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FEDERAL REGISTER

Vol. 83 Friday,

No. 135 July 13, 2018

Pages 32563–32758

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0003; Product Identifier 2017–CE–033–AD; Amendment 39–19326; AD 2018–14–06]

RIN 2120–AA64

Airworthiness Directives; American Champion Aircraft Corp.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) (AD) 2017–07–10 for certain American Champion Aircraft Corp. (ACAC) Model 8KCAB airplanes. AD 2017–07–10 required fabrication and installation of a placard to prohibit aerobatic flight, inspection of the aileron hinge rib and support, and a reporting requirement of the inspection results to the FAA. This AD requires repetitive inspections of the aileron hinge support, installation of the aileron hinge support reinforcement kit, and incorporation of revised pages into the service manual. This AD was prompted by a report of a cracked hinge support and cracked hinge ribs, which resulted in partial loss of control with the aileron binding against the cove. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 17, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 17, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of April 12, 2017 (82 FR 17542, April 12, 2017).

ADDRESSES: For service information identified in this final rule, contact American Champion Aircraft Corp., P.O. Box 37, 32032 Washington Ave., Rochester, Wisconsin 53167; telephone: (262) 534–6315; fax: (262) 534–2395; email: *aca-engineering@tds.net*; internet: *http://www.americanchampionaircraft.com/service-letters.html.* You may review copies of the referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0003.

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–2018–0003; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Wess Rouse, Small Airplane Program Manager, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; fax: (847) 294–7834; email: *wess.rouse@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2017–07–10, Amendment 39–18849 (82 FR 17542, April 12, 2017) (''AD 2017–07–10''), and add a new AD. AD 2017–07–10 applied to certain American Champion Aircraft Corp. (ACAC) Model 8KCAB airplanes. AD 2017–07–10 required fabricating and installing a placard to prohibit aerobatic flight, inspecting the aileron hinge rib and support, and reporting the inspection results to the FAA. We issued AD 2017–07–10 to prevent failure of the aileron support structure, which may lead to excessive deflection, binding of the control surface, and potential loss of control.

The NPRM published in the **Federal Register** on January 11, 2018 (83 FR 1311). The NPRM was prompted by a report of a cracked hinge support and cracked hinge ribs, which resulted in partial loss of control with the aileron binding against the cove. The NPRM proposed to retain the placard and one-time inspection requirements of AD 2017–07–10 and remove the reporting requirement. The NPRM also proposed to require repetitive inspections of the aileron hinge support, installation of the aileron hinge support reinforcement kit, and incorporation of revised pages into the service manual. We are issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Remove the Reinforcement Kit Requirement

Scott Austin, Chris Murley, Moritz Bartsch, David Trost, and an anonymous individual requested the AD not require installation of the reinforcement kit. In support of this request, the commenters state the airplanes with failures that prompted the AD had different horsepower, different wingtips, and were used repeatedly in ''hard'' aerobatic operations. The commenters felt that airplanes with these design differences and those used in normal operations would be safely mitigated with repetitive inspections and installation of the reinforcement kit only if cracks are found.

We do not agree. The commenters did not provide data to support a position that the unsafe condition is affected by the differences in horsepower or wing design. Additionally, all Model 8KCAB airplanes are certificated to the same operational limits. We have no safety basis to only rely on 100-hour/annual inspections to mitigate the unsafe condition. We have not changed this AD based on this comment.

Additional Changes Made to This AD

We have deleted paragraph (g)(1) of the NPRM and renumbered paragraphs (g)(2) and (g)(3) to (g)(1) and (g)(2) respectively in this AD. Paragraphs (g)(2) and (g)(3) of the NPRM basically presented the actions that were

specified in paragraph (g)(1) of the NPRM, thus making it redundant and unnecessary.

We have also corrected minor typographical errors in paragraphs (h)(1), (h)(3), and (h)(4) in this AD.

Lastly, we have clarified the document title of the airworthiness limitations in paragraphs (h)(6) and (h)(7) in this AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for the changes described previously. These changes are consistent with the intent of the proposals in the NPRM and will not increase the economic burden on any operator nor increase the scope of the AD.

Related Service Information Under 1 CFR Part 51

We reviewed American Champion Aircraft Corp. Service Letter 442, Revision A, dated August 18, 2017 (ACAC SL No. 442); American Champion Aircraft Corp. Service Letter 444 Initial Revision, dated August 18, 2017 (ACAC SL No. 444); and page 4–1, Manual Revision B, of the Airworthiness Limitations section and page 5–9, Manual Revision B, of the Time and Maintenance Checks section, both dated October 3, 2017, and included in American Champion Aircraft Corporation SM–601 8KCAB Service Manual, Reissue B, dated October 3, 2017. ACAC SL No. 442 describes procedures and inspection intervals for inspection of the aileron hinge rib and hinge support. ACAC SL No. 444 provides instructions for the installation of the aileron hinge reinforcement kit. Page 4–1 and page 5–9 are revised pages that add a repetitive inspection to the 8KCAB Service Manual, SM–601, Reissue B, dated October 3, 2017. 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 64 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
Fabrication of placard, inspection of aileron hinge rib and support.	2 work-hours × $85 per hour = $170.00	$100	$270.00	$17,280
Repetitive 100-hour TIS inspections	1.5 work-hours × $85 per hour = $127.50	N/A	127.50	8,160
Installation of aileron hinge support reinforcement kit.	50 work-hours × $85 per hour = $4,250	2,200	6,450	412,800

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation Division.

Regulatory Findings

We have 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 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) 2017–07–10, Amendment 39–18849 (82 FR 17542, April 12, 2017), and adding the following new AD:

2018–14–06 American Champion Aircraft Corp.: Amendment 39–19326; Docket No. FAA–2018–0003; Product Identifier 2017–CE–033–AD.

(a) Effective Date

This AD is effective August 17, 2018.

(b) Affected ADs

This AD replaces AD 2017–07–10, Amendment 39–18849 (82 FR 17542, April 12, 2017) (''AD 2017–07–10'').

(c) Applicability

This AD applies to any American Champion Aircraft Corp. Model 8KCAB airplane, certificated in any category, that either has:

(1) A serial number in the range of 1116–2012 through 1120–2012 or 1122–2012 through 1170–2017; or

(2) Is equipped with part number 4–2142 exposed balance ailerons.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

AD 2017–07–10 was prompted by a report of a cracked hinge support and cracked hinge ribs, which resulted in partial loss of control with the aileron binding against the cove. This AD incorporates a newly designed aileron hinge support reinforcement kit. We are issuing this AD to prevent failure of the aileron support structure, which may lead to excessive deflection, binding of the control surface, and potential loss of control.

(f) Compliance

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

(g) Restrict Airplane Operation

(1) Before further flight after April 12, 2017 (the effective date retained from AD 2017–07–10), fabricate a placard using at least ⅛ inch letters with the words ''AEROBATIC FLIGHT PROHIBITED'' on it and install the placard on the instrument panel within the pilot's clear view.

(2) This action may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(h) Inspection and Reinforcement

(1) Within the next 10 hours time-in-service (TIS) after April 12, 2017 (the effective date retained from AD 2017–07–10), inspect the aileron hinge rib and support for cracks or other damage by following American Champion Aircraft Corporation Service Letter (SL) 442, dated February 16, 2017, or American Champion Aircraft Corp. Service Letter (SL) 442, Revision A, dated August 18, 2017 (ACAC SL No. 442, Revision A).

(2) If no cracks or other damage is found during the initial inspection required in paragraph (h)(1) of this AD, the placard prohibiting aerobatic flight required in paragraph (g)(1) of this AD can be removed.

(3) Within 100 hours TIS from the initial inspection required in paragraph (h)(1) of this AD or within 10 hours TIS after August 17, 2018 (the effective date of this AD), whichever occurs later, and repetitively thereafter at intervals not to exceed 100 hours TIS, inspect the aileron hinge rib and support for cracks or other damage following ACAC SL No. 442, Revision A.

(4) If cracks or other damage is found during any inspection required in paragraph (h)(1) or (3) of this AD, before further flight, replace any retained parts or structure that are cracked or damaged, and install the aileron hinge reinforcement kit by following American Champion Aircraft Corp. Service Letter 444, dated August 18, 2017 (ACAC SL No. 444). Unless already removed as specified in paragraph (h)(2) of this AD, after completing the corrective actions required by this paragraph, the placard prohibiting aerobatic flight required in paragraph (g)(1) of this AD can be removed.

(5) Within 400 hours after the initial inspection required in paragraph (h)(1) of this AD, if not already done as required in paragraph (h)(4) of this AD, install the aileron hinge reinforcement kit following the procedures in ACAC SL No. 444.

(6) After installation of the aileron hinge reinforcement kit required in paragraph (h)(4) or (5) of this AD, as applicable, insert page 4–1, Manual Revision B, of the Airworthiness Limitations section and page 5–9, Manual Revision B, of the Time and Maintenance Checks section, both dated October 3, 2017, from the American Champion Aircraft Corporation SM–601 8KCAB Service Manual, Reissue B, dated October 3, 2017, into the maintenance program (service manual).

(7) Installing the aileron hinge reinforcement kit as required in paragraph (h)(4) or (h)(5) of this AD and the insertion of page 4–1, Manual Revision B, of the Airworthiness Limitations section and page 5–9, Manual Revision B, of the Time and Maintenance Checks section, both dated October 3, 2017, of the American Champion Aircraft Corporation SM–601 8KCAB Service Manual, Reissue B, dated October 3, 2017, into the maintenance program (*e.g.,* service manual), as required in paragraph (h)(6) of this AD is terminating action to this AD. The revised Airworthiness Limitations section includes a 100- hour/annual inspection requirement for the aileron hinge supports.

(i) Reporting Requirement

Although ACAC SL No. 442, Revision A, and ACAC SL No. 444 specify submitting certain information to the manufacturer, this AD does not require that action.

(j) Special Flight Permit

No aerobatic flight permitted with a special flight permit.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

For more information about this AD, contact Wess Rouse, Small Airplane Program Manager, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; fax: (847) 294–7834; email: *wess.rouse@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) American Champion Aircraft Corp. Service Letter 442, Revision A, dated August 18, 2017.

(ii) American Champion Aircraft Corp. Service Letter 444, Initial Revision, dated August 18, 2017.

(iii) Page 4–1, Manual Revision B, of the Airworthiness Limitations section of American Champion Aircraft Corporation SM–601 8KCAB Service Manual, Reissue B, dated October 3, 2017;

(iv) Page 5–9, Manual Revision B, of the Time and Maintenance Checks section of American Champion Aircraft Corporation SM–601 8KCAB Service Manual, Reissue B, dated October 3, 2017.

(3) The following service information was approved for IBR on April 12, 2017 (82 FR 17542, April 12, 2017).

(i) American Champion Aircraft Corporation Service Letter 442, dated February 16, 2017.

(ii) Reserved.

(4) For service information identified in this AD, contact American Champion Aircraft Corp., P.O. Box 37, 32032 Washington Ave., Rochester, Wisconsin 53167; telephone: (262) 534–6315; fax: (262) 534–2395; email: *aca-engineering@tds.net;* internet: *http://www.americanchampionaircraft.com/service-letters.html.*

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

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

Issued in Kansas City, Missouri, on June 29, 2018.

Melvin J. Johnson,

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

[FR Doc. 2018–14686 Filed 7–12–18; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1211

[Docket No. CPSC–2015–0025]

Safety Standard for Automatic Residential Garage Door Operators

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: The Consumer Product Safety Commission (Commission, or CPSC) is amending its regulation, *Safety Standard for Automatic Residential Garage Door Operators,* to reflect changes made by Underwriters Laboratories, Inc. (UL), in the entrapment protection provisions in UL's standard UL 325, Standard for Safety: Door, Drapery, Gate, Louver, and Window Operators and Systems, Seventh Edition.

DATES: The rule is effective on September 11, 2018, unless we receive significant adverse comment by August 13, 2018. If we receive timely significant adverse comments, we will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publications listed in this rule is approved by the Director of the Federal Register as of September 11, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2015–0025, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *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 by 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 document. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number CPSC–2015–0025, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Troy W. Whitfield, Lead Compliance Officer, Office of Compliance, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814–4408; Telephone (301) 504–7548 or email: *twhitfield@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The Commission has regulations for residential garage door operators (GDOs) to protect consumers from the risk of entrapment. 16 CFR part 1211. The Commission first issued the GDO standard in 1991, as required by the Consumer Product Safety Improvement Act of 1990 (Improvement Act), Public Law 101–608. Section 203 of the Improvement Act mandated that the entrapment protection requirements of the 1988 version of UL's 325, Third Edition, ''Door, Drapery, Louver and Window Operators and Systems,'' be considered a consumer product safety rule under the Consumer Product Safety Act. Section 203(c) of the Improvement Act established procedures for the Commission to revise the Commission's GDO standard. When UL revises the entrapment protection requirements of UL 325, UL must notify the Commission of the revision, and that revision ''shall be incorporated in the consumer product safety rule . . . unless, within 30 days of such notice, the Commission notifies [UL] that the Commission has determined that such revision does not carry out the purposes of subsection (b) [of section 203 of the Improvement Act, which mandated the UL 325 entrapment protection requirements initially]. As provided in the Improvement Act, the Commission has revised the GDO standard after UL has notified the Commission of changes to UL 325's entrapment protection requirements several times in the past.

The mandatory rule (16 CFR part 1211) primarily requires that all residential GDOs sold in the United States have an inherent reversing mechanism capable of reversing the motion of a moving garage door within 2 seconds, to reduce the risk of entrapment. This system is known as an ''inherent system'' because it is physically located within the housing of the GDO. In addition, the rule requires that the operator shall be provided with a means for connection of an external entrapment-sensing device. Most GDOs on the market today use an electric eye as the external entrapment-sensing device. The purpose of this device is to monitor the area under the garage door to detect people who might become entrapped by the garage door. The standard also allows a device, known as a ''door edge sensor,'' similar to the sensors used on elevator doors, or allows for any other device that provides equivalent protection. These devices are known as ''external entrapment-sensing devices'' because they are located outside the housing of the GDO.

In addition, the rule requires all GDOs to have a device referred to as a ''30-second clock.'' The 30-second clock is a back-up device that reopens the door if the door cannot close completely within 30 seconds, as would be the case when a person becomes entrapped by the door. The 30-second clock is a back-up to the primary, 2-second inherent entrapment system.

The rule also requires that every GDO be equipped with a ''means to manually detach the door operator from the door.'' This requirement enables a person to detach the operator from the door quickly if a person becomes entrapped under the door. For most garage doors, the means of detachment occurs by pulling on a red handle that hangs below the GDO.

The Commission last updated the mandatory rule in 2016, to reflect changes made to the entrapment protection provisions of UL 325 up to that time.

B. Changes to UL 325

Since the last update of the mandatory rule in 2016, there have been three published revisions of the voluntary standard, UL 325, including publication of the Seventh Edition in May 2017.

On December 20, 2016, UL notified the CPSC that UL had revised the entrapment protection requirements of UL 325 and had published revisions to the Sixth Edition on December 15, 2016. On June 16, 2017, UL notified the Commission that UL published additional revisions to UL 325, Sixth Edition, on May 25, 2017, which became the Seventh Edition.

On January 11, 2017, and July 5, 2017, CPSC staff submitted briefing packages to the Commission, recommending that the Commission incorporate the applicable changes to UL 325, because

the changes are likely to reduce the possibility of children becoming entrapped by partially open garage doors. On January 18, 2017, and July 11, 2017, the Commission voted to approve staff's recommendations to accept the revisions to UL 325 regarding the entrapment protection requirements for automatic residential GDOs, in accordance with the procedure in the Improvement Act.

Consistent with the Commission's previous votes to include the revisions regarding the entrapment protection requirements for automatic residential GDOs, this rule revises the mandatory GDO rule at 16 CFR part 1211, to include the revisions regarding the entrapment protection requirements for automatic residential GDOs in UL 325, Seventh Edition.

C. Description of the Direct Final Rule

The direct final rule amends 16 CFR part 1211, to include the revisions regarding the entrapment protection requirements for automatic residential GDOs in UL 325, Seventh Edition. All of the revisions in the direct final rule concerning the GDO standard are in subpart A and subpart D. The direct final rule does not change any of the certification (subpart B) or recordkeeping (subpart C) provisions of the GDO standard.

All of the revisions to the relevant provisions of 16 CFR part 1211 are described in the summary of changes below:

• *Alternative method to assess electronic circuits.* The revised UL 325 added a section titled, ''Supplement SA'' to UL 325, which provides an alternate method for evaluating protective electronic circuits and controls based on the requirements of UL/IEC 60335–1, ''*Standard for Safety of Household and Similar Electrical Appliances, Part 1: General Requirements.*'' UL/IEC 60335–1 was developed to promote harmonization with international standards and will eventually replace UL 991, ''*Standards for Tests for Safety-Related Controls Employing Solid-State Devices,*'' which is being phased out. The Commission's mandatory safety standard for GDOs currently incorporates by reference UL 991 (§§ 1211.4(c), 1211.5(a), and 1211.5(b)(3)). The Supplement SA requirements allow an alternate method for assessing the reliability of GDO electronic or solid-state circuits, including entrapment-protection circuits, which perform back-up, limiting, or other functions intended to reduce the risk of fire, electric shock, or injury to persons (§§ 1211.4(c), 1211.5(a), 1211.5(b)(4), and a new paragraph for an incorporation by reference of Supplement SA in § 1211.40(d)(1) and redesignating paragraphs (d)(1) through (3) as (d)(2) through (4)).

• *Additional requirements for unattended operation.* The revised UL 325 added a new section titled, ''*Unattended operation control accessory,*'' which provides additional requirements for unattended operation of GDOs, including remote monitoring and unattended activation via wireless or internet-connected devices. To ensure safe unattended operation of GDOs, the new requirements clarify visual and audible alarm operation, include provisions for maintaining compliance with the entrapment protection of an external accessory, and provides the necessary instructions and markings. (New § 1211.14(f)).

• *Revision to edge sensor requirements.* The revised UL 325 expanded the edge sensor test requirements (§ 1211.12) and clarified that external edge sensors shall operate as required when tested per the new requirements (§§ 1211.8(a) and 1211.8(b)), as well as comply with the applicable normal operation test (§§ 1211.10(b)(3), 1211.10(c) (3), and 1211.10(e)(4)). The revision expanded the edge sensor test requirements for GDOs to stipulate specific requirements based on the GDO type; for example: Sectional door vs. one-piece door, and horizontally moving door vs. vertically moving door. The revision replaced Figure 6 with several new figures to illustrate the test procedures for each type of GDO (Figures 6A through 6I). The revision clarified that the edge sensor endurance test shall be conducted at room temperature (§ 1211.12(b)).

• *Clarification regarding visual alarm.* The revised UL 325 clarified the visual alarm flash rate required during unattended operation of the GDO (§ 1211.14(c)).

• *Clarification regarding certain materials.* The revised UL 325 clarified that an external protection device using polymeric or elastomeric material must meet the specified impact test requirements and remain fully operational at room temperature (§ 1211.10(e)(1) and (3)).

• *Exception from impact test.* The revised UL 325 added an exception for polymeric or elastomeric materials that crack or break during the impact test to be acceptable if they pass the water exposure test in the damaged condition (§ 1211.10 (e) (1)).

• *Clarification regarding external secondary entrapment protection.* The revised UL 325 clarified the means for connection of an external secondary entrapment protection device applicable to vertically moving and horizontally moving GDOs (§ 1211.10) and clarified that for horizontally sliding GDOs, the GDO is not required to open the door a minimum of 2 inches when the GDO senses a second obstruction during the *reversing* travel (§ 1211.7(c)(1) and 1211.7(c)(7)).

• *Updated test figure references.* The revised UL 325 updated the figure references for the general (§ 1211.13(a)) and puncture-resistance test (§ 1211.12 (d)).

As noted, on January 18, 2017, and July 11, 2017, the Commission voted to include the revisions regarding the entrapment protection requirements for automatic residential GDOs in UL 325, Seventh Edition. In accordance with its previous vote, the Commission is issuing this direct final rule that amends the mandatory GDO rule at 16 CFR part 1211 to include the revisions to the entrapment protection requirements of UL 325.

D. Incorporation by Reference

The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

Supplement SA of UL 325 provides an alternate test method for assessing the reliability of GDO electronic or solid-state circuits, including entrapment protection circuits, which perform back-up, limiting, or other functions intended to reduce the risk of fire, electric shock, or injury to persons. As noted, the direct final rule adds references to Supplement SA in §§ 1211.4, 1211.5, and a new paragraph § 1211.40(d)(1) in subpart D that incorporates by reference Supplement SA.

The UL standard listed above is copyrighted. The UL standard may be obtained from UL, 151 Eastern Avenue, Bensenville, IL 60106, Telephone: 1–888–853–3503 or online at: *http://ulstandards.ul.com/.* One may also inspect a copy of the above-referenced standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, Telephone: (301) 504–7923.

E. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are ''impracticable, unnecessary, or contrary to the public interest.'' In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite promulgating rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). Consistent with ACUS's recommendation, the Commission is publishing this rule as a direct final rule because we do not expect any significant adverse comments.

The Commission is taking the limited action of amending the GDO rule to conform the regulation to the changes to UL 325 that were previously accepted by the Commission in January and July 2017. Public comment will not impact the Commission's acceptance of the substantive changes to UL 325. Because this document merely updates the GDO rule, the Commission believes this rulemaking is a non-controversial matter that is not likely to generate comments. Therefore, the Commission concludes that the direct final rule process is appropriate.

Unless we receive a significant adverse comment within 30 days, the rule will become effective on September 11, 2018. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one in which the commenter explains why the rule did not accurately update the codified text in 16 CFR part 1211. We note that comments on the Commission's previous underlying acceptance of the revisions to UL 325 are not considered significant adverse comments because the only change this rule makes is to revise the GDO rule to conform to the revisions to UL 325 previously accepted by the Commission.

Should the Commission receive a significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comments and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

F. Effective Date

Based on reports from industry representatives, all known manufacturers and importers currently conform to the UL 325, Seventh Edition revisions contained in the direct final rule. Therefore, the effective date of the direct final rule is September 11, 2018. This effective date would not adversely affect the cost or availability of conforming GDOs.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that agencies review proposed and final rules for the rules' potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. Staff researched the potential effects of the direct final rule on small entities, including small manufacturers, importers, and private labelers. Staff has identified 19 firms that market GDOs in the United States. Five of these are either large firms or subsidiaries of large foreign or domestic companies. The 14 remaining companies appear to be small firms under U.S. Small Business Administration (SBA) size standards (13 CFR part 121).

Staff estimates, based on industry sales data, that about 5 million to 7 million GDOs are installed annually. A review of company information and staff's contacts with industry representatives indicate that all known manufacturers and importers market only products that conform to UL 325. All of these firms' GDOs reportedly conform to the UL 325, Seventh Edition requirements that became effective in May 2017. These firms, including the small firms, have already incurred the design and testing costs associated with the minor changes in the UL 325 test procedures made since 2016. Therefore, the direct final rule would not impose any new costs on small producers or importers. Pursuant to section 605(b) of the RFA, because the existing level of conformance is virtually 100 percent, and no new compliance costs or other burdens would be associated with the direct final rule, the Commission certifies that this rule will not have a significant impact on a substantial number of small entities.

H. Preemption

The Improvement Act contains a preemption provision which states: ''those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule'' are subject to preemption under 15 U.S.C. 2075. Public Law 101–608, section 203(f).

I. Environmental Considerations

The Commission's regulations provide a categorical exclusion for Commission rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required. The Commission's regulations state that safety standards for products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this rule alters that expectation.

List of Subjects in 16 CFR Part 1211

Consumer protection, Imports, Incorporation by reference, Labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Commission amends 16 CFR part 1211 as follows:

PART 1211—SAFETY STANDARDS FOR AUTOMATIC RESIDENTIAL GARAGE DOOR OPERATORS

■ 1. The authority citation for part 1211 continues to read as follows:

Authority: Sec. 203 of Pub. L. 101–608, 104 Stat. 3110; 15 U.S.C. 2063 and 2065.

Subpart A—[Amended]

■ 2. Amend § 1211.4 by revising paragraph (c) to read as follows:

§ 1211.4 General requirements for protection against risk of injury.

* * * * *

(c) An electronic or solid-state circuit that performs a back-up, limiting, or other function intended to reduce the risk of fire, electric shock, or injury to persons, including entrapment protection circuits, shall comply with the requirements in UL 991 (incorporated by reference, see § 1211.40), including environmental and stress tests appropriate to the intended usage of the end-product. Exception: A control or electronic circuit that complies with Supplement SA of UL 325–2017 (incorporated by reference, see § 1211.40) is considered to fulfill this requirement.

■ 3. Amend § 1211.5 by:

■ a. Revising paragraph (a) introductory text;
■ b. Removing ''and'' from the end of paragraph (b)(2);
■ c. Removing the period from the end of paragraph (b)(3) and adding ''; and'' in its place; and
■ d. Adding paragraph (b)(4).

The revision and addition read as follows:

§ 1211.5 General testing parameters.

(a) The following test parameters are to be used in the investigation of the circuit covered by § 1211.4(c) for compliance with either, UL 991, or Supplement SA of UL 325–2017 (incorporated by reference, see § 1211.40):

(b) * * *

(4) During evaluation of the circuit to the requirements of Supplement SA of UL 325–2017 (incorporated by reference, see § 1211.40).

■ 4. Amend § 1211.6 by revising paragraphs (b)(2), (b)(3)(i) introductory text, and (d)(2) to read as follows:

§ 1211.6 General entrapment protection requirements.

* * * * *

(b) * * *

(2) Shall be provided with a means for connection of an external secondary entrapment protection device as described in § 1211.8 (a) and (c) through (e), as applicable to vertically moving doors; or

(3)(i) Shall be provided with an inherent secondary entrapment protection device as described in §§ 1211.8(a) and (f), 1211.10, and 1211.12 and is:

* * * * *

(d) * * *

(2) Shall be provided with a means for connection of an external secondary entrapment protection device for each leading edge as described in § 1211.8(c) through (e), as applicable to horizontally moving doors.

* * * * *

■ 5. Amend § 1211.7 by revising paragraphs (c)(1)(ii) and (iii) and (c)(7)(i), to read as follows:

§ 1211.7 Inherent primary entrapment protection requirements.

* * * * *

(c) * * *

(1) * * *

(ii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when the operator senses a second obstruction during the reversing travel.

(iii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when a control is actuated to stop the door during movement towards the open position—but the door can not be moved towards the closed position until the operator reverses the door a minimum of 2 inches (50.8 mm).

* * * * *

(7)(i) An operator, employing an inherent entrapment protection control that measures or monitors the actual position of the door, shall initiate reversal of the door and shall return the door to, and stop the door at, the fully open position in the event the inherent door operation ''profile'' of the door differs from the originally set parameters. The system shall measure or monitor the position of the door at increments not greater than 1 inch (25.4 mm).

* * * * *

■ 6. Amend § 1211.8 by revising paragraphs (a)(1)(ii), and (b)(2) to read as follows:

§ 1211.8 Secondary entrapment protection requirements.

(a)(1) * * *

(ii) An external edge sensor installed on the edge of the door that, when activated as tested per § 1211.12(a)(4)(1) results in an operator that is closing a door to reverse direction of the door, returns the door to, and stops the door at the fully open position, and the sensor prevents an operator from closing an open door,

* * * * *

(b) * * *

(2) An external edge sensor installed on the edge of the door that, when activated as tested per § 1211.12 (a)(4)(2), results in an operator that is closing or opening a door to reverse direction of the door for a minimum of 2 inches (50.8 mm).

* * * * *

■ 7. Amend § 1211.10 by revising paragraphs (b)(3)(ii), (c)(3)(ii), (e)(1)(ii), (e)(3), and (e)(4)(ii) to read as follows:

§ 1211.10 Requirements for all entrapment protection devices.

* * * * *

(b) * * *

(3) * * *

(ii) An edge sensor shall comply with the applicable Normal Operation test, per § 1211.12(a).

(c) * * *

(3) * * *

(ii) An edge sensor shall comply with the applicable Normal Operation Test, per § 1211.12(a).

* * * * *

(e) * * *

(1) * * *

(ii) The part shall operate as intended, per paragraph (e)(4) of this section at room temperature, or, if dislodged after the test, but not cracked or broken, is capable of being restored to its original condition. Exception: If a part is cracked or broken, as an alternative, it may be subjected to the Splash Tests, per paragraph (c) of this section, after the impact test. After the water exposure tests, the device shall either:

(A) Operate as intended per paragraph (e)(4) of this section; or

(B) Shut down safely (*i.e.* provide an obstruction signal to the door).

* * * * *

(3) In lieu of conducting the room temperature test described in paragraph (e)(2) of this section, each of three samples of a device exposed to outdoor weather when the door is in the closed position are to be cooled to a temperature of minus 31.0 ±3.6 °F (minus 35.0 ±2.0 °C) and maintained at this temperature for 3 hours. Three samples of a device employed inside the garage are to be cooled to a temperature of 32.0 °F (0.0 °C) and maintained at this temperature for 3 hours. While the sample is still cold, the samples shall be subject to the test described in paragraph (e)(2) of this section, and shall comply with paragraph (e)(1)(i) of this section. After determining compliance with paragraph (e)(1)(i) of this section, the sample shall be allowed to return to room temperature, and then shall comply with paragraph (e)(1)(ii) of this section.

(4) * * *

(ii) An edge sensor shall comply with the applicable Normal Operation Test, per § 1211.12(a).

* * * * *

■ 8. Amend § 1211.12 by adding paragraphs (a)(4) and (5), and revising paragraphs (b) and (d)(2) and (3) to read as follows:

§ 1211.12 Requirements for edge sensors.

(a) * * *

(4)(i) An edge sensor, when installed on a representative door, shall actuate upon the application of a 15 lbf (66.7 N) or less force in the direction of the application when tested at room temperature 25 °C ±2 °C (77 °F ±3.6 °F) and, additionally, when intended for use with gate operators, shall actuate at 40 lbf (177.9 N) or less force when tested at −35 °C ±2 °C (−31 °F ±3.6 °F).

(A) For an edge sensor intended to be used on a sectional door, the force is to be applied by the longitudinal edge of a 1⅞ in (47.6 mm) diameter cylinder placed across the sensor so that the axis is perpendicular to plane of the door. See Figures 6A and 6B to this subpart.

(B) For an edge sensor intended to be used on a one piece door, swinging

door, or swinging gate, the force is to be applied so that the axis is at an angle 30 degrees from the direction perpendicular to the plane of the door. See Figures 6C and 6D to this subpart.

(C) For an edge sensor that wraps around the leading edge of a swinging one-piece door, providing activation in both directions of travel, the force is to be applied so that the axis is at an angle 30 degrees from the direction perpendicular to both the closing direction and the opening direction. See Figure 6E to this subpart.

(ii) With respect to the Edge Sensor Test specified in paragraph (a)(4)(ii) of this section, the test is to be repeated at various representative points of the edge sensor across the length of the edge sensor. See Figures 6F and 6G to this subpart.

(5) *Residential garage door operators.* (i) For vertically moving residential garage door operators intended to be used with an external edge sensor, with reference to 32.3.1(b), a 1⅝ in by 3½ in (41.3 mm by 88.9 mm) solid rectangular object not less than 6 in (152 mm) long is to be fixed in an immobile position at the fully closed position with the longitudinal axis perpendicular to the edge of the door. The 1⅝ in (41.3 mm) side of the obstruction facing the leading edge is to contact the moving door at various points along the width of the door. See Figure 6H to this subpart.

(ii) For horizontally moving residential garage door operators intended to be used with an external edge sensor, with reference to 32.3.2(b), a 1⅝ in by 3½ in (41.3 mm by 88.9 mm) solid rectangular object not less than 6 in (152 mm) long is to be fixed in an immobile position with the longitudinal axis perpendicular to the edge of the door. The 1⅝ in (41.3 mm) side of the obstruction facing the leading edge is to contact the moving door at various points along the leading edge of the door. The same object is then to be arranged to contact the moving door at various points along the trailing edge of the door. See Figure 6I to this subpart.

(b) *Endurance test.* An edge sensor system and associated components shall withstand 30,000 cycles of mechanical operation without failure. For this test, the edge sensor is to be cycled by the repetitive application of the force as described in paragraph (a)(4)(i) of this section but at room temperature only. The force is to be applied to the same location for the entire test. For an edge sensor system employing integral electric contact strips, this test shall be conducted with the contacts connected to a load no less severe than it controls in the operator. For the last 50 cycles of operation, the sensor shall function as intended when connected to an operator.

* * * * *

(d) * * *

(2) For a vertically moving door, a sample of the edge sensor is to be installed in the intended manner on a representative door edge. The probe described in figure 7 to subpart A is to be applied with a 20 pound-force (89 N) to any point on the sensor that is 3 inches (76 mm) or less above the floor is to be applied in the direction specified in the Edge Sensor Normal Operation Test, Figure 6A or 6C to subpart A as applicable. The test is to be repeated on three locations on each surface of the sensor being tested.

(3) For horizontally sliding doors, sample of the edge sensor is to be installed in the intended manner on a representative door edge. The probe described in figure 7 to subpart A is to be applied with a 20 lbf (89 N) to any point on the sensor when the door is within 3 in (76 mm) of its fully open position and within 3 in (76 mm) of any stationary wall. For each type of door, the force is to be applied in the direction specified in the Edge Sensor Normal Operation Test, Figure 6B to subpart A. The test is to be repeated on three locations on each surface of the sensor being tested.

■ 9. Amend § 1211.13 by revising paragraph (a)(4) to read as follows:

§ 1211.13 Inherent force activated secondary door sensors.

(a) * * *

(4) The test cylinder referred to in paragraph (b)(7) of this section shall be a 1⅞ in (47.6 mm) diameter cylinder placed under the door so that the axis is perpendicular to the plane of the door. See figure 6A to subpart A.

* * * * *

■ 10. Amend § 1211.14 by revising paragraph (c)(4), and adding paragraph (f) to read as follows:

§ 1211.14 Unattended operation requirements.

* * * * *

(c) * * *

(4) The visual alarm signal described in paragraph (c)(1) of this section shall be visible within the confines of a garage using a flashing light of at least 40 watt incandescent or 360 lumens. The flash rate shall be at least once per second, with a duration of 100 ms to 900 ms, for the duration of the alarm.

* * * * *

(f) *Unattended operation control accessory*—(1) *General.* A residential garage door operator control accessory shall be permitted to be supplied separate from the operator, and may permit unattended operation to close a garage door, provided the control accessory complies with the additional requirements of paragraphs (f)(2) through (6) of this section. Exception: Unattended operation shall not be permitted on one-piece garage doors or swinging garage doors. A control accessory that has an unattended operation close feature shall identify that the unattended operation closing feature is only permitted to be enabled when installed with a sectional door by complying with:

(i) The installation instructions of § 1211.16 (b)(1)(ii);

(ii) The markings of § 1211.17(h); and

(iii) the carton markings of § 1211.18(m).

(2) *Operator system.* The control accessory shall require one or more intentional actions to enable unattended operation to function when connected to an operator system, such as setting a power head switch or wall-control switch. For an accessory requiring installation and set-up in order to enable unattended operation, the installation and set-up may be considered satisfying this requirement.

(3) *Alarm signal.* (i) The control accessory alone or in combination with the operator system shall provide an audible and visual alarm signal.

(ii) The alarm shall signal for a minimum of 5 seconds before any unattended closing door movement, or before any door movement if the next direction of door travel cannot be determined.

(iii) The audible signal shall be heard within the confines of a garage. The audio alarm signals for the alarm specified in paragraph (f)(3)(i) of this section shall be generated by devices such as bells, horns, sirens, or buzzers. The signal shall have a frequency in the range of 700 to 3400 Hz, either a cycle of the sound level pulsations of 4 to 5 per second or one continuous tone, a sound level at least 45 dB 10 ft (305 cm) in front of the device over the voltage range of operation.

(iv) The visual alarm signal of paragraph (f)(3)(i) of this section shall be visible within the confines of a garage using a flashing light of at least 40 watt incandescent or 360 lumens.

(v) When the visual alarm or the audio alarm, or both, are external to the control accessory and are not part of main operator unit, the control accessory shall monitor for the connection of and proper operation of both the visual and audible alarms, prior to initiating door travel.

(4) *Controls.* (i) During the pre-motion signaling period defined in paragraph (f)(3)(ii) of this section, activation of any user door control (*e.g.* wall control, wireless remote, keypad) shall prevent the pending unattended door movement. Door movement resulting from activation of a user door control is not prohibited.

(ii) Upon activation of a user door control during unattended door movement:

(A) The operator shall function in the same manner as if the control accessory were not present;

(B) The control accessory shall not interfere with, override, or alter the normal operation of the operator; and

(C) The door shall stop, and may reverse the door on the closing cycle. On the opening cycle, activation of a user door control shall stop the door but not reverse it.

(iii) If an unattended door travelling in the closing direction is stopped and reversed by an entrapment protection device, the control accessory alone or in combination with the operator system shall be permitted one additional unattended operation attempt to close the door.

(iv) After two attempts per paragraph (d)(3) of this section, the control accessory alone or in combination with the operator system shall suspend unattended operation. The control accessory alone or in combination with the operator system shall require a renewed, intended input, via user door control (*e.g.,* wall control, wireless remote, keypad) other than the unattended activation device, prior to re-enabling unattended operation.

(5) *Entrapment protection.* (i) The control accessory shall not interfere with, override, or alter any entrapment protection features of the operator or system per §§ 1211.7 and 1211.8. A control accessory that only provides a momentary signal (wired or wireless) to start the door is considered to comply with this requirement.

(ii) A control accessory shall only be used with an operator when the combination of the operator and the control accessory comply with the applicable entrapment protection features including:

(A) Inherent Primary Entrapment Protection, in accordance with § 1211.7;

(B) Secondary Entrapment Protection, in accordance with § 1211.8.

(iii) A control accessory shall be marked to indicate ''For use only with garage door operators complying with UL 325, manufactured after ____,'' or, ''For use only with the following garage door operators:____.'' The date (*e.g.,* ''1993,'' ''February 21, 2008''), or the additional information provided in the blank shall be added by the accessory manufacturer such that the combination of the control and operator(s) it is intended for use with complies with paragraph (f)(5)(ii) of this section. This marking shall appear on the packaging and on the product, and shall be repeated in the instructions accompanying the accessory.

(iv) To comply with paragraph (f)(5)(ii) of this section a control accessory shall comply with one or more of the following:

(A) Not be capable of operating when connected to an operator that is not compliant with paragraph (f)(5)(ii) of this section;

(B) Be restricted to function only with specific operators, such that the combination of the control and the operator are compliant with paragraph (f)(5)(ii) of this section;

(C) Provide additional functionality to an operator or system such that when operating via the control accessory, the combination of the control accessory and the operator complies with paragraph (f)(5)(ii) of this section;

(D) Be marked to indicate as indicated in paragraph (f)(5)(ii) of this section.

(6) *Instructions and markings.* (i) The control accessory shall be provided with instructions as follows:

(A) Instructions per § 1211.16, as applicable.

(B) Instructions that repeat any warning or cautionary product markings and field labels required below.

(ii) The control accessory shall be provided with markings as follows:

(A) Markings on the product per § 1211.18, as applicable.

(B) In lieu of § 1211.18(m), the product package shall be marked with the following or equivalent:

> "WARNING: To reduce the risk of injury to persons—Only enable [+] feature when installed with sectional door.", where + is the unattended operation closing function, or "WARNING: To reduce the risk of injury to persons—Do not use this device with one-piece doors or swinging doors."

(C) On the package or the product—any other markings related to use of the control with specific operators, per paragraph (f)(5)(iii) of this section.

(iii) The control accessory shall be provided with a label for field installation as required by § 1211.17(c) through (g), including but not limited to § 1211.17(g)(2)(v).

Figure 6 to Subpart A of Part 1211 [Removed]

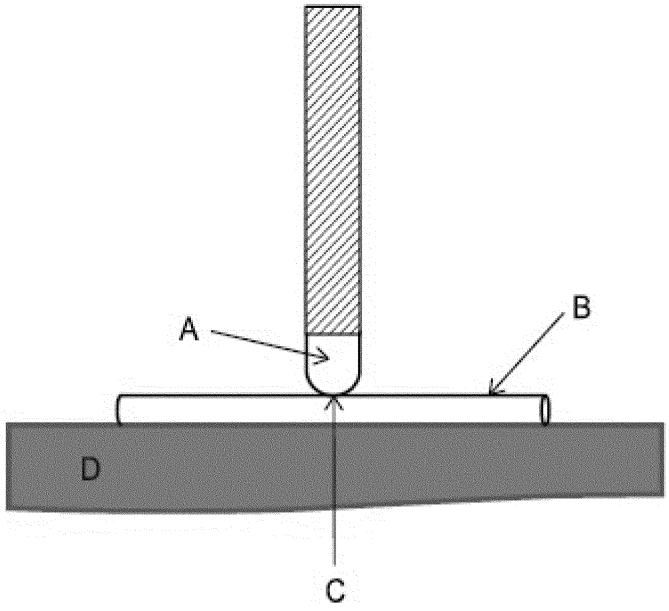
■ 11. Remove Figure 6 to Subpart A of Part 1211,

■ 12. Add Figures 6A through 6I to Subpart A of Part 1211 to read as follows:

BILLING CODE 6355–01–P

Figure 6A to Subpart A of Part 1211

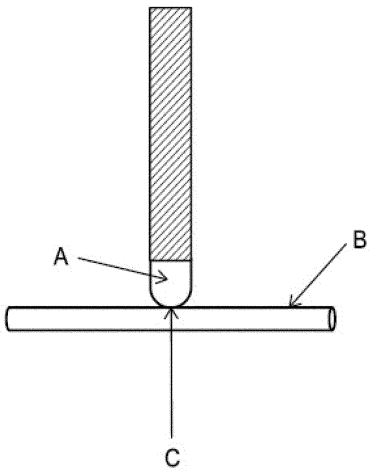
Side View – Sectional Door



A – Edge Sensor
B – 1-7/8" Diameter Cylinder
C – 15 Pound Force
D – Ground/Floor

Figure 6B to Subpart A of Part 1211

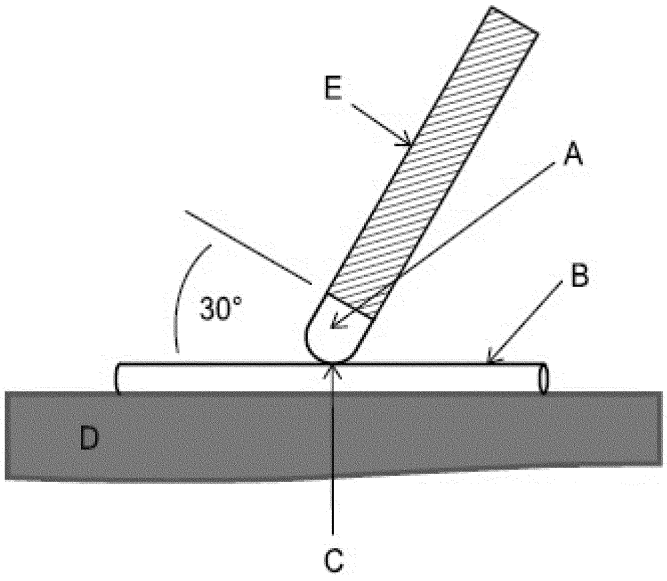
Top View – Horizontally Moving Door



A – Edge Sensor
B – 1-7/8" Diameter Cylinder
C – 15 Pound Force

Figure 6C to Subpart A of Part 1211

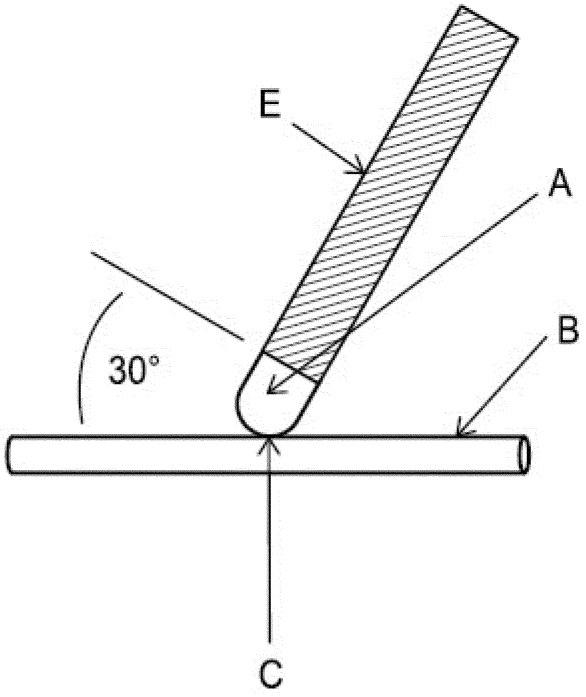
Side View – Once-Piece Door



A – Edge Sensor
B – 1-7/8" Diameter Cylinder
C – 15 Pound Force
D – Ground/Floor
E – Outside Surface

Figure 6D to Subpart A of Part 1211

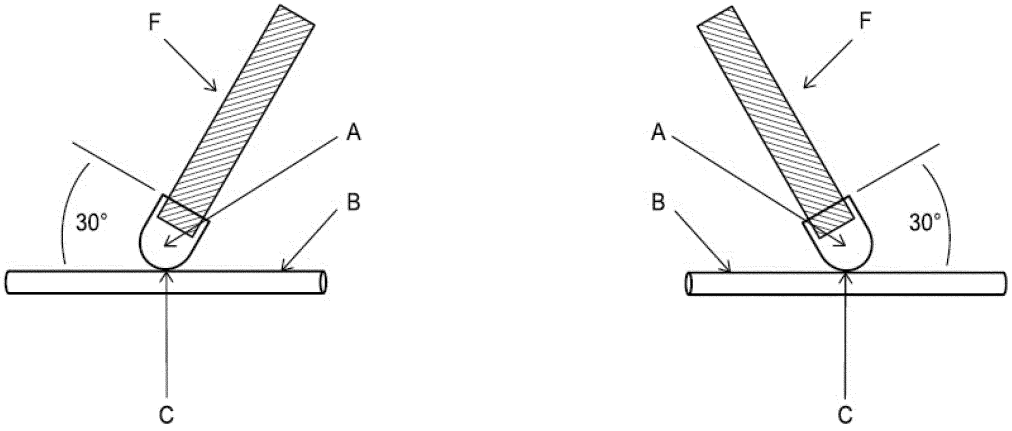
Top View – Horizontal Swing Door



A – Edge Sensor
B – 1-7/8" Diameter Cylinder
C – 15 Pound Force
D – Ground/Floor
E – Outside Surface

Figure 6E to Subpart A of Part 1211

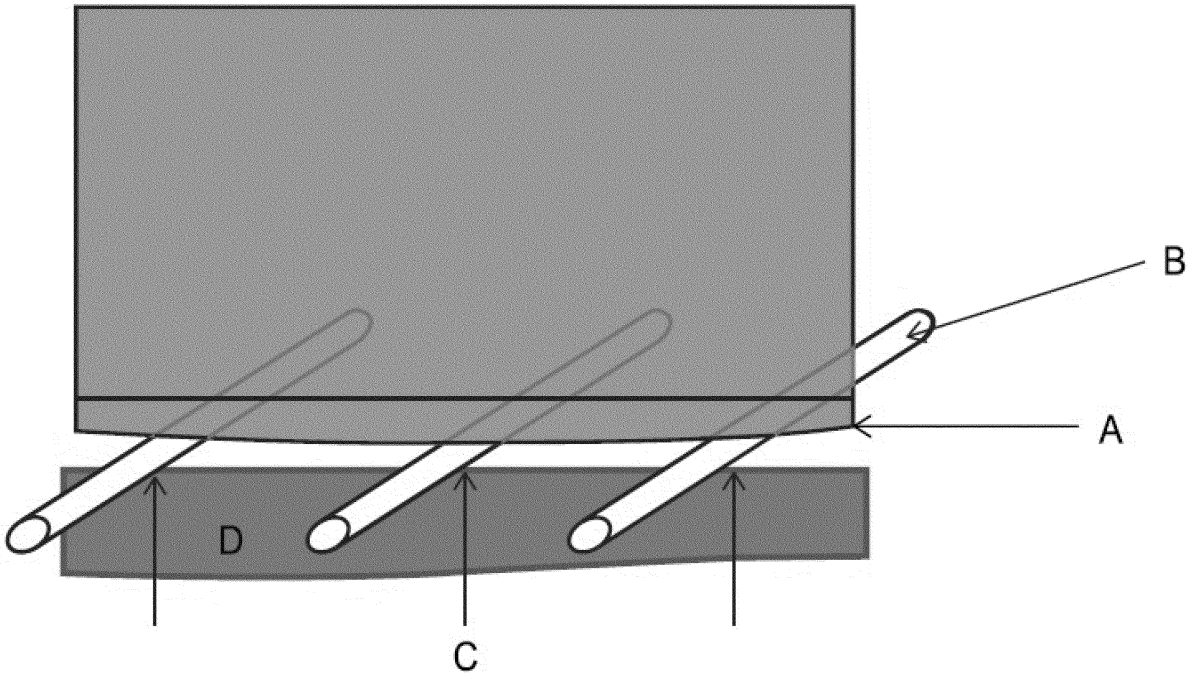
Top View – Horizontal Swing Door – Wraparound Edge



A – Edge Sensor
B – 1-7/8" Diameter Cylinder
C – 15 Pound Force
F – Direction of travel

Figure 6F to Subpart A of Part 1211

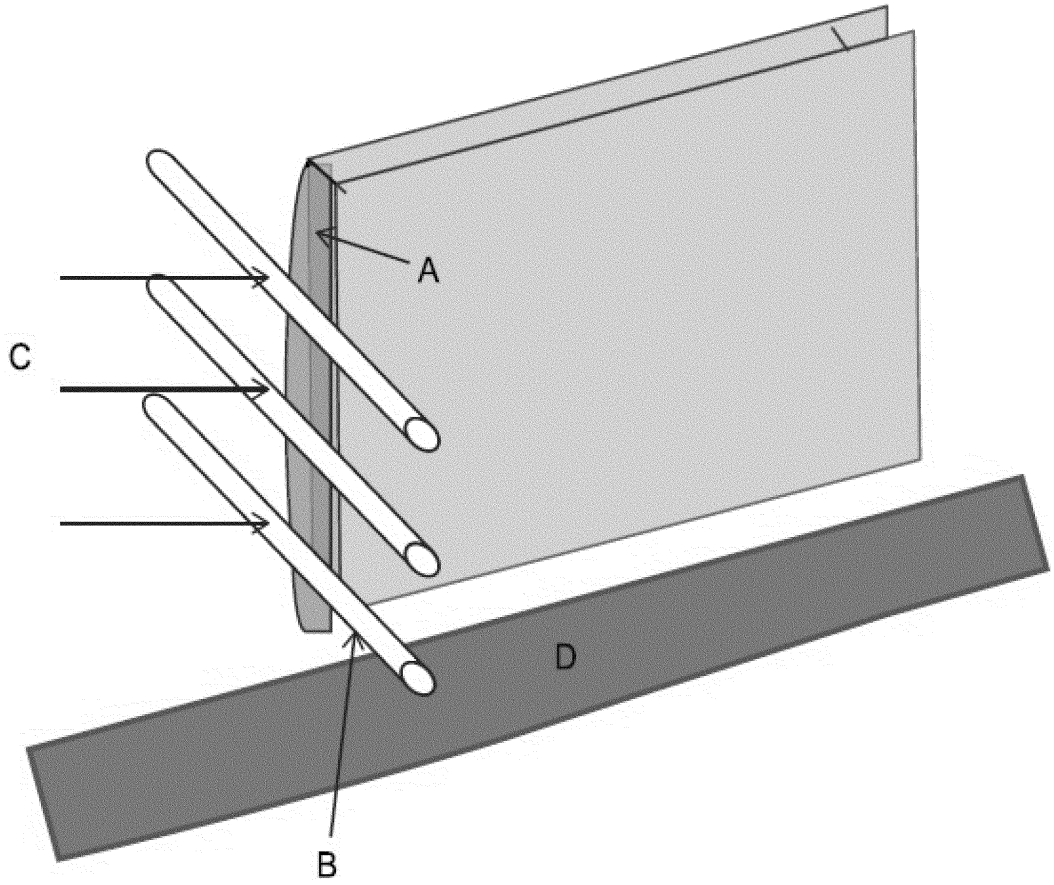
Front View – Sectional or One-Piece Door



A – Edge Sensor
B – 1-7/8" Diameter Cylinder – At various heights, perpendicular or at 30 degree angle, depending on door type.
C – 15 Pound Force
D – Ground/Floor

Figure 6G to Subpart A of Part 1211

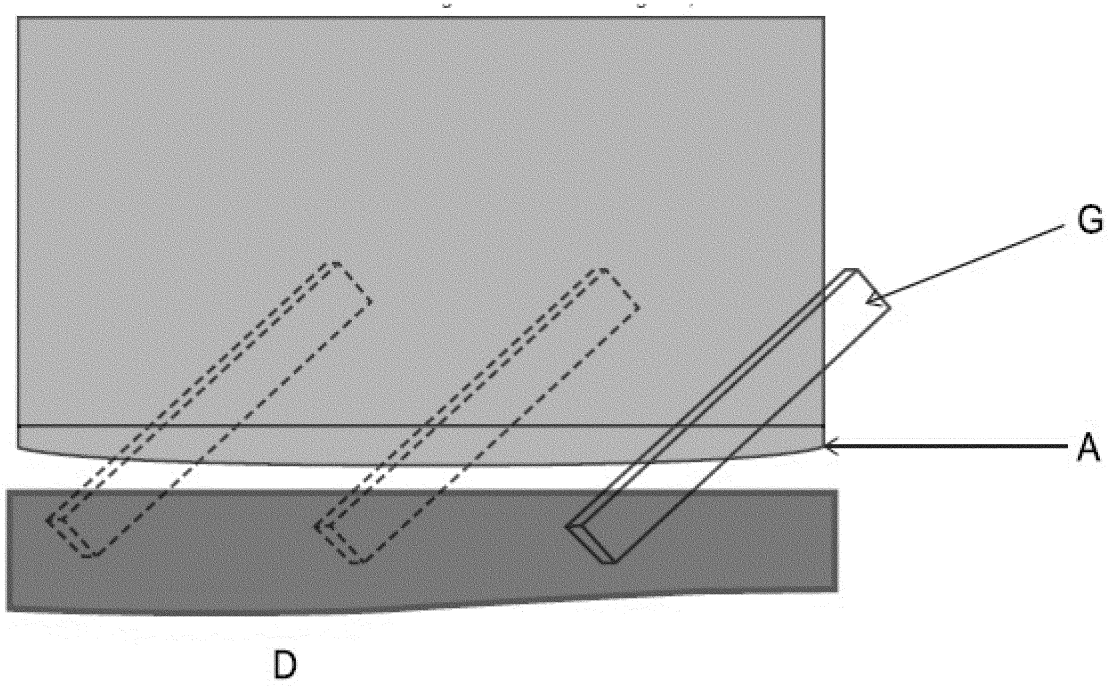
Side View – Horizontally Moving Door or Swinging Door



A – Edge Sensor
B – 1-7/8" Diameter Cylinder – At various heights, perpendicular or at 30 degree angle, depending on door type.
C – 15 Pound Force
D – Ground/Floor

Figure 6H to Subpart A of Part 1211

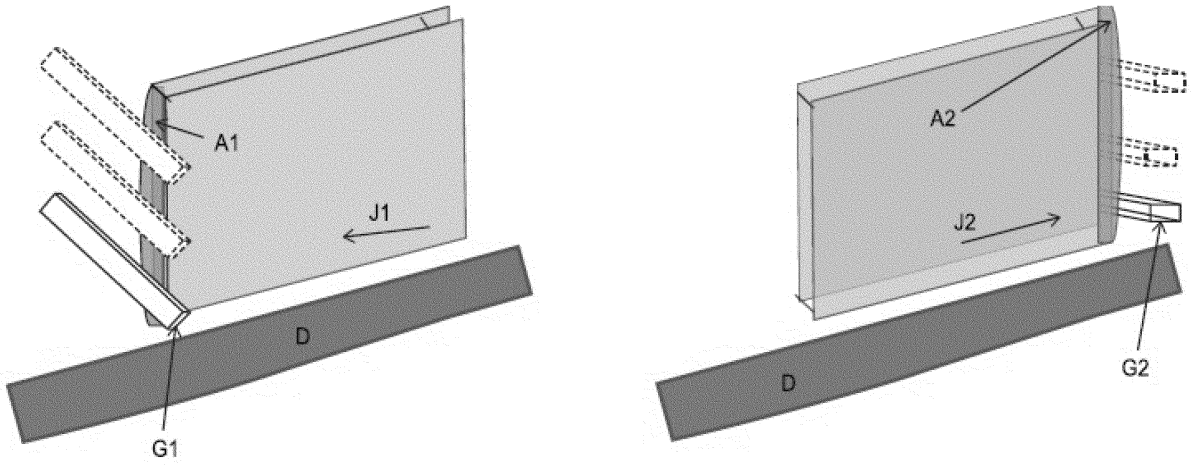
Front View – Vertically Moving Door or Swinging Door



A – Edge Sensor
D – Ground/Floor
G – 1-5/8" x 3-1/2" solid object, min 6 in. long, placed at various locations along edge of door.

Figure 6I to Subpart A of Part 1211

Side View – Horizontally Moving Door



A1 – Edge Sensor on Leading Edge of Door
A2 – Edge Sensor on Trailing Edge of Door
D – Ground/Floor
G1 – 1-5/8" x 3-1/2" solid object, min 6 in. long, placed at various locations along leading edge of door.
G1 – 1-5/8" x 3-1/2" solid object, min 6 in. long, placed at various locations along trailing edge of door.
J1 – Movement when closing
J2 – Movement when opening

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Subpart D—[Amended]

■ 13. Amend § 1211.40 by redesignating paragraphs (d)(1) through (3) as (d)(2) through (4) and adding new paragraph (d)(1) to read as follows:

§ 1211.40 Incorporation by reference.

(d) * * *

(1) UL 325, Standard for Safety: Door, Drapery, Gate, Louver, and Window Operators and Systems, SUPPLEMENT SA—(Normative)—UL 60335–1/CAN/CSA–C22.2 No. 60335–1 Based Requirements for the Evaluation of Electronic Circuits, Seventh Edition, May 19, 2017, into §§ 1211.4 and 1211.5.

* * * * *

Alberta E. Mills,

Secretary, U. S. Consumer Product Safety Commission.

[FR Doc. 2018–14909 Filed 7–12–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 4212–2018]

Delegation Concerning International Prisoner Transfer Program

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Attorney General has delegated to the Assistant Attorney General for the Criminal Division certain authorities of the Attorney General concerning transfer of offenders to or from foreign countries, including the authority to find appropriate or inappropriate the transfer of offenders to or from a foreign country under certain treaties. The Assistant Attorney General for the Criminal Division is authorized to re-delegate this authority to the Deputy Assistant Attorneys General, the Director of the Office of Enforcement Operations, and the Senior Associate Director and Associate Directors of the Office of Enforcement Operations. The Department of Justice is moving the responsibility for handling international prisoner transfers from the Office of Enforcement Operations to the Office of International Affairs. Accordingly, this final rule amends the Code of Federal Regulations to authorize the Assistant Attorney General for the Criminal Division to re-delegate this authority within the Criminal Division to the Deputy Assistant Attorneys General in the Criminal Division, and to the Director, the Deputy Directors, and the Associate Director supervising the International Prisoner Transfer Unit of the Office of International Affairs.

DATES: This rule is effective July 13, 2018.

FOR FURTHER INFORMATION CONTACT: Vaughn Ary, Director, Office of International Affairs, Criminal Division, Department of Justice, Washington, DC 20005; 202–514–0000.

SUPPLEMENTARY INFORMATION: The Office of International Affairs (OIA) serves as the hub for international criminal law

enforcement coordination for the Department of Justice and carries out a wide range of responsibilities. OIA works closely with its foreign and domestic stakeholders to ensure that criminals both at home and abroad are extradited to face justice. OIA also handles thousands of requests for mutual legal assistance, drafts and comments on legislation and policy, and participates in litigation related to international cooperation issues. At its core, international prisoner transfer is an area of international legal cooperation. Having concluded that the responsibility for handling international prisoner transfers more closely relates to the mission of OIA, the Department of Justice is moving the International Prisoner Transfer Unit from the Office of Enforcement Operations to OIA. To ensure OIA has the necessary authorities to find appropriate or inappropriate the transfer of offenders to or from a foreign country under certain treaties, the Department of Justice is modifying its delegation of authority in 28 CFR 0.64–2. This modification will authorize the Assistant Attorney General for the Criminal Division to re-delegate this authority to the Deputy Assistant Attorneys General in the Criminal Division and to the Director, the Deputy Directors, and the Associate Director supervising the International Prisoner Transfer Unit of the Office of International Affairs. This action will promote efficiency, better accomplish important law enforcement objectives, and enhance international relationships and cooperation.

Administrative Procedure Act—5 U.S.C. 553

This rule is a rule of agency organization and relates to a matter relating to agency management and is therefore exempt from the requirements of prior notice and comment and a 30-day delay in the effective date. *See* 5 U.S.C. 553(a)(2), (b)(3)(A).

Regulatory Flexibility Act

A Regulatory Flexibility Analysis is not required to be prepared for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter. 5 U.S.C. 604(a).

Executive Order 12866—Regulatory Planning and Review

This action has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), The Principles of Regulation. This rule is limited to agency organization, management, and personnel as described in section 3(d)(3) of Executive Order 12866 and, therefore, is not a ''regulation'' or ''rule'' as defined by the order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

Executive Order 13132—Federalism

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

Executive Order 12988—Civil Justice Reform

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

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel, and organizations and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(B). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Crime, Government employees, Law enforcement, Organization and functions (Government agencies), Prisoners.

For the reasons stated in the preamble, title 28, part 0, of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 2. In § 0.64–2, revise the final sentence to read as follows:

§ 0.64–2. Delegation respecting transfer of offenders to and from foreign countries.

* * * The Assistant Attorney General, Criminal Division, is authorized to re-delegate this authority within the Criminal Division to the Deputy Assistant Attorneys General in the Criminal Division and to the Director, the Deputy Directors, and the Associate Director supervising the International Prisoner Transfer Unit of the Office of International Affairs.

Dated: June 29, 2018.

Jefferson B. Sessions III,

Attorney General.

[FR Doc. 2018–15047 Filed 7–12–18; 8:45 am]

BILLING CODE 4410–14–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in August 2018. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective August 1, 2018.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400 ext. 3839. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 3839.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminated single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

The interest assumptions in the regulation are also published on PBGC's website (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in appendix B to part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for August 2018.[1]

The August 2018 interest assumptions under the benefit payments regulation will be 1.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for July 2018, these assumptions represent no change in the immediate rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during August 2018, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 298 is added at the end of the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
298	8–1–18	9–1–18	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 298 is added at the end of the table to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
298	8–1–18	9–1–18	1.25	4.00	4.00	4.00	7	8

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–14974 Filed 7–12–18; 8:45 am]

BILLING CODE 7709–02–P

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0623]

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone—July Events

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce certain safety zones located in federal regulations for recurring marine events. This action is necessary and intended for the safety of life and property on navigable waters during these events. During each enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo.

DATES: The regulations in 33 CFR 165.939 will be enforced during the month of July as noted in the Supplementary Information section below.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LCDR Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *D09-SMB-SECBuffalo-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zones; Annual Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939 for the following events:

(1) *Cleveland Triathlon, Cleveland, OH;* The safety zone listed in 33 CFR 165.939(b)(1) will be enforced from 5:45 a.m. to 11:15 a.m. on July 22, 2018.

(2) *Roverfest Fireworks, Lorain, OH;* The safety zone listed in 33 CFR 165.939(b)(2) will be enforced from 9:45 p.m. to 10:35 p.m. on July 21, 2018.

(3) *High Speed Boat Races, Mentor, OH;* The safety zone listed in 33 CFR 165.939(b)(3) will be enforced from 9:45 a.m. to 5:15 p.m. on July 22, 2018.

(4) *Parade of Lights, Cleveland, OH;* The safety zone listed in 33 CFR 165.939(b)(6) will be enforced from 9:30 p.m. to 10:15 p.m. on July 21, 2018.

(5) *Sheffield Lake Community Days, Sheffield Lake, OH;* The safety zone listed in 33 CFR 165.939(b)(10) will be enforced from 9:45 p.m. to 10:35 p.m. on July 27, 2018.

(6) *Lake Erie Open Water Swim, Cleveland, OH;* The safety zone listed in 33 CFR 165.939(b)(12) will be enforced from 6:45 a.m. to 10:45 a.m. on July 14, 2018.

(7) *French Festival Fireworks, Cape Vincent, NY;* The safety zone listed in 33 CFR 165.939(b)(15) will be enforced from 9:15 p.m. to 10:45 p.m. on July 14, 2018.

(8) *Lyme Community Days, Chaumont, NY;* The safety zone listed in 33 CFR 165.939(b)(16) will be enforced from 9:15 p.m. to 10:15 p.m. on July 28, 2018.

(9) *Tonawanda's Canal Fest Fireworks, Tonawanda, NY;* The safety zone listed in 33 CFR 165.939(b)(26) will be enforced from 9:30 p.m. to 11:00 p.m. on July 22, 2018.

(10) *Oswego Harborfest, Oswego, NY;* The safety zone listed in 33 CFR 165.939(b)(28) will be enforced from 9:00 p.m. to 10:00 p.m. on July 28, 2018.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or his designated representative. Those seeking permission to enter the safety zone may request permission from the Captain of Port Buffalo via channel 16, VHF–FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the Captain of the Port Buffalo or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that the safety zone need not be enforced for the full duration stated in this notice he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: July 10, 2018.

Joseph S. Dufresne,

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

[FR Doc. 2018–15051 Filed 7–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0082]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port, Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its safety zones regulation for Annual Events in the Captain of the Port Lake Michigan Zone. This amendment updates two permanent safety zones, adds three new permanent safety zones, and removes one old permanent safety zone. These amendments, additions, and removals are necessary to protect spectators, participants, and vessels from the hazards associated with annual maritime events, including sailing races, boat parades, swim events and air shows.

DATES: This rule is effective without actual notice from July 13, 2018. For the purposes of enforcement, actual notice will be used from the date the rule was signed, June 20, 2018, until July 13, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0082 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On April 19, 2018, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) titled Safety Zones; Annual Events Requiring Safety Zones

in the Captain of the Port Lake Michigan Zone (USCG–2018–0082). The NPRM addressed the need for the safety zone and invited the public to comment on the proposed regulatory action. During the comment period that ended May 21, 2018, the Coast Guard received one comment. No public meeting was requested and none was held.

The Coast Guard is issuing this rule, and certain events are schedule to take place during the 30 day period post-publication in the **Federal Register**. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because delaying the effective date of this rule would be contrary to public interest as it would inhibit the Coast Guard's ability to protect participants, mariners and vessels from the hazards associated with certain events. The Coast Guard will provide actual notice for those events occurring during this timeframe.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The purpose of this rule is to update the safety zones in 33 CFR 165.929 to ensure that they match the times, dates, and dimensions for various marine and triggering events that are expected to be conducted within the Captain of the Port Lake Michigan Zone throughout the year. The purpose is also to ensure the safety of vessels, persons and the navigable waters before, during and after scheduled events. Specific hazards include obstructions to the waterway that may cause marine casualties, collisions among vessels, and collisions between vessels and people.

IV. Discussion of Comments, Changes, and the Rule

As noted above, one comment was received on the NPRM published April 19, 2018. The one comment was irrelevant to the topic discussed in the NPRM. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule amends two permanent safety zones found within Table 165.929 in 33 CFR 165.929. These two amendments involve updating the location, size, and/or enforcement times for: One air show in Milwaukee, WI and one sailing race in Chicago, Illinois.

Additionally, this rule adds three new safety zones to Table 165.929 within 33 CFR 165.929 for annually reoccurring events in the Captain of the Port Lake Michigan Zone. These three zones were added to protect the public from the safety hazards previously described. The three additions include two safety zones for boat parades in Milwaukee, WI, and one safety zone for a swim event in Milwaukee, WI. A list of specific changes and additions are available in the attachments within this Docket.

This rule also removes one permanent safety zone found within Table 165.929 in 33 CFR 165.929. The safety zone being removed is the Lubbers Cup Regatta listed as item (b)(2) in Table 165.929. This safety zone is being removed because the Lubbers Cup Regatta marine event was determined to no longer need a safety zone.

The Captain of the Port Lake Michigan has determined that the safety zones in this rule are necessary to ensure the safety of vessels and people during annual marine or triggering events in the Captain of the Port COTP Lake Michigan Zone. Although this rule will be effective year-round, the safety zones in this rule will be enforced only immediately before, during, and after events that pose a hazard to the public and only upon notice by the Captain of the Port Lake Michigan.

The Captain of the Port Lake Michigan will notify the public that the zones in this rule are or will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to: Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port COTP Lake Michigan or his or her designated representative. Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF–FM Channel 16 or at (414) 747–7182.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on size, location, duration and time-of-day of the safety zones. The safety zones created by this rule will be relatively small, and effective only during the time necessary to ensure safety of spectator and participants for the listed events. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zones, and the rule allows vessels to seek permission to enter the zones.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman

and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of safety zones for yearly triggering and marine events on and around Lake Michigan. Normally such actions are categorically excluded from further review under paragraph L(60)(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Revise § 165.929 to read as follows:

§ 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan Zone.

(a) *Regulations.* The following regulations apply to the safety zones listed in Table 165.929 of this section.

(1) The general regulations in § 165.23.

(2) All vessels must obtain permission from the Captain of the Port (COTP) Lake Michigan or his or her designated representative to enter, move within, or exit a safety zone established in this section when the safety zone is enforced. Vessels and persons granted permission to enter one of the safety zones listed in this section must obey all lawful orders or directions of the COTP Lake Michigan or his or her designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel must proceed as directed.

(3) The enforcement dates and times for each of the safety zones listed in Table 165.929 are subject to change, but the duration of enforcement would remain the same, or nearly the same, total number of hours as stated in the table. In the event of a change, the COTP Lake Michigan will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariners.

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer designated by the COTP Lake Michigan to monitor a safety zone, permit entry into a safety zone, give legally enforceable orders to persons or vessels within a safety zone, and take other actions authorized by the COTP Lake Michigan.

(2) *Public Vessel* means a vessel that is owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(3) *Rain date* refers to an alternate date and/or time in which the safety zone would be enforced in the event of inclement weather.

(c) *Suspension of enforcement.* The COTP Lake Michigan may suspend enforcement of any of these zones earlier than listed in this section. Should the COTP Lake Michigan suspend any of these zones earlier than the listed duration in this section, he or she may make the public aware of this suspension by Broadcast Notice to Mariners and/or on-scene notice by his or her designated representative.

(d) *Exemption.* Public Vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(e) *Waiver.* For any vessel, the COTP Lake Michigan or his or her designated representative may waive any of the requirements of this section upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or security.

TABLE 165.929

Event	Location [1]	Enforcement date and time [2]
(a) March Safety Zones		
(1) St. Patrick's Day Fireworks	Manitowoc, WI. All waters of the Manitowoc River within the arc of a circle with a 250-foot radius from a center point launch position at 44°05.492′ N, 087°39.332′ W.	The third Saturday of March; 5:30 p.m. to 7 p.m.
(2) Public Fireworks Display	Green Bay, WI. All waters of the Fox River in the vicinity of the Main Street and Walnut Street Bridge within an area bounded by the following coordinates; 44°31.211′ N, 088°00.833′ W; then southwest along the river bank to 44°30.944′ N, 088°01.159′ W; then southeast to 44°30.890′ N, 088°01.016′ W; then northeast along the river bank to 44°31.074′ N, 088°00.866′ W; then northwest returning to the point of origin.	March 15; 11:50 a.m. to 12:30 p.m. Rain date: March 16; 11:50 a.m. to 12:30 p.m.
(b) April Safety Zones		
(1) Michigan Aerospace Challenge Sport Rocket Launch.	Muskegon, MI. All waters of Muskegon Lake, near the West Michigan Dock and Market Corp facility, within the arc of a circle with a 1,500-yard radius from the rocket launch site located in position 43°14.018′ N, 086°15.585′ W.	The last Saturday of April; 8 a.m. to 4 p.m.
(c) May Safety Zones		
(1) Tulip Time Festival Fireworks.	Holland, MI. All waters of Lake Macatawa, near Kollen Park, within the arc of a circle with a 1,000-foot radius from the fireworks launch site in approximate center position 42°47.496′ N, 086°07.348′ W.	The first Saturday of May; 9:30 p.m. to 11:30 p.m. Rain date: The first Friday of May; 9:30 p.m. to 11:30 p.m.
(2) Cochrane Cup	Blue Island, IL. All waters of the Calumet Saganashkee Channel from the South Halstead Street Bridge at 41°39.442′ N, 087°38.474′ W; to the Crawford Avenue Bridge at 41°39.078′ N, 087°43.127′ W; and the Little Calumet River from the Ashland Avenue Bridge at 41°39.098′ N, 087°39.626′ W; to the junction of the Calumet Saganashkee Channel at 41°39.373′ N, 087°39.026′ W.	The first Saturday of May; 6:30 a.m. to 5 p.m.
(3) Rockets for Schools Rocket Launch.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, near the Sheboygan South Pier, within the arc of a circle with a 1,500-yard radius from the rocket launch site located with its center in position 43°44.914′ N, 087°41.869′ W.	The first Saturday of May; 8 a.m. to 5 p.m.
(4) Celebrate De Pere Fireworks.	De Pere, WI. All waters of the Fox River, near Voyageur Park, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 44°27.167′ N, 088°03.833′ W.	The Saturday or Sunday before Memorial Day; 8:30 p.m. to 10 p.m.
(d) June Safety Zones		
(1) International Bayfest	Green Bay, WI. All waters of the Fox River, near the Western Lime Company 1.13 miles above the head of the Fox River, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°31.408′ N, 088°00.710′ W.	The second Friday of June; 9 p.m. to 11 p.m.
(2) Harborfest Music and Family Festival.	Racine, WI. All waters of Lake Michigan and Racine Harbor, near the Racine Launch Basin Entrance Light, within the arc of a circle with a 200-foot radius from the fireworks launch site located in position 42°43.722′ N, 087°46.673′ W.	Friday and Saturday of the third complete weekend of June; 9 p.m. to 11 p.m. each day.
(3) Spring Lake Heritage Festival Fireworks.	Spring Lake, MI. All waters of the Grand River within the arc of a circle with a 700-foot radius from a barge in center position 43°04.375′ N, 086°12.401′ W.	The third Saturday of June; 9 p.m. to 11 p.m.
(4) Elberta Solstice Festival	Elberta, MI. All waters of Betsie Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located in approximate center position 44°37.607′ N, 086°13.977′ W.	The last Saturday of June; 9 p.m. to 11 p.m.
(5) World War II Beach Invasion Re-enactment.	St. Joseph, MI. All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06.918′ N, 086°29.421′ W; then west/northwest along the north breakwater to 42°06.980′ N, 086°29.682′ W; then northwest 100 yards to 42°07.018′ N, 086°29.728′ W; then northeast 2,243 yards to 42°07.831′ N, 086°28.721′ W; then southeast to the shoreline at 42°07.646′ N, 086°28.457′ W; then southwest along the shoreline to the point of origin.	The last Saturday of June; 8 a.m. to 2 p.m.
(6) Ephraim Fireworks	Ephraim, WI. All waters of Eagle Harbor and Lake Michigan within the arc of a circle with a 750-foot radius from the fireworks launch site located on a barge in position 45°09.304′ N, 087°10.844′ W.	The third Saturday of June; 9 p.m. to 11 p.m.
(7) Thunder on the Fox	Elgin, IL. All waters of the Fox River from the Kimball Street Bridge, located at approximate position 42°02.499′ N, 088°17.367′ W, then 1,250 yards north to a line crossing the river perpendicularly running through position 42°03.101′ N, 088°17.461′ W.	Friday, Saturday, and Sunday of the third weekend in June; 10 a.m. to 7 p.m. each day.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(8) Olde Ellison Bay Days Fireworks.	Ellison Bay, WI. All waters of Green Bay, in the vicinity of Ellison Bay Wisconsin, within the arc of a circle with a 400-foot radius from the fireworks launch site located on a barge in approximate center position 45°15.595′ N, 087°05.043′ W.	The fourth Saturday of June; 9 p.m. to 10 p.m.
(9) Sheboygan Harborfest Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°44.914′ N, 087°41.897′ W.	June 15; 8:45 p.m. to 10:45 p.m.
(e) July Safety Zones		
(1) Town of Porter Fireworks Display.	Porter, IN. All waters of Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in center position 41°39.927′ N, 087°03.933′ W.	The first Saturday of July; 8:45 p.m. to 9:30 p.m.
(2) City of Menasha 4th of July Fireworks.	Menasha, WI. All waters of Lake Winnebago and the Fox River within the arc of a circle with an 800-foot radius from the fireworks launch site located in center position 44°12.017′ N, 088°25.904′ W.	July 4; 9 p.m. to 10:30 p.m.
(3) Pentwater July Third Fireworks.	Pentwater, MI. All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°46.942′ N, 086°26.625′ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(4) Taste of Chicago Fireworks	Chicago, IL. All waters of Monroe Harbor and Lake Michigan bounded by a line drawn from 41°53.380′ N, 087°35.978′ W; then southeast to 41°53.247′ N, 087°35.434′ W; then south to 41°52.809′ N, 087°35.434′ W; then southwest to 41°52.453′ N, 087°36.611′ W; then north to 41°53.247′ N, 087°36.573′ W; then northeast returning to the point of origin.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(5) St. Joseph Fourth of July Fireworks.	St. Joseph, MI. All waters of Lake Michigan and the St. Joseph River within the arc of a circle with a 1,000-foot radius from the fireworks launch site in position 42°06.867′ N, 086°29.463′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(6) U.S. Bank Fireworks	Milwaukee, WI. All waters and adjacent shoreline of Milwaukee Harbor, in the vicinity of Veteran's Park, within the arc of a circle with a 1,200-foot radius from the center of the fireworks launch site which is located on a barge in approximate position 43°02.362′ N, 087°53.485′ W.	July 3; 8:30 p.m. to 11 p.m. Rain date: July 4; 8:30 p.m. to 11 p.m.
(7) Manistee Independence Day Fireworks.	Manistee, MI. All waters of Lake Michigan, in the vicinity of the First Street Beach, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°14.854′ N, 086°20.757′ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(8) Frankfort Independence Day Fireworks.	Frankfort, MI. All waters of Lake Michigan and Frankfort Harbor, bounded by a line drawn from 44°38.100′ N, 086°14.826′ W; then south to 44°37.613′ N, 086°14.802′ W; then west to 44°37.613′ N, 086°15.263′ W; then north to 44°38.094′ N, 086°15.263′ W; then east returning to the point of origin.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(9) Freedom Festival Fireworks	Ludington, MI. All waters of Lake Michigan and Ludington Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 43°57.171′ N, 086°27.718′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(10) White Lake Independence Day Fireworks.	Montague, MI. All waters of White Lake within the arc of a circle with an 800-foot radius from a center position at 43°24.621′ N, 086°21.463′ W.	July 4; 9:30 p.m. to 11:30 p.m. Rain date: July 5; 9:30 p.m. to 11:30 p.m.
(11) Muskegon Summer Celebration July Fourth Fireworks.	Muskegon, MI. All waters of Muskegon Lake, in the vicinity of Hartshorn Municipal Marina, within the arc of a circle with a 700-foot radius from a center position at 43°14.039′ N, 086°15.793′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(12) Grand Haven Jaycees Annual Fourth of July Fireworks.	Grand Haven, MI. All waters of the Grand River within the arc of a circle with a 800-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°3.908′ N, 086°14.240′ W.	July 4; 9 p.m. to 11:30 p.m. Rain date: July 5; 9 p.m. to 11:30 p.m.
(13) Celebration Freedom Fireworks.	Holland, MI. All waters of Lake Macatawa in the vicinity of Kollen Park within the arc of a circle with a 2,000-foot radius of a center launch position at 42°47.440′ N, 086°07.621′ W.	July 4; 10 p.m. to 11:59 p.m. Rain date: July 4; 10 p.m. to 11:59 p.m.
(14) Van Andel Fireworks Show	Holland, MI. All waters of Lake Michigan and the Holland Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in approximate position 42°46.351′ N, 086°12.710′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 3; 9 p.m. to 11 p.m.
(15) Saugatuck Independence Day Fireworks.	Saugatuck, MI. All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site in center position 42°39.074′ N, 086°12.285′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(16) South Haven Fourth of July Fireworks.	South Haven, MI. All waters of Lake Michigan and the Black River within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in center position 42°24.125′ N, 086°17.179′ W.	July 3; 9:30 p.m. to 11:30 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(17) Town of Dune Acres Independence Day Fireworks.	Dune Acres, IN. All waters of Lake Michigan within the arc of a circle with a 700-foot radius from the fireworks launch site located in position 41°39.303′ N, 087°05.239′ W.	The first Saturday of July; 8:45 p.m. to 10:30 p.m.
(18) Gary Fourth of July Fireworks.	Gary, IN. All waters of Lake Michigan, approximately 2.5 miles east of Gary Harbor, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°37.322′ N, 087°14.509′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(19) Joliet Independence Day Celebration Fireworks.	Joliet, IL. All waters of the Des Plains River, at mile 288, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°31.522′ N, 088°05.244′ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(20) Glencoe Fourth of July Celebration Fireworks.	Glencoe, IL. All waters of Lake Michigan in the vicinity of Lake Front Park, within the arc of a circle with a 1,000-foot radius from a barge in position 42°08.404′ N, 087°44.930′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(21) Lakeshore Country Club Independence Day Fireworks.	Glencoe, IL. All waters of Lake Michigan within the arc of a circle with a 600-foot radius from a center point fireworks launch site in approximate position 42°09.130′ N, 087°45.530′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(22) Shore Acres Country Club Independence Day Fireworks.	Lake Bluff, IL. All waters of Lake Michigan within the arc of a circle with a 600-foot radius from approximate position 42°17.847′ N, 087°49.837′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(23) Kenosha Independence Day Fireworks.	Kenosha, WI. All waters of Lake Michigan and Kenosha Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 42°35.283′ N, 087°48.450′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(24) Fourthfest of Greater Racine Fireworks.	Racine, WI. All waters of Racine Harbor and Lake Michigan within the arc of a circle with a 900-foot radius from a center point position at 42°44.259′ N, 087°46.635′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(25) Sheboygan Fourth of July Celebration Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°44.917′ N, 087°41.850′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(26) Manitowoc Independence Day Fireworks.	Manitowoc, WI. All waters of Lake Michigan and Manitowoc Harbor, in the vicinity of south breakwater, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°05.395′ N, 087°38.751′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(27) Sturgeon Bay Independence Day Fireworks.	Sturgeon Bay, WI. All waters of Sturgeon Bay, in the vicinity of Sunset Park, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located on a barge in position 44°50.562′ N, 087°23.411′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(28) Fish Creek Independence	Fish Creek, WI. All waters of Green Bay, in the vicinity of Fish Creek Harbor, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located on a barge in position 45°07.867′ N, 087°14.617′ W.	July 2; 9 p.m. to 11 p.m. Rain date: July 2; 9 p.m. to 11 p.m.
(29) Fire over the Fox Fireworks	Green Bay, WI. All waters of the Fox River including the mouth of the East River from the Canadian National Railroad Bridge in approximate position 44°31.467′ N, 088°00.633′ W then southwest to the Main St. Bridge in approximate position 44°31.102′ N, 088°00.963′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(30) Celebrate Americafest Ski Show.	Green Bay, WI. All waters of the Fox River, including the mouth of the East River from the West Walnut Street Bridge in approximate position 44°30.912′ N, 088°01.100′ W, then northeast to an imaginary line running perpendicularly across the river through coordinate 44°31.337′ N, 088°00.640′ W.	July 4 from 2:30 p.m. to 4:30 p.m. Rain date: July 5; 2:30 p.m. to 4:30 p.m.
(31) Marinette Fourth of July Celebration Fireworks.	Marinette, WI. All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900-foot radius from the fireworks launch site in center position 45°6.232′ N, 087°37.757′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(32) Evanston Fourth of July Fireworks.	Evanston, IL. All waters of Lake Michigan, in the vicinity of Centennial Park Beach, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 42°02.933′ N, 087°40.350′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(33) Gary Air and Water Show	Gary, IN. All waters of Lake Michigan bounded by a line drawn from 41°37.217′ N, 087°16.763′ W; then east along the shoreline to 41°37.413′ N, 087°13.822′ W; then north to 41°38.017′ N, 087°13.877′ W; then southwest to 41°37.805′ N, 087°16.767′ W; then south returning to the point of origin.	July 6 thru 10; 8:30 a.m. to 5 p.m.
(34) Annual Trout Festival Fireworks.	Kewaunee, WI. All waters of Kewaunee Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°27.493′ N, 087°29.750′ W.	Friday of the second complete weekend of July; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(35) Michigan City Summerfest Fireworks.	Michigan City, IN. All waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 41°43.700′ N, 086°54.617′ W.	Sunday of the second complete weekend of July; 8:30 p.m. to 10:30 p.m.
(36) Port Washington Fish Day Fireworks.	Port Washington, WI. All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°23.117′ N, 087°51.900′ W.	The third Saturday of July; 9 p.m. to 11 p.m.
(37) Bay View Lions Club South Shore Frolics Fireworks.	Milwaukee, WI. All waters of Lake Michigan and Milwaukee Harbor, in the vicinity of South Shore Yacht Club, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 42°59.658′ N, 087°52.808′ W.	Friday, Saturday, and Sunday of the second or third weekend of July; 9 p.m. to 11 p.m. each day.
(38) Venetian Festival Fireworks	St. Joseph, MI. All waters of Lake Michigan and the St. Joseph River, near the east end of the south pier, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 42°06.800′ N, 086°29.250′ W.	Saturday of the third complete weekend of July; 9 p.m. to 11 p.m.
(39) Joliet Waterway Daze Fireworks.	Joliet, IL. All waters of the Des Plaines River, at mile 287.5, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°31.250′ N, 088°05.283′ W.	Friday and Saturday of the third complete weekend of July; 9 p.m. to 11 p.m. each day.
(40) EAA Airventure	Oshkosh, WI. All waters of Lake Winnebago in the vicinity of Willow Harbor within an area bounded by a line connecting the following coordinates: Beginning at 43°56.822′ N, 088°29.904′ W; then north approximately 5,100 feet to 43°57.653′ N, 088°29.904′ W, then east approximately 2,300 feet to 43°57.653′ N, 088°29.374′ W; then south to shore at 43°56.933′ N, 088°29.374′ W; then southwest along the shoreline to 43°56.822′ N, 088°29.564′ W; then west returning to the point of origin.	The last complete week of July, beginning Monday and ending Sunday; 8 a.m. to 8 p.m. each day.
(41) Saugatuck Venetian Night Fireworks.	Saugatuck, MI. All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 42°39.073′ N, 086°12.285′ W.	The last Saturday of July; 9 p.m. to 11 p.m.
(42) Roma Lodge Italian Festival Fireworks.	Racine, WI. All waters of Lake Michigan and Racine Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 42°44.067′ N, 087°46.333′ W.	Friday and Saturday of the last complete weekend of July; 9 p.m. to 11 p.m.
(43) Chicago Venetian Night Fireworks.	Chicago, IL. All waters of Monroe Harbor and all waters of Lake Michigan bounded by a line drawn from 41°53.050′ N, 087°36.600′ W; then east to 41°53.050′ N, 087°36.350′ W; then south to 41°52.450′ N, 087°36.350′ W; then west to 41°52.450′ N, 087°36.617′ W; then north returning to the point of origin.	Saturday of the last weekend of July; 9 p.m. to 11 p.m.
(44) New Buffalo Business Association Fireworks.	New Buffalo, MI. All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48.153′ N, 086°44.823′ W.	July 3rd or July 5th; 9:30 p.m. to 11:15 p.m.
(45) Start of the Chicago to Mackinac Race.	Chicago, IL. All waters of Lake Michigan in the vicinity of the Chicago Harbor Entrance at Chicago, IL, within a rectangle that is bounded by a line drawn from 41°53.251 N, 087°35.393 W; then east to 41°53.251 N, 087°34.352 W; then south to 41°52.459 N, 087°34.364 W; then west to 41°52.459 N, 087°35.393 W; then north back to the point of origin.	July 22; 2 p.m. to 4:30 p.m. and July 23; 9 a.m. to 3 p.m.
(46) Fireworks at Pier Wisconsin.	Milwaukee, WI. All waters of Milwaukee Harbor, including Lakeshore Inlet and the marina at Pier Wisconsin, within the arc of a circle with a 300-foot radius from the fireworks launch site on Pier Wisconsin located in approximate position 43°02.178′ N, 087°53.625′ W.	Dates and times will be issued by Notice of Enforcement and Broadcast Notice to Mariners.
(47) Gills Rock Fireworks	Gills Rock, WI. All waters of Green Bay near Gills Rock, WI within a 1,000-foot radius of the launch vessel in approximate position at 45°17.470′ N, 087°01.728′ W.	July 4; 8:30 p.m. to 10:30 p.m.
(48) City of Menominee 4th of July Celebration Fireworks.	Menominee, MI. All waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 900-foot radius from a center position at 45°06.417′ N, 087°36.024′ W.	July 4; 9 p.m. to 11 p.m.
(49) Miesfeld's Lakeshore Weekend Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor within an 800-foot radius from the fireworks launch site located at the south pier in approximate position 43°44.917′ N, 087°41.967′ W.	July 29; 9 p.m. to 10:30 p.m. Rain date: July 30; 9 p.m. to 10:30 p.m.
(50) Marinette Logging and Heritage Festival Fireworks.	Marinette, WI. All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 45°06.232′ N, 087°37.757′ W.	July 13; 9 p.m. to 11 p.m.
(51) Summer in the City Water Ski Show.	Green Bay, WI. All waters of the Fox River in Green Bay, WI from the Main Street Bridge in position 44°31.089′ N, 088°00.904′ W then southwest to the Walnut Street Bridge in position 44°30.900′ N, 088°01.091′ W.	Each Wednesday of July through August; 6 p.m. to 6:30 p.m. and 7 p.m. to 7:30 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(52) Holiday Celebration Fireworks.	Kewaunee, WI. All waters of Kewaunee Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°27.481′ N, 087°29.735′ W.	July 4; 8:30 p.m. to 10:30 p.m. Rain date: July 5; 8:30 p.m. to 10:30 p.m.
(53) Independence Day Fireworks.	Wilmette, IL. All waters of Lake Michigan and the North Shore Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located at approximate center position 42°04.674′ N, 087°40.856′ W.	July 3; 8:30 p.m. to 10:15 p.m.
(54) Neenah Fireworks	Neenah, WI. All waters of Lake Winnebago within a 700-foot radius of an approximate launch position at 44°11.126′ N, 088°26.941′ W.	July 3 or 4; 8:45 p.m. to 10:30 p.m.
(55) Milwaukee Air and Water Show.	Milwaukee, WI. All waters of Lake Michigan in the vicinity of McKinley Park and Bradford Beach located within an area that is approximately 5,000 yards by 1,500 yards. The area will be bounded by the points beginning at 43°02.455′ N, 087°52.880′ W; then southeast to 43°02.230′ N, 087°52.061′ W; then northeast to 43°04.451′ N, 087°50.503′ W; then northwest to 43°04.738′ N, 087°51.445′ W; then southwest to 43°02.848′ N, 087°52.772′ W; then returning to the point of origin.	Third weekend in July 8 a.m. to 5 p.m.
(f) August Safety Zones		
(1) Super Boat Grand Prix	Michigan City, IN. All waters of Lake Michigan bounded by a rectangle drawn from 41°43.655′ N, 086°54.550′ W; then northeast to 41°44.808′ N, 086°51.293′ W, then northwest to 41°45.195′ N, 086°51.757′ W; then southwest to 41°44.063′ N, 086°54.873′ W; then southeast returning to the point of origin.	The first Sunday of August; 9 a.m. to 4 p.m. Rain date: The first Saturday of August; 9 a.m. to 4 p.m.
(2) Port Washington Maritime Heritage Festival Fireworks.	Port Washington, WI. All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°23.117′ N, 087°51.900′ W.	Saturday of the last complete weekend of July or the second weekend of August; 9 p.m. to 11 p.m.
(3) Grand Haven Coast Guard Festival Fireworks.	Grand Haven, MI. All waters of the Grand River within the arc of a circle with an 800-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°03.907′ N, 086°14.247′ W.	First weekend of August; 9 p.m. to 11 p.m.
(4) Sturgeon Bay Yacht Club Evening on the Bay Fireworks.	Sturgeon Bay, WI. All waters of Sturgeon Bay within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in approximate position 44°49.297′ N, 087°21.447′ W.	The first Saturday of August; 8:30 p.m. to 10:30 p.m.
(5) Hammond Marina Venetian Night Fireworks.	Hammond, IN. All waters of Hammond Marina and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 41°41.883′ N, 087°30.717′ W.	The first Saturday of August; 9 p.m. to 11 p.m.
(6) North Point Marina Venetian Festival Fireworks.	Winthrop Harbor, IL. All waters of Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 42°28.917′ N, 087°47.933′ W.	The second Saturday of August; 9 p.m. to 11 p.m.
(7) Waterfront Festival Fireworks.	Menominee, MI. All waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1,000-foot radius from a center position at 45°06.447′ N, 087°35.991′ W.	August 3; 9 p.m. to 11 p.m.
(8) Ottawa Riverfest Fireworks	Ottawa, IL. All waters of the Illinois River, at mile 239.7, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°20.483′ N, 088°51.333′ W.	The first Sunday of August; 9 p.m. to 11 p.m.
(9) Chicago Air and Water Show.	Chicago, IL. All waters and adjacent shoreline of Lake Michigan and Chicago Harbor bounded by a line drawn from 41°55.900′ N at the shoreline, then east to 41°55.900′ N, 087°37.200′ W, then southeast to 41°54.000′ N, 087°36.000′ W, then southwestward to the northeast corner of the Jardine Water Filtration Plant, then due west to the shore.	August 18 thru 21; 8:30 a.m. to 5 p.m.
(10) Pentwater Homecoming Fireworks.	Pentwater, MI. All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°46.942′ N, 086°26.633′ W.	Saturday following the second Thursday of August; 9 p.m. to 11 p.m.
(11) Chicago Match Cup Race	Chicago, IL. All waters of Chicago Harbor in the vicinity of Navy Pier and the Chicago Harbor break wall bounded by coordinates beginning at 41°53.617′ N, 087°35.433′ W; then south to 41°53.400′ N, 087°35.433′ W; then west to 41°53.400′ N, 087°35.917′ W; then north to 41°53.617′ N, 087°35.917′ W; then back to point of origin.	August 6 thru 11; 8 a.m. to 8 p.m.
(12) New Buffalo Ship and Shore Fireworks.	New Buffalo, MI. All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48.150′ N, 086°44.817′ W.	August 10; 9:30 p.m. to 11:15 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(13) Operations at Marinette Marine.	Marinette, WI. All waters of the Menominee River in the vicinity of Marinette Marine Corporation, from the Bridge Street Bridge located in position 45°06.188′ N, 087°37.583′ W, then approximately .95 NM southeast to a line crossing the river perpendicularly passing through positions 45°05.881′ N, 087°36.281′ W and 45°05.725′ N, 087°36.385′ W.	This zone will be enforced in the case of hazardous cargo operations or vessel launch by issue of Notice of Enforcement and Marine Broadcast.
(14) Fireworks Display	Winnetka, IL. All waters of Lake Michigan within the arc of a circle with a 900-foot radius from a center point barge located in approximate position 42°06.402′ N, 087°43.115′ W.	Third Saturday of August; 9:15 p.m. to 10:30 p.m.
(15) Algoma Shanty Days Fireworks.	Algoma, WI. All waters of Lake Michigan and Algoma Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in a center position of 44°36.400′ N, 087°25.900′ W.	Sunday of the second complete weekend of August; 9 p.m. to 11 p.m.
(16) Venetian Night Parade	Chicago, IL. All waters of Lake Michigan, in the vicinity of Navy Pier, bounded by coordinates beginning at 41°53.771′ N, 087°35.815′ W; and then south to 41°53.367′ N, 087°35.814′ W; then west to 41°53.363′ N, 087°36.587′ W; then north to 41°53.770′ N, 087°36.601′ W; then east back to the point of origin.	Last Saturday of August; 6:30 p.m. to 9:30 p.m.
(17) Milwaukee Venetian Boat Parade.	Milwaukee, WI. All waters of Lake Michigan within Milwaukee Bay from McKinley Marina at 43°02.066′ N, 087°52.966′ W; then along Veterans Park shoreline to 43°02.483′ N, 087°53.683; then to the Milwaukee Art Museum at 043°02.366′ N.	Every third Saturday of August; 8 p.m. to 11 p.m.
(18) Milwaukee Open Water Swim.	Milwaukee, WI. All waters on Lake Michigan in the Milwaukee River, between the Milwaukee River and Kinnickinnic River convergence, starting at 43°1′31.908″ N, 87°54′10.900″ W, going North under the I–794 overpass to 43°2′9.2184″ N, 87°54′35.8128″ W, and returning to the starting point.	The second Saturday of August; 6 a.m. to 9 a.m.
(g) September Safety Zones		
(1) ISAF Nations Cup Grand Final Fireworks Display.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier in Sheboygan Wisconsin, within a 500-foot radius from the fireworks launch site located on land in position 43°44.917′ N, 087°41.850′ W.	September 13; 7:45 p.m. to 8:45 p.m.
(2) Sister Bay Marinafest Ski Show.	Sister Bay, WI. All waters of Sister Bay within an 800-foot radius of position 45°11.585′ N, 087°07.392′ W.	September 3; 1 p.m. to 3:15 p.m.
(3) Sister Bay Marinafest Fireworks.	Sister Bay, WI. All waters of Sister Bay within an 800-foot radius of the launch vessel in approximate position 45°11.585′ N, 087°07.392′ W.	September 3 and 4; 8:15 p.m. to 10 p.m.
(4) Harborfest Boat Parade	Milwaukee, WI. All waters of Lake Michigan within Milwaukee River and Kinnickinnic River including the Municipal Mooring Basin beginning at Milwaukee River at 43°3.284′ N, 087°54.2673′ W then south on the Milwaukee River to 43°1.524′ N, 087°54.173′ W, then south on the Kinnickinnic River and ending in the Municipal Mooring Basin at 43°0.8291′ N, 087°54.0751′ W.	The second Saturday of September; 10 a.m. to 2 p.m.
(h) October Safety Zones		
(1) Corn Festival Fireworks	Morris, IL. All waters of the Illinois River within a 560-foot radius from approximate launch position at 41°21.173′ N, 088°25.101′ W.	The first Saturday of October; 8:15 p.m. to 9:15 p.m.
(i) November Safety Zones		
(1) Downtown Milwaukee Fireworks.	Milwaukee, WI. All waters of the Milwaukee River in the vicinity of the State Street Bridge within the arc of a circle with a 300-foot radius from a center point fireworks launch site in approximate position 43°02.559′ N, 087°54.749′ W.	The third Thursday of November; 6 p.m. to 8 p.m.
(2) Magnificent Mile Fireworks Display.	Chicago, IL. All waters and adjacent shoreline of the Chicago River bounded by the arc of the circle with a 210-foot radius from the fireworks launch site with its center in approximate position of 41°53.350′ N, 087°37.400′ W.	The third weekend in November; sunset to termination of display.
(j) December Safety Zones		
(1) New Year's Eve Fireworks ..	Chicago, IL. All waters of Monroe Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located on a barge in approximate position 41°52.683′ N, 087°36.617′ W.	December 31; 11 p.m. to January 1 at 1 a.m.

[1] All coordinates listed in Table 165.929 reference Datum NAD 1983.
[2] As noted in paragraph (a)(3) of this section, the enforcement dates and times for each of the listed safety zones are subject to change.

Dated: June 20, 2018.

Thomas J. Stuhlreyer,

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

[FR Doc. 2018–15052 Filed 7–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0647]

RIN 1625–AA00

Safety Zone; Willamette River, Wilsonville, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Willamette River within a designated area adjacent to the Wilsonville Wastewater Treatment Plant. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards while the plant outfall is being repaired. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Columbia River.

DATES: This rule is effective without actual notice from July 13, 2018 through August 31, 2018. For the purposes of enforcement, actual notice will be used from July 9, 2018 through July 13, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0647 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Laura Springer, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, email *msupdxwwm@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable to complete a notice-and-comment rulemaking by the start date of the construction project, July 9, 2018.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because Coast Guard needs to have a safety zone regulation in place by July 9, 2018, to respond to the potential safety hazards associated with the repair work to the outfall and associated vessels and machinery.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with repair work to the Wilsonville Wastewater Treatment Plant outfall starting July 9, 2018, will be a safety concern for anyone within a designated area surrounding the outfall repair vessels and machinery. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the outfall is being repaired and maintained.

IV. Discussion of the Rule

This rule establishes a safety zone from July 9, 2018 through August 31, 2018. If the construction project is completed before August 31, 2018, the Captain of the Port, Columbia River will issue a general permission to enter the zone and a separate rule to terminate the effective period of this rule. This safety zone covers all navigable waters of the Willamette River surrounding the outfall repair vessels and machinery located in Wilsonville, OR, approximately 250 feet upstream and downstream from the work area adjacent to the Wilsonville Wastewater Treatment Plant. Specific coordinates area listed in the regulatory text at the bottom of the document. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the outfall is being repaired. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Willamette River in Wilsonville, OR for less than two months. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0647 to read as follows:

§ 165.T13–0647 Safety Zone; Willamette River, Wilsonville, OR.

(a) *Location.* The following area is designated safety zone: All navigable waters of the Willamette River surrounding the Wilsonville Wastewater Treatment Plant outfall repair vessels and machinery located in Wilsonville, OR, encompassed by a line connecting these points: 45°17′33.1764″ N, 122°46′17.3886″ W; 45°17′31.1958″ N, 122°46′18.1092″ W; 45°17′32.1504″ N, 122°46′8.9544″ W; and 45° 17′ 30.1956″ N, 122° 46′ 8.8746″ W.

(b) *Regulations.* In accordance with the general regulations in part 165, subpart C, of this chapter, no person may enter or remain in the safety zone created in this section or bring, cause to be brought, or allow to remain in the safety zone created in this section any vehicle, vessel, or object unless authorized by the Captain of the Port or his designated representative.

(c) *Enforcement period.* This safety zone is in effect from July 9, 2018, until August 31, 2018. It will be subject to enforcement this entire period unless the COTP, Columbia River determines it is no longer needed. The Coast Guard will inform mariners of any change to this period of enforcement via Broadcast Notice to Mariners.

(d) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer may enforce the rules in this section.

Dated: July 6, 2018.

D.F. Berliner,

Captain, U.S. Coast Guard, Acting Captain of the Port, Sector Columbia River.

[FR Doc. 2018–14983 Filed 7–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AP27

Schedule for Rating Disabilities: Skin

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: On August 12, 2016, VA published in the **Federal Register** the

proposed rule for Schedule for Rating Disabilities: Skin. VA received multiple responses during the 60-day comment period. This final rule implements the Secretary's proposed rule with limited revisions.

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

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

SUPPLEMENTARY INFORMATION:

Applicability

In reviewing the proposed rule to prepare for publication of the final rule, VA determined that the statements regarding the applicability date in the proposed rule should be revised in order to avoid potential misapplication of this final rule. In the proposed rule, VA stated that the provisions of the new regulations would apply to all applications for benefits received by VA or that are pending before the agency of original jurisdiction on or after the effective date of the final rule. VA has indeed structured some regulations this way in the past, due to the dynamics of the regulation in question. See ''Schedule for Rating Disabilities—Mental Disorders and Definition of Psychosis for Certain VA Purposes,'' 80 FR 14308 (March 19, 2015). However, for this final rule, VA's intent is that the claims pending prior to the effective date will be considered under both old and new rating criteria, and whatever criteria is more favorable to the veteran will be applied. For applications filed on or after the effective date, only the new criteria will be applied.

Comments Received

Ten different commenters (including two Veterans Service Organizations) submitted comments in response to the proposed rule. VA will address their comments within the topics below.

Comments Warranting Revisions to the Proposed Rule

VA has made five changes to the proposed rule based on comments received. First, two commenters noted that additional guidance regarding coexistent skin conditions and pyramiding might be helpful. VA agrees and has added a clarifying note at the start of § 4.118(b) which states: ''Two or more skin conditions may be combined in accordance with § 4.25 only if separate areas of skin are involved. If two or more skin conditions involve the same area of skin, then only the highest evaluation shall be used.''

Second, two commenters felt that the proposed language ''per 12-month period'' in multiple diagnostic codes (DCs) was unclear about which 12-month period would be used for evaluation purposes. VA concurs and has revised the criteria to specify that ''over the past 12-month period'' is the applicable time frame for these DCs.

Third, a commenter asserted that the evaluation criteria for eczema (DC 7806) should consider itching. Eczema (also known as atopic dermatitis) is often called ''the itch that rashes.'' The intense itching (without lesions at first) leads to the scratching, resulting in the characteristic lesions. See ''Dermatology'' 210 (Jean Bolognia et al. eds., 3d ed. 2012). Thus, itching is part of the pathology in all eczema ratings, even though only involved areas (lesions, scars) are considered for compensation purposes. Based on this comment, VA has clarified that it is the area of lesions, not the itching, that forms the basis of a rating, by revising in this final rule each criteria level in the General Rating Formula for the Skin to include the phrase ''Characteristic lesions involving. . . .''

Fourth, a commenter expressed concern that a long-lasting urticarial attack with no breaks would qualify for a 10% rating, rather than a 60% rating under DC 7825 (Urticaria). VA understands this concern and has revised the criteria in this final rule to be based on the condition's response to required treatment. First, VA has retitled the diagnostic code, ''Chronic urticaria'' and added a definition for chronic urticaria, which is ''continuous urticaria at least twice per week, off treatment, for a period of six weeks or more.'' A subset of patients has chronic urticaria that is unresponsive to first line treatment (antihistamines). If a patient is also unresponsive to second line treatment (*e.g.,* epinephrine, corticosteroids, aminosalicylates), it is considered refractory chronic urticaria. It was, and continues to be, VA's intent to have evaluation levels that clearly and distinctly reflect increasing disability. To that end, VA has revised the evaluation criteria to more clearly establish three distinct levels of disability: (1) Chronic urticaria requiring first line treatment for control, (2) chronic urticaria requiring second line treatment for control, and (3) chronic urticaria which is refractory to both first line and second line treatment. A non-exhaustive list of examples for first line, second line, and third line treatment is given with each evaluation level. This should ensure, commensurate with the commenter's concern, that more severe and less controllable urticarial attacks receive higher ratings.

Fifth, a commenter asked if active psoriatic arthritis would be entitled to a 60% evaluation under DC 7816 (Psoriasis) and a 100% evaluation under DC 5009 (Arthritis, other types), allowing for special monthly compensation at the ''s'' level, *i.e.,* housebound. To clarify that separate ratings are permissible, VA has added the term ''separately'' to the note in DC 7816. Special monthly compensation would be warranted under 38 CFR 3.350(i)(1), if the psoriasis and the arthritis constitute ''separate and distinct'' disabilities ''involving different anatomical segments or bodily systems.''

Beyond the changes made in response to comments, this final rule contains several technical and non-substantive amendments to the proposed rule.

Comments Related to Systemic and Topical Therapy and *Johnson* v. *McDonald*

A total of six comments either disagreed with or questioned VA's proposal for defining topical and systemic therapy in light of the *Johnson* v. *McDonald* decision of the U.S. Court of Appeals for Veterans Claims (CAVC) in 2016. That decision found that any use of a topically-applied corticosteroid constituted ''systemic therapy'' pursuant to diagnostic code 7806. However, in July 2017, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) reversed the CAVC's interpretation. *See Johnson* v. *Shulkin,* 862 F.3d 1351 (Fed. Cir. 2017). The Federal Circuit held that the CAVC was incorrect to ''read DC 7806 as unambiguously elevating any form of corticosteroid treatment, including any degree of *topical* corticosteroid treatment, to the level of 'systemic therapy.''' *Id.* at 1354.

Although VA's proposal for systemic and topical therapy was in part a reaction to the CAVC's now-reversed *Johnson* decision, its aim was also to provide clarity for raters adjudicating these claims. VA proposed to clarify that treatment administered through the skin is ''topical therapy,'' while treatment administered through any route other than the skin (orally, injection, suppository, intranasally) is ''systemic therapy.'' This final rule adopts VA's proposal. One theme of the comments was that topically-applied medications could be considered systemic therapy or could have systemic effects. In this regard, one commenter questioned why VA does not provide

more information as to the potential systemic effects of topically-applied corticosteroids, and another asserted that topically-applied medications can cause heightened effects in elderly populations.

As noted in the supplementary information to the proposed rule, however, it creates a dramatic disconnect to rate a medication applied to the skin—affecting only the localized area to which it is applied—as ''systemic therapy'' that affects the entire body. Rather, the prevailing medical understanding is that ''topical'' therapy ''pertain[s] to a particular surface area . . . and affect[s] only the area to which it is applied,'' while ''systemic'' therapy ''pertain[s] to or affect[s] the body as a whole.'' *Dorland's Illustrated Medical Dictionary* 1865, 1940 (32d ed. 2012). VA's proposal, adopted as a final rule here, sets clear guidelines in accordance with this understanding: creams applied to the skin are ''topical therapy,'' and treatments applied in a way (orally, intranasally, etc.) that the medication circulates throughout the entire body and suppresses the immune system as a whole are ''systemic therapy.''

VA also acknowledged in the supplementary information that some medications applied to the skin, if administered on a large enough scale, could have a systemic effect; but in those situations the veteran can obtain a higher rating due to the percentage of the body affected. For example, a veteran who is required to apply a cream on his entire body is not subject to a noncompensable rating; even though he is not taking systemic therapy, he would obtain a compensable rating under this final rule based on the percentage of his body affected by the condition.

Overall, the aim of this rule is to clarify the terms used in the rating schedule, in order to distinguish between a condition that affects a large portion of the body or requires therapy affecting the entire body, and a condition that is localized and involves localized treatment. The former generally impairs earning capacity more than the latter. To the extent that topically-applied medications might affect different people (such as the elderly) in different ways, the rating schedule is based on the average impairment in earning capacity. 38 U.S.C. 1155. If there is an exceptional or unusual effect of applying corticosteroid cream, a claimant can submit argument for an extraschedular rating. 38 CFR 3.321(b)(1). VA can also raise the issue of an extraschedular rating on its own when the evidence of record suggests such consideration is appropriate. This is why VA cannot provide more specific information on the potential systemic effects of topically-applied corticosteroids: the potency of the medication, the amount of skin affected, and the strength of the condition, will vary from veteran to veteran.

One comment on this topic advocated that VA should automatically assume that topical corticosteroids have systemic effects based on the benefit-of-the-doubt standard. The benefit-of-the-doubt rule, however, applies to the adjudication of claims, not formulation of the rating schedule. 38 U.S.C. 5107(b). This commenter further stated that certain skin conditions cannot be cured, but only treated, and that the burden of applying medication with little effect is not taken into consideration in the proposed rule. To the contrary, frequency in application is a factor in the schedule for rating systemic therapy, but it remains VA's assessment that applying cream on the skin of less than 5% of the body reflects a condition that does not impair earning capacity at a compensable level.

Two additional commenters viewed the proposed rule as an attempt to circumvent or undermine the CAVC's ruling. These comments are obviated by the fact that the CAVC's ruling has been reversed. *See Johnson* v. *Shulkin, supra.* But even if it had not been reversed, it is well established that a judicial interpretation of regulatory language does not preclude an agency from revising that language (for prospective application) pursuant to its rulemaking authority. *See Nat'l Org. of Veterans Advocates Inc.,* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1373 (Fed. Cir. 2001) (argument that CAVC holdings prevent revision of regulations ''seriously misunderstand[s] . . . the nature of the judicial function.''). VA may clarify the rating schedule to accord with its original intent in promulgating these diagnostic codes. One of these commenters added that skin conditions can cause real pain and embarrassment and should not be devalued. We understand this concern, but the objective criteria of (1) percentage of body affected and (2) mode and frequency of therapy are better suited in determining average impairment of earning capacity than an individual's level of embarrassment.

Another commenter questioned the consistency of the proposed definition for systemic therapy with DC 6602 and the overall rating schedule. This rule is consistent with DC 6602—which defines ''systemic'' corticosteroids as ''oral or parenteral,'' *i.e.,* the corticosteroids that circulate throughout the body and affect the entire immune system. We are unaware, and the commenter does not provide further information, as to how the rule is inconsistent with other portions of the rating schedule.

Finally, two commenters asserted that VA is emphasizing topical treatment in order to save money at the expense of quality care. This rule, however, should not affect how doctors treat conditions; rather, its aim is to clarify terms for raters adjudicating claims. We are not aware of any VA instruction that its doctors prescribe topical treatment to save money when it is not best for the patient.

Comments Recommending Revisions to Evaluation Criteria

A number of comments recommended revisions to criteria within the proposed rule. VA received two comments regarding DC 7806, Dermatitis or eczema. One comment has been addressed above and prompted a revision to this final rule. The other comment requested that VA include biopsy results in the evaluation criteria, because eczema can occur sporadically over the year and a doctor might only take account of what is observable during the examination. VA declines to make changes based upon this comment. The General Rating Formula for the Skin employs two routes to compensation, based on either the extent of skin involvement or the intensity of treatment. If the condition requires constant or near-constant systemic therapy, then, regardless of the extent of skin involvement at the time of examination, the veteran would be entitled to the highest evaluation. It is unclear how criteria based on biopsy results would be more favorable to veterans than this scheme. Moreover, obtaining a biopsy for every ratable skin condition is not necessarily appropriate, and a service-connected veteran is free to request an additional examination if a skin disorder becomes more extensive than what was observed during a given examination. VA received two comments concerning DC 7817, Erythroderma. One comment asked why the ''treatment failure'' language was incorporated into the proposed criteria when the term ''uncontrolled'' in the evaluation criteria for diabetes (DC 7913) ''was found to be problematic.'' VA incorporated language regarding ''treatment failure'' here because it is easily measured and can be applied by rating officials with consistent results. Treatment failure is a common occurrence with erythroderma, and we see no connection to the term ''uncontrolled'' in a diagnostic code for

a different condition (diabetes) that was revised over two decades ago. The second comment asked whether VA would use the new DC 7817 criteria for pending appeals. As explained above, VA will only apply the new criteria to pending appeals if it is advantageous to the appellant.

One comment addressed DC 7824, Diseases of keratinization. The commenter stated that we would be underrating diseases of keratinization by moving them to the General Rating Formula for the Skin, where it would not account for systemic manifestations. While VA concurs that the term ''systemic manifestations'' is not employed within the General Rating Formula for the Skin, this change does not adversely affect the veteran. Under the version of DC 7824 that is being revised by this final rule, a veteran needs both ''systemic manifestations'' *and* ''systemic medication'' for a 30% or 60% rating if there is not generalized cutaneous involvement. Now, under this final rule, a veteran with a disease of keratinization can receive such a rating for taking ''systemic therapy'' even without any systemic manifestations. This change simplifies the evaluation for veterans with diseases of keratinization.

Three comments requested changes to DC 7825, Urticaria, and DC 7826, Vasculitis, primary cutaneous. One comment has been addressed above, resulting in a revision to the final rule. Another comment asserted that the term ''documented'' in DC 7826 should not require evidence of a visit to a physician, clinic, or hospital, because those already on medication may not seek medical attention if they are used to managing their condition. That commenter requested that VA clarify that lay evidence fulfills the ''documented'' standard.

VA understands that lay evidence must be considered when VA adjudicators evaluate a claim, and nothing in this final rule is meant to undercut that principle. On the other hand, virtually the entire VA ratings schedule requires some kind of documentation or objective testing in order to gauge the severity of a disability. In that vein, this final rule requires that vasculitic episodes be ''documented'' for a higher rating. Though the rule does not state that the only acceptable documentation is a doctor's contemporaneous confirmation, a veteran whose disease is not under control and continues to prompt episodes would most likely see a provider multiple times within a 12-month period.

The third commenter found it problematic that the criteria would allow mild, frequent attacks to be rated higher than more severe and longer attacks. This commenter also stated that a reliance on treatment modality is problematic, because biologics are impossible for veterans with weakened immune systems and others are prescribed unevenly.

VA's change to DC 7825 in this final rule obviates this comment, as the urticaria criteria are no longer reliant on the number of attacks. VA also disagrees that basing evaluation criteria on treatment modality is problematic. Each line of treatment for chronic urticaria (first line, second line, or third line) has more than one treatment option available, so the fact that one particular option is poorly tolerated does not imply that veterans will be inaccurately rated.

VA received three comments involving areas of affected skin, including requests to add forearms and lower legs as exposed areas. One of the commenters explained that, in summer temperatures, veterans cannot be expected to work with their forearms and lower legs covered. A second stated that there is no equitable definition of exposed skin, and doctors are commonly recommending more sunlight for psoriasis. The third suggested the work group identify which technique for measuring the area of involved skin would be best suited for evaluation purposes.

VA will not make any revisions to the final rule based on the above comments, as VA is unaware of any occupations that *require* exposed forearms or lower legs, *i.e.,* mandate such exposure as part of the job. Furthermore, dermatologists (who are the subject matter experts when it comes to conditions affecting the skin) have already decided how to calculate involved skin area and what constitutes a routinely exposed area; and the established medical practice in that field is to consider only the head, neck, and hands consistently and truly exposed, as long-sleeved shirts and full-length pants have customarily been considered part of the typical clothing used in occupational settings. There is no justification, medical or otherwise, to change from established practice. Lastly, a treatment recommendation to get more sunlight for psoriatic skin neither precludes nor interferes with employment, and thus should have no bearing on the rating criteria.

VA received two comments about alopecia, specifically DC 7830, Scarring alopecia, and DC 7831, Alopecia areata. One comment asserted that DC 7831 should provide a compensable rating for loss of scalp hair, since it is an exposed area. The other comment recommended a higher evaluation under DC 7830 for women, because this condition is more socially debilitating for women and, as a result, women incur a higher financial responsibility to deal with the condition. VA is sympathetic to these issues and understands the social aspects of hair loss. Nevertheless, the rating schedule is based on the loss of wage-earning capacity and no reliable evidence establishes significant occupational impairment with loss of body hair, or that occupational impairment is greater in women than in men with scarring alopecia. As such, VA will not revise the final rule based on these two comments.

As to the final comments, one requested a note adding consideration of the effect of disfigurement on the veteran's mental health. VA acknowledges that secondary service connection under 38 CFR 3.310 may be possible for a mental health disability that is found to be causally related to a service-connected skin disability. However, we believe this is clear from 38 CFR 3.310, such that a note is not necessary here. The second questioned why evaluation criteria do not comment on conditions caused by the failure of the immune system, such as lymphedema, which affect the skin and may require compression therapy. Although lymphedema may be evaluated under diagnostic codes pertaining to the skin if it disfigures and/or scars the skin, *see* 38 CFR 4.116, DC 7627–7628 (evaluating lymphedema ''under the appropriate diagnostic code(s) within the appropriate body system''), it is ultimately a lymphatic condition, not a skin condition, such that its consideration would be outside the scope of both the proposed and final rules for the skin.

Comments Regarding Interplay of Regulations

VA received a number of comments seeking clarification or guidance on the interplay between section 4.118 and other regulations.

Three comments implicated the relationship between part 3 regulations and section 4.118. One comment regarding multiple ratings for psoriatic arthritis has been addressed above, resulting in a revision in this final rule. Another comment asked if VA would service connect disabilities to other body systems resulting from the treatment of skin conditions. Generally, yes, VA may grant secondary service connection as long as the standards found in 38 CFR 3.310 are met.

A third comment questioned the consistency between the definition of chronic in 38 CFR 3.380 (diseases of allergic etiology) and the definition in DCs 7825 and 7826. No inconsistencies exist, as 38 CFR 3.380 addresses service connection, while DCs 7825 and 7826 address evaluation, and none of these provisions address the term ''chronic.'' This commenter continued by stating: ''Confusion regarding 'service connection' and evaluation criteria applies to the 'continuous use' and 'disabling effects of medication' to suggest that VA will concede secondary service connection [38 CFR 3.310] in cases with facts similar to those described (or are these functional impairments simply acute and transitory or will this be pyramiding?).'' VA finds this portion of the comment unclear and is unable to respond.

The remaining comments covered the relationship between section 4.118 and other part 4 regulations. One commenter assumed that combined ratings would result from DCs 7801 and 7802. To the contrary, the General Rating Formula for the Skin instructs the rater to use the relevant criteria *or* rate under DCs 7800, 7801, 7802, 7804, or 7805. Hence, the guidance precludes combining of disability criteria in this regard. Another comment asked about the difference between the six zones of the body in 38 CFR 4.118 and the five anatomic zones of 38 CFR 4.55(b). VA intends that the six zones in this final rule are specific for the skin and not intended to reflect a global standard to be applied for all body systems. Yet another comment asked about the difference between ''anogenital region'' (noted in DC 7829) and ''pruritus ani'' (DC 7337), and whether these ratings may be combined. ''Anogenital region'' is an anatomic area that may be affected by chloracne (DC 7829), whereas ''pruritus ani'' is an itching near the rectum. VA may separately evaluate these conditions and combine them in accordance with 38 CFR 4.25.

Still another assertion involving DC 7829 and other part 4 regulations was that ''[i]ntertriginous areas and limitation of function are problematic. The axilla of the arm and the range of motion of the shoulder are similar to the facts in [*Cullen* v. *Shinseki,* 24 Vet. App. 74 (2010)].'' We discern no problem in the language of DC 7829 or conflict with *Cullen.* VA may separately evaluate disability related to acne (skin) and a disability affecting the shoulder (musculoskeletal). One last question presented by this commenter asked if the reference to ''skin folds of the breasts'' in DC 7829 could be used to justify a 20 percent evaluation by analogy under DC 7628, benign neoplasms. Because DC 7628 permits rating benign neoplasms as a skin condition, such a rating by analogy may be possible.

Comments Recommending Additional Diagnostic Codes

VA received four comments recommending additional diagnostic codes: One comment recommending additional codes generally to reduce analogous coding, and three other comments recommending codes for lymphedema (and/or skin conditions caused by immune system failure), pressure ulcers, actinic keratoses, and rosacea. VA finds these additions unnecessary. As noted above, VA may evaluate lymphedema which disfigures and/or scars the skin under DCs 7801, 7802, 7804, or 7805. Furthermore, pressure ulcers normally are not considered a skin condition warranting compensation. Actinic keratoses and rosacea are not occupationally significant. VA is willing to consider adding diagnostic codes for skin conditions that are occupationally significant.

Comment Outside the Scope of the Proposed Rule

VA received a comment asking why the Food and Drug Administration could not find another manufacturer for EpiPen®. The EpiPen question is well outside the scope of this rule, so VA will not respond to it.

Comment Regarding Public Access

The last issue raised by a commenter dealt with public access to the materials developed by the Skin Disorders Work Group after a public forum in New York City in January 2012 but before the drafting of the proposed rule. Specifically, the commenter requested that the information developed and shared by the work group should be publicly available.

In the **SUPPLEMENTARY INFORMATION** to the proposed rule, VA included information about the Skin Disorders Work Group. *See* 81 FR 53353, 53353 (Aug. 12, 2016). As noted, the stated goals of the work group included improving and updating VA Schedule for Rating Disabilities (VASRD) criteria, and inviting public participation; this process included presentations on areas of expertise and interaction with the public at a public forum in January 2012. (A transcript of this public forum and all related materials are on file and available for public inspection in the Office of Regulation and Policy Management. Contact information for that office is noted in the **ADDRESSES** section of the proposed rule. *See* 81 FR at 53358.) The work group served as an initial call to various subject matter experts and Veterans Service Organizations to provide a preliminary review of the VASRD from both internal and external stakeholders.

VA emphasizes that this review of the VASRD was not an opportunity for work group members to participate in the deliberative rulemaking process; the work group discussed the general topic of the VASRD body system and provided feedback on the areas that were subject to advances since the last major revision of the body system. To this end, where changes to the scientific and/or medical nature of a given condition were made in the proposed rule, VA cited the published, publicly-available source for these changes. Not only did this provide the public with access to the source for a given proposed change, it also confirmed that VA relied upon peer-reviewed scientific and medical information to support a given change. While similar information may have been presented by a work group member, VA relied upon the published document(s) as the primary source for a change and included such sources in the administrative record for this rulemaking. VA did not propose scientific and/or medical changes to the VASRD in the absence of publicly available, peer-reviewed sources.

Accordingly, references in the proposed rule to the work group serve as an explanatory background and introduction to the VASRD rewrite project; the changes made by this rulemaking are not a reflection of the work group or any work group member. All changes based on scientific and/or medical information are a reflection of cited, published materials which are available to the public. VA has made deliberative materials available (via citation in the rulemaking) and is providing access to materials from the public forum available for public inspection at the Office of Regulation Policy and Management.

Effective Date of Final Rule

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

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), 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 Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This rule would directly affect only individuals and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

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

Paperwork Reduction Act

This final rule contains provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). Specifically, this final rule is associated with information collections related to the application for disability benefits (VA Form 21–526EZ), as well as Disability Benefits Questionnaires (DBQs), which enable a claimant to gather the necessary information from his or her treating physician as to the current symptoms and severity of a disability (VA Forms 21–0960F–1, Scars/Disfigurement DBQ, and 21–0960F–2, Skin Diseases DBQ). These information collections are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 2900–0749 (for the application) and 2900–0776 (for the DBQs). VA has reviewed the impact of this final rule on these information collections and determined that the incremental information collection burden for the first year of this rule is $8,828.20.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.109, Veterans Compensation for Service-Connected Disability.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to submit it to the Office of the Federal Register for electronic publication 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 June 28, 2018, for publication.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Dated: June 28, 2018.

Jeffrey M. Martin,

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

For the reasons set out in the preamble, the Department of Veterans Affairs amends 38 CFR part 4, subpart B, as follows:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

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

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

■ 2. Amend § 4.118 as follows:

■ a. Remove the introductory text;

■ b. Add paragraphs (a) and (b) before the table;

■ c. Revise the entries for diagnostic codes 7801, 7802, and 7805;

■ d. Add an entry for ''GENERAL RATING FORMULA FOR THE SKIN FOR DCs 7806, 7809, 7813–7816, 7820–7822, AND 7824'', to appear after the entry for diagnostic code 7805; and

■ e. Revise the entries for diagnostic codes 7806, 7809, 7813, 7815–7817, 7820–7822, and 7824–7829.

The revisions and additions read as follows:

§ 4.118 Schedule of ratings–skin.

(a) For the purposes of this section, systemic therapy is treatment that is administered through any route (orally, injection, suppository, intranasally) other than the skin, and topical therapy is treatment that is administered through the skin.

(b) Two or more skin conditions may be combined in accordance with § 4.25 only if separate areas of skin are involved. If two or more skin conditions involve the same area of skin, then only the highest evaluation shall be used.

	Rating
* * * * * * *	
7801 Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are associated with underlying soft tissue damage:	
Area or areas of 144 square inches (929 sq. cm.) or greater	40
Area or areas of at least 72 square inches (465 sq. cm.) but less than 144 square inches (929 sq. cm.)	30
Area or areas of at least 12 square inches (77 sq. cm.) but less than 72 square inches (465 sq. cm.)	20
Area or areas of at least 6 square inches (39 sq. cm.) but less than 12 square inches (77 sq. cm.)	10
Note (1): For the purposes of DCs 7801 and 7802, the six (6) zones of the body are defined as each extremity, anterior trunk, and posterior trunk. The midaxillary line divides the anterior trunk from the posterior trunk.	
Note (2): A separate evaluation may be assigned for each affected zone of the body under this diagnostic code if there are multiple scars, or a single scar, affecting multiple zones of the body. Combine the separate evaluations under § 4.25. Alternatively, if a higher evaluation would result from adding the areas affected from multiple zones of the body, a single evaluation may also be assigned under this diagnostic code.	
7802 Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are not associated with underlying soft tissue damage:	
Area or areas of 144 square inches (929 sq. cm.) or greater	10
Note (1): For the purposes of DCs 7801 and 7802, the six (6) zones of the body are defined as each extremity, anterior trunk, and posterior trunk. The midaxillary line divides the anterior trunk from the posterior trunk.	
Note (2): A separate evaluation may be assigned for each affected zone of the body under this diagnostic code if there are multiple scars, or a single scar, affecting multiple zones of the body. Combine the separate evaluations under § 4.25. Alternatively, if a higher evaluation would result from adding the areas affected from multiple zones of the body, a single evaluation may also be assigned under this diagnostic code.	
* * * * * * *	
7805 Scars, other; and other effects of scars evaluated under diagnostic codes 7800, 7801, 7802, or 7804:	
Evaluate any disabling effect(s) not considered in a rating provided under diagnostic codes 7800–04 under an appropriate diagnostic code.	
General Rating Formula For The Skin For DCs 7806, 7809, 7813–7816, 7820–7822, and 7824:	
At least one of the following	60
Characteristic lesions involving more than 40 percent of the entire body or more than 40 percent of exposed areas affected; or	
Constant or near-constant systemic therapy including, but not limited to, corticosteroids, phototherapy, retinoids, biologics, photochemotherapy, psoralen with long-wave ultraviolet-A light (PUVA), or other immunosuppressive drugs required over the past 12-month period	60
At least one of the following	30
Characteristic lesions involving more than 20 to 40 percent of the entire body or 20 to 40 percent of exposed areas affected; or	
Systemic therapy including, but not limited to, corticosteroids, phototherapy, retinoids, biologics, photochemotherapy, PUVA, or other immunosuppressive drugs required for a total duration of 6 weeks or more, but not constantly, over the past 12-month period.	
At least one of the following	10
Characteristic lesions involving at least 5 percent, but less than 20 percent, of the entire body affected; or	
At least 5 percent, but less than 20 percent, of exposed areas affected; or	
Intermittent systemic therapy including, but not limited to, corticosteroids, phototherapy, retinoids, biologics, photochemotherapy, PUVA, or other immunosuppressive drugs required for a total duration of less than 6 weeks over the past 12-month period.	
No more than topical therapy required over the past 12-month period and at least one of the following	0
Characteristic lesions involving less than 5 percent of the entire body affected; or	
Characteristic lesions involving less than 5 percent of exposed areas affected.	
Or rate as disfigurement of the head, face, or neck (DC 7800) or scars (DCs 7801, 7802, 7804, or 7805), depending upon the predominant disability. This rating instruction does not apply to DC 7824.	
7806 Dermatitis or eczema.	
Evaluate under the General Rating Formula for the Skin.	
* * * * * * *	
7809 Discoid lupus erythematosus.	
Evaluate under the General Rating Formula for the Skin.	
Note: Do not combine with ratings under DC 6350.	
* * * * * * *	
7813 Dermatophytosis (ringworm: Of body, tinea corporis; of head, tinea capitis; of feet, tinea pedis; of beard area, tinea barbae; of nails, tinea unguium (onychomycosis); of inguinal area (jock itch), tinea cruris; tinea versicolor).	
Evaluate under the General Rating Formula for the Skin.	
7815 Bullous disorders (including pemphigus vulgaris, pemphigus foliaceous, bullous pemphigoid, dermatitis herpetiformis, epidermolysis bullosa acquisita, benign chronic familial pemphigus (Hailey-Hailey), and porphyria cutanea tarda).	
Evaluate under the General Rating Formula for the Skin.	
Note: Rate complications and residuals of mucosal involvement (ocular, oral, gastrointestinal, respiratory, or genitourinary) separately under the appropriate diagnostic code.	
7816 Psoriasis.	
Evaluate under the General Rating Formula for the Skin.	
Note: Rate complications such as psoriatic arthritis and other clinical manifestations (*e.g.,* oral mucosa, nails) separately under the appropriate diagnostic code.	
7817 Erythroderma:	
Generalized involvement of the skin with systemic manifestations (such as fever, weight loss, or hypoproteinemia) AND one of the following	100

	Rating
Constant or near-constant systemic therapy such as therapeutic doses of corticosteroids, other immunosuppressive drugs, retinoids, PUVA (psoralen with long-wave ultraviolet-A light), UVB (ultraviolet-B light) treatments, biologics, or electron beam therapy required over the past 12 month period; or	
No current treatment due to a documented history of treatment failure with 2 or more treatment regimens	100
Generalized involvement of the skin without systemic manifestations and one of the following.	
Constant or near-constant systemic therapy such as therapeutic doses of corticosteroids, other immunosuppressive drugs, retinoids, PUVA, UVB treatments, biologics, or electron beam therapy required over the past 12-month period; or	
No current treatment due to a documented history of treatment failure with 1 treatment regimen	60
Any extent of involvement of the skin, and any of the following therapies required for a total duration of 6 weeks or more, but not constantly, over the past 12-month period: systemic therapy such as therapeutic doses of corticosteroids, other immunosuppressive drugs, retinoids, PUVA, UVB treatments, biologics, or electron beam therapy	30
Any extent of involvement of the skin, and any of the following therapies required for a total duration of less than 6 weeks over the past 12-month period: systemic therapy such as therapeutic doses of corticosteroