the duration of the 2018 season in order for the pilotage associations to recover training expenses incurred for applicant pilots. We estimate that the pilotage associations require an additional $300,000, $150,000, and $600,000 in revenue for applicant training expenses in Districts One, Two, and Three, respectively. This will be an additional cost to shippers of $1,050,000 during the 2018 shipping season. Adding the projected revenue of $24,106,442 to the surcharges, we estimate the pilotage

[115] Total payments across all three districts are equal to the increase in payments incurred by shippers as a result of the rate changes plus the temporary surcharges applied to traffic in Districts One, Two, and Three.

associations' total projected revenue needed for 2018 will be $25,156,442. To estimate the additional cost to shippers from this final rule, we compare the 2018 total projected revenues to the 2017 projected revenues. Because we review and prescribe rates for the Great Lakes Pilotage annually, the effects are estimated as a single year cost rather than annualized over a 10-year period. In the 2017 final rule,[116] we estimated the total projected revenue needed for 2017, including surcharges, as $22,326,381. This is the best approximation of 2017 revenues as, at the time of this publication, we do not have enough audited data available for the 2017 shipping season to revise these projections. Table 41 shows the revenue projections for 2017 and 2018 and details the additional cost increases to shippers by area and district as a result of the rate changes and temporary surcharges on traffic in Districts One, Two, and Three.

TABLE 41—EFFECT OF THE FINAL RULE BY AREA AND DISTRICT

[$U.S.; non-discounted]

Area	Revenue needed in 2017	2017 Temporary surcharge	Total 2017 projected revenue	Revenue needed in 2018	2018 Temporary surcharge	Total 2018 projected revenue	Additional costs of this rule
Total, District 1	$7,109,019	$0	$7,109,019	$7,988,670	$300,000	$8,288,670	$1,179,651
Total, District 2	6,633,491	300,000	6,933,491	7,230,300	150,000	7,380,300	446,809
Total, District 3	7,233,871	1,050,000	8,283,871	8,887,472	600,000	9,487,472	1,203,601
System Total	20,976,381	1,350,000	22,326,381	24,106,442	1,050,000	25,156,442	2,830,061

The resulting difference between the projected revenue in 2017 and the projected revenue in 2018 is the annual change in payments from shippers to pilots as a result of the rate change that will be imposed by this rule. The effect of the rate change to shippers varies by area and district. The rate changes, after taking into account the increase in pilotage rates and the addition of temporary surcharges, will lead to affected shippers operating in District One, District Two, and District Three experiencing an increase in payments of $1,179,651, $446,809, and $1,203,601, respectively, over the previous year. The overall adjustment in payments will be an increase in payments by shippers of $2,830,061 across all three districts (a 13 percent increase over 2017). Again, because we review and set rates for Great Lakes Pilotage annually, the impacts are estimated as single year costs rather than annualized over a 10-year period.

Table 42 shows the difference in revenue by component from 2017 to 2018.[117] The majority of the increase in revenue is due to the inflation of operating expenses and to the addition of four pilots who were authorized in the 2017 rule. These four pilots will become full-time working pilots at the beginning of the 2018 shipping season. They will be compensated at the target compensation of $352,485 per pilot. The addition of these pilots to full working status accounts for $1,409,940 of the increase. The remaining amount is attributed to increases in the working capital fund, increases in the target compensation, and differences in the surcharges from 2017.

TABLE 42—DIFFERENCE IN REVENUE BY COMPONENT

Revenue component	Revenue needed in 2017	Revenue needed in 2018	Difference (2018 Revenue–2017 Revenue)
Adjusted Operating Expenses	$5,155,280	$5,965,599	$810,319
Total Target Pilot Compensation	14,983,335	17,271,765	2,288,430
Working Capital Fund	837,766	869,078	31,312
Total Revenue Needed, without Surcharge	20,976,381	24,106,442	3,130,061
Surcharge	1,350,000	1,050,000	−300,000
Total Revenue Needed, with Surcharge	22,326,381	25,156,442	2,830,061

Pilotage Rates as a Percentage of Vessel Operating Costs

To estimate the impact of U.S. pilotage costs on foreign-flagged vessels that will be affected by the rate adjustment, we looked at the pilotage costs as a percentage of a vessel's costs for an entire voyage. The portion of the trip on the Great Lakes using a pilot is only a portion of the whole trip. The affected vessels are often traveling from a foreign port, and the days without a pilot on the total trip often exceed the days a pilot is needed.

To estimate this impact, we used the 2017 study titled, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges.'' [118] We conducted the study to explore additional frameworks and methodologies for assessing the cost of Great Lakes pilot's ratemaking regulations, with a focus on capturing industry and port level economic impacts. The study also included an analysis of the pilotage costs as a

[116] The 2017 projected revenues are from the 2017 Great Lakes Pilotage Ratemaking final rule (82 FR 41484 and 41489), Tables 9 and 14.

[117] The 2017 projected revenues are from the 2017 final rule (82 FR 41484 and 41489), Tables 9 and 14. The 2018 projected revenues are from Tables 20 through 22 of this final rule.

[118] The study is available under ''Documents'' entitled ''Analysis of Great Lakes Pilotage Costs 2017'' at *http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Waterways-and-Ocean-Policy/Office-of-Waterways-and-Ocean-Policy-Great-Lakes-Pilotage-Div/*.

percentage of the total voyage costs that we can use in RAs to estimate the direct impact of changes to the pilotage rates.

The study developed a voyage cost model that is based on a vessel's daily costs. The daily costs included: Capital repayment costs; fuel costs; operating costs (such as crew, supplies, and insurance); port costs; speed of the vessel; stevedoring rates; and tolls. The daily operating costs were translated into total voyage costs using mileage between the ports for a number of voyage scenarios. In the study, the total voyage costs were then compared to the U.S. pilotage costs. The study found that, using the 2016 rates, the U.S. pilotage charges represent 10 percent of the total voyage costs for a vessel carrying grain, and between 8 and 9 percent of the total voyage costs for a vessel carrying steel.[119] We updated the analysis to estimate the percentage U.S. pilotage charges represent using the percentage increase in revenues from the years 2016 to 2018. Since the study used 2016 as the latest year of data, we compared the revenues needed in 2018 and 2017 to the 2016 revenues in order to estimate the change in pilotage costs as a percentage of total voyage costs from 2017 to 2018. Table 43 shows the revenues needed for the years 2016, 2017, and 2018.

TABLE 43—REVENUE NEEDED IN 2016, 2017, AND 2018

Revenue component	Revenue needed in 2016 [120]	Revenue needed in 2017 [121]	Revenue needed in 2018
Total Revenue Needed, with Surcharge	$19,103,678	$22,326,381	$25,156,442

From 2016 to 2017, the total revenues needed increased by 17 percent. From 2017 to 2018, the total revenues needed will increase by 13 percent. From 2016 to 2018, the total revenues needed will increase by 32 percent. While the change in total voyage cost will vary by the trip, vessel class, and whether the vessel is carrying steel or grain, we used these percentages as an average increase to estimate the change in the impact. When we increased the pilotage charges by 17 percent from 2016, we found the U.S. pilotage costs represented an average of 11.3 percent of the total voyage costs. For this year, we increased the base 2016 rates by 32 percent. With this final rule's rates for 2018, pilotage costs are estimated to account for 12.6 percent of the total voyage costs, or a 1.3 percent increase over the percentage that U.S. pilotage costs represented of the total voyage in 2017.

It is important to note that this analysis is based on a number of assumptions. The purpose of the study was to look at the impact of the U.S. pilotage rates. The study did not include an analysis of the GLPA rates. It was assumed that a U.S. pilot is assigned to all portions of a voyage where he or she could be assigned. In reality, the assignment of a United States or Canadian pilot is based on the order in which a vessel enters the system, as outlined in the Memorandum of Understanding between the GLPA and the Coast Guard.[122]

This analysis looks at only the impact of U.S. pilotage cost changes. All other costs were held constant at the 2016 levels, including Canadian pilotage costs, tolls, stevedoring, and port charges. This analysis estimates the impacts of Great Lakes pilotage rates holding all other factors constant. If other factors or sectors were not held constant but, instead, were allowed to adjust or fluctuate, it is likely that the impact of pilotage rates would be different. Many factors that drive the tonnage levels of foreign cargo on the Great Lakes and St. Lawrence Seaway were held constant for this analysis. These factors include, but are not limited to, demand for steel and grain, construction levels in the regions, tariffs, exchange rates, weather conditions, crop production, rail and alternative route pricing, tolls, vessel size restriction on the Great Lakes and St. Lawrence Seaway, and inland waterway river levels.

Benefits

This final rule will allow the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes will promote safe, efficient, and reliable pilotage service on the Great Lakes by: (1) Ensuring that rates cover an association's operating expenses; (2) providing fair pilot compensation, adequate training, and sufficient rest periods for pilots; and (3) ensuring the association produces enough revenue to fund future improvements. The rate changes will also help recruit and retain pilots, which will ensure a sufficient number of pilots to meet peak shipping demand, which will help reduce delays caused by pilot shortages.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. 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 people.

For this final rule, we reviewed recent company size and ownership data for the vessels identified in the GLPMS and we reviewed business revenue and size data provided by publicly available sources such as MANTA[123] and ReferenceUSA.[124] As described in Section VII.A. of this preamble, Regulatory Planning and Review, we found that a total of 387 unique vessels used pilotage services from 2014 through 2016. These vessels are owned by 59 entities. We found that of the 59 entities that own or operate vessels engaged in trade on the Great Lakes affected by this final rule, 48 are foreign entities that operate primarily outside the United States. The remaining 11 entities are U.S. entities. We compared the revenue and employee data found in the company search to the Small Business Administration's (SBA) Table

[119] Martin Associates, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges,'' page 33.

[120] The 2016 projected revenues are from the 2016 final rule, 81 FR 11938. Figure 32, projected revenue needed in 2016 plus the temporary surcharge ($17,453,678 + $1,650,000 = $19,103,678).

[121] The 2017 projected revenues are from the 2017 final rule, 82 FR 41484 and 41489, Tables 9 and 14.

[122] Available at *http://www.dco.uscg.mil/Portals/9/DCO%20Documents/Office%20of%20Waterways%20and%20Ocean%20Policy/2013%20MOU%20English.pdf?ver=2017-06-08-082809-150.*

[123] See *http://www.manta.com/.*

[124] See *http://resource.referenceusa.com/.*

of Small Business Size Standards [125] to determine how many of these companies are small entities. Table 44 shows the North American Industry Classification System (NAICS) codes of the U.S. entities and the small entity standard size established by the SBA.

TABLE 44—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small business size standard
238910	Site Preparation Contractors	$15 million.
483211	Inland Water Freight Transportation	750 employees.
483212	Inland Water Passenger Transportation	500 employees.
487210	Scenic & Sightseeing Transportation, Water	$7.5 million.
488320	Marine Cargo Handling	$38.5 million.
488330	Navigational Services to Shipping	$38.5 million.
488510	Freight Transportation Arrangement	$15 million.

The entities all exceed the SBA's small business standards for small businesses. Further, these U.S. entities operate U.S.-flagged vessels and are not required to have pilots by 46 U.S.C. 9302.

In addition to the owners and operators of vessels affected by this final rule, there are three U.S. entities affected by the rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 employees in total. We expect no adverse effect on these entities from this rule because all associations will receive enough revenue to balance the projected expenses associated with the projected number of bridge hours (time on task) and pilots.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people. Based on this analysis, we find this final rule will not affect a substantial number of small entities.

Therefore, we certify under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rule will not change the burden in the collection currently approved by OMB under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

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 final rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis follows.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' *See* 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. 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

[125] Source: *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards.* SBA has established a Table of Small Business Size Standards, which is matched to NAICS industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be considered in order to remain classified as a small business for SBA and Federal contracting programs.

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

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (''Civil Justice Reform''), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this final rule under Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''), because it will 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under Department of Homeland Security (DHS) Directive 023–01, Revision (Rev) 01, *Implementation of the National Environmental Policy Act* [DHS Instruction Manual 023–01 (series)] and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. This rule is categorically excluded under paragraph A3 of Table 1, particularly subparts (a), (b), and (c) in Appendix A of DHS Directive 023–01(series). CATEX A3 pertains to promulgation of rules and procedures that are: (a) Strictly administrative or procedural in nature; (b) that implement, without substantive change, statutory or regulatory requirements; or (c) that implement, without substantive change, procedures, manuals, and other guidance documents. This rule adjusts base pilotage rates and surcharges for administering the 2018 shipping season in accordance with applicable statutory and regulatory mandates, and also proposes several minor changes to the Great Lakes pilotage ratemaking methodology.

List of Subjects

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 401 and 404 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Revise § 401.220(a) to read as follows:

§ 401.220 Registration of pilots.

(a) The Director shall determine the number of pilots required to be registered in order to assure adequate and efficient pilotage service in the United States waters of the Great Lakes and to provide for equitable participation of United States Registered Pilots with Canadian Registered Pilots in the rendering of pilotage services. The Director determines the number of pilots needed as follows:

(1) The Director determines the base number of pilots needed by dividing each area's peak pilotage demand data by its pilot work cycle. The pilot work cycle standard includes any time that the Director finds to be a necessary and reasonable component of ensuring that a pilotage assignment is carried out safely, efficiently, and reliably for each area. These components may include, but are not limited to—

(i) Amount of time a pilot provides pilotage service or is available to a vessel's master to provide pilotage service;

(ii) Pilot travel time, measured from the pilot's base, to and from an assignment's starting and ending points;

(iii) Assignment delays and detentions;

(iv) Administrative time for a pilot who serves as a pilotage association's president;

(v) Rest between assignments, as required by § 401.451;

(vi) Ten days' recuperative rest per month from April 15 through November 15 each year, provided that lesser rest allowances are approved by the Director at the pilotage association's request, if necessary to provide pilotage without interruption through that period; and

(vii) Pilotage-related training.

(2) Pilotage demand and the base seasonal work standard are based on available and reliable data, as so deemed by the Director, for a multi-year base period. The multi-year period is the 10 most recent full shipping seasons, and the data source is a system approved under 46 CFR 403.300. Where

such data are not available or reliable, the Director also may use data, from additional past full shipping seasons or other sources, that the Director determines to be available and reliable.

(3) The number of pilots needed in each district is calculated by totaling the area results by district and rounding them to the nearest whole integer. For supportable circumstances, the Director may make reasonable and necessary adjustments to the rounded result to provide for changes that the Director anticipates will affect the need for pilots in the district over the period for which base rates are being established.

* * * * *

■ 3. Revise § 401.405(a) to read as follows:

§ 401.405 Pilotage rates and charges.

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $653;

(2) Lake Ontario is $435;

(3) Lake Erie is $497;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $593;

(5) Lakes Huron, Michigan, and Superior is $271; and

(6) The St. Mary's River is $600.

* * * * *

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 4. The authority citation for part 404 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

■ 5. Revise § 404.100 to read as follows:

§ 404.100 Ratemaking and annual reviews in general.

(a) The Director establishes base pilotage rates by a full ratemaking pursuant to §§ 404.101 through 404.110, which is conducted at least once every 5 years and completed by March 1 of the first year for which the base rates will be in effect. Base rates will be set to meet the goal specified in § 404.1(a).

(b) In the interim years preceding the next scheduled full rate review, the Director will adjust base pilotage rates by an interim ratemaking pursuant to §§ 404.101 through 404.110.

(c) Each year, the Director will announce whether the Coast Guard will conduct a full ratemaking or interim ratemaking procedure.

■ 6. Revise § 404.102 to read as follows:

§ 404.102 Ratemaking step 2: Project operating expenses, adjusting for inflation or deflation.

The Director projects the base year's non-compensation operating expenses for each pilotage association, using recognized operating expense items from § 404.101. Recognized operating expense items subject to inflation or deflation factors are adjusted for those factors based on the subsequent year's U.S. government consumer price index data for the Midwest, projected through the year in which the new base rates take effect, or if that is unavailable, the Federal Open Market Committee median economic projections for Personal Consumption Expenditures inflation.

■ 7. Revise § 404.103 to read as follows:

§ 404.103 Ratemaking step 3: Estimate number of working pilots.

The Director projects, based on the number of persons applying under 46 CFR part 401 to become U.S. Great Lakes registered pilots, and on information provided by the district's pilotage association, the number of pilots expected to be fully working and compensated.

■ 8. Revise § 404.104 to read as follows:

§ 404.104 Ratemaking step 4: Determine target pilot compensation benchmark.

(a) In a full ratemaking year, the Director determines base individual target pilot compensation using a compensation benchmark, set after considering the most relevant currently available non-proprietary information. For supportable circumstances, the Director may make necessary and reasonable adjustments to the benchmark.

(b) In an interim year, the Director adjusts the previous year's individual target pilot compensation level by the Bureau of Labor Statistics' Employment Cost Index for the Transportation and Materials sector, or if that is unavailable, the Federal Open Market Committee median economic projections for Personal Consumption Expenditures inflation.

(c) The Director determines each pilotage association's total target pilot compensation by multiplying individual target pilot compensation computed in paragraph (a) or (b) of this section by the number of pilots projected under § 404.103(d) or § 401.220(a) of this chapter, whichever is lower.

■ 9. Revise § 404.107 to read as follows:

§ 404.107 Ratemaking step 7: Calculate initial base rates.

(a) The Director calculates initial base hourly rates by dividing the projected needed revenue from § 404.106 by averages of past hours worked in each district's designated and undesignated waters, using available and reliable data for a multi-year period set in accordance with § 401.220(a) of this chapter.

Dated: May 30, 2018.

Michael D. Emerson,

Director, Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2018–11969 Filed 6–4–18; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL REGISTER

Vol. 83 Tuesday,

No. 108 June 5, 2018

Part III

The President

Proclamation 9761—National Homeownership Month, 2018
Proclamation 9762—National Ocean Month, 2018
Proclamation 9763—African-American Music Appreciation Month, 2018

Federal Register
Vol. 83, No. 108
Tuesday, June 5, 2018

Presidential Documents

Title 3—

The President

Proclamation 9761 of May 31, 2018

National Homeownership Month, 2018

By the President of the United States of America

A Proclamation

During National Homeownership Month, we affirm the joy and benefits of homeownership. For millions of Americans, owning a home is an important step toward financial security and achieving the American Dream. My Administration is committed to fostering an economic environment in which every family has the opportunity to enjoy the sense of pride and stability that can come with owning a home.

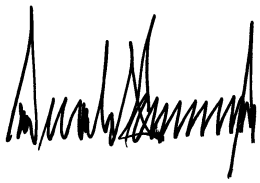
Our Nation's economy is experiencing tremendous growth. I signed into law historic tax reform that cut taxes for middle class Americans and small businesses. My Administration has also slashed unnecessary and burdensome regulations that stunted economic growth. As a result of these actions, Americans are keeping more of their hard-earned paychecks, unemployment rates are at historic lows, and more Americans are entering the workforce. Consequently, owning a home is becoming more attainable for many Americans.

Numerous benefits are associated with homeownership. Owning a home gives Americans a place to call their own, and a place of comfort and safety where they can raise their families. Homeowners also support local businesses, have a strong vested interest in their communities, and foster bonds of friendship with others who live and work in their neighborhoods. A home is more than a place to live—it is also an investment in family, in community, and in the long-term prosperity of our great country.

This month, we celebrate those Americans whose success and determination have helped make them homeowners. Their dedication to their families and communities, and to achieving a brighter and more secure future, is an inspiration to each person who is pursuing their own American Dream.

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 June 2018 as National Homeownership Month.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–12257
Filed 6–4–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9762 of May 31, 2018

National Ocean Month, 2018

By the President of the United States of America

A Proclamation

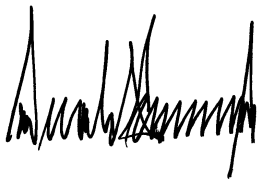
The United States is a nation whose identity, wealth, and security are inextricably linked with the ocean and coastal waters. From sea to shining sea, Americans benefit from the ocean's bounty—from the industries it supports and the jobs it creates. During National Ocean Month, we celebrate this immense natural resource, and the millions of hardworking Americans employed by our ocean industries. We recognize the many ways our oceans and coasts enhance our lives. We acknowledge that our Nation can more effectively and responsibly harness its waters to the great benefit of its citizens.

Through the unique geography of its mainland and the strategic locations of Alaska, Hawaii, and its territories, the United States has the exclusive commercial rights to an oceanic area larger than the combined landmass of the 50 States. This invaluable national asset, called the United States Exclusive Economic Zone (EEZ), is currently underutilized. To harness the vast resources of the EEZ, we will develop and deploy new technologies in partnership with American academic institutions and innovators. We will streamline regulations and administrative practices to promote economic growth, while protecting our marine environment for current and future generations. We will also create new opportunities for American products in the global marketplace, including through continued support of our commercial fisheries and promotion of domestic aquaculture.

To advance America's economic, security, and environmental interests, it is also critical that we explore, map, and inventory our Nation's waters and pursue advanced observational technologies and forecasting capabilities. By exploring, developing, and conserving the ocean resources of our great Nation, we will augment our economic competitiveness, enhance our national security, and ensure American prosperity.

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 June 2018 as National Ocean Month. This month, I call upon Americans to reflect on the value and importance of oceans not only to our security and economy, but also as a source of recreation, enjoyment, and relaxation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–12259
Filed 6–4–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9763 of June 1, 2018

African-American Music Appreciation Month, 2018

By the President of the United States of America

A Proclamation

During African-American Music Appreciation Month, we celebrate the tremendous achievements and contributions of African-American musicians. The musical ingenuity of talented African American artists laid the foundation for so many recognizable and cherished genres of music, including rock and roll, rhythm and blues, jazz, gospel, hip hop, and rap.

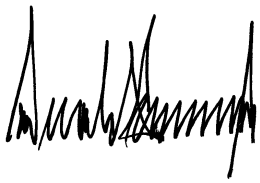
Throughout our history, African-American music has demonstrated its power to elicit comfort, healing, happiness, conviction, and inspiration—as well as its ability to unite people of all backgrounds. Today, it resonates in jazz quartets, rock and roll guitar solos, gospel choirs, and hip hop beats. The expression of these artistic and diverse styles of music acts as a voice for freedom, justice, love, and the pursuit of happiness.

African-American music has played a significant role in shaping the American dream and instilling a sense of pride in being an ''American.'' The talent and creativity of pioneers like Miles Davis, Duke Ellington, Nat King Cole, Etta James, Whitney Houston, and many others have indelibly enriched our culture and our lives. As Etta James noted, ''I wanna show that gospel, country, blues, rhythm and blues, jazz, rock 'n' roll are all just really one thing. Those are the American music and that is the American culture.'' Etta James recognized that the history and evolution of music in America reflects our country's cultural uniqueness and our country's commitment to protect and love every voice.

African-American music brings together people of all backgrounds—people who hum it, whistle it, and sing it—to enjoy blended tunes and hard-to-hit notes. Its contagious rhythm empowers its listeners to recall memories of the past and grow excited for the future. Our Nation is indebted to all the African-American artists whose music fills our airways and our homes, lifts our spirits, and compels us to think, dance, and sing. These musicians and their legacies ignite our imaginations and prove to us that the sky is the limit.

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 June 2018 as African-American Music Appreciation Month. I call upon public officials, educators, and all the people of the United States to observe this month with appropriate activities and programs that raise awareness and appreciation of African-American music.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of June, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



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Federal Register

Vol. 83, No. 108

Tuesday, June 5, 2018

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FEDERAL REGISTER PAGES AND DATE, JUNE

25327–25544 1
25545–25848 4
25849–26202 5

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9704 (Amended by Proc. 9758) 25849
9705 (Amended by Proc. 9759) 25857
9710 (Amended by Proc. 9758) 25849
9711 (Amended by Proc. 9759) 25857
9739 (Amended by Proc. 9758) 25849
9740 (Amended by Proc. 9759) 25857
9756.....25327
9757.....25545
9758.....25849
9759.....25857
9760.....25879
9761.....26197
9762.....26199
9763.....26201
Executive Orders:
13836.....25329
13837.....25335
13838.....25341
13839.....25343

7 CFR

210.....25349
225.....25349
319.....25547
400.....25361

8 CFR

Proposed Rules:
103.....25951

9 CFR

1.....25549
2.....25549
3.....25549

12 CFR

702.....25881
723.....25881
Proposed Rules:
701.....25583

14 CFR

25.....25361
39 .....25363, 25556, 25882, 25885, 25891, 25894, 25898
71 .....25558, 25901, 25902, 25904, 25905
97.....25907, 25909
Proposed Rules:
39 .....25405, 25408, 25410, 25412, 25415, 25417, 25419, 25587, 25590, 25595
71 .....25967, 25969, 25971, 25973

15 CFR

748.....25559

17 CFR

200.....25365
201.....25365

21 CFR

862.....25910
866.....25910
876.....25910
880.....25910
884.....25910
Proposed Rules:
892.....25598

29 CFR

Proposed Rules:
1910.....25536

33 CFR

100 .....25366, 25561, 25563
117 .....25369, 25370, 25566
165 .....25370, 25371, 25373, 25566, 25568, 25570, 25575, 25577, 25579

37 CFR

202.....25375

38 CFR

17.....25915

40 CFR

52 .....25375, 25378, 25920, 25922
60.....25382, 25936
61.....25382, 25936
63.....25382, 25936
81.....25390, 25776
180.....25936, 25944
Proposed Rules:
52 .....25604, 25608, 25615, 25617, 25975, 25977, 25979, 25981
62.....25633, 25983
81.....25422
271.....25986
272.....25986
300.....25635

42 CFR

10.....25943
414.....25947
Proposed Rules:
59.....25502

46 CFR

401.....26162
404.....26162

47 CFR

73.....25949

48 CFR

Proposed Rules:
3019.....25638
3052.....25638

50 CFR

17.....25392
20.....25738
660.....25581

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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H.R. 3562/P.L. 115–177

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish assistance for adaptations of residences of veterans in rehabilitation programs under chapter 31 of such title, and for other purposes. (June 1, 2018; 132 Stat. 1376)

H.R. 4009/P.L. 115–178
Smithsonian National Zoological Park Central Parking Facility Authorization Act (June 1, 2018; 132 Stat. 1379)

S. 1285/P.L. 115–179
Oregon Tribal Economic Development Act (June 1, 2018; 132 Stat. 1380)

Last List June 1, 2018

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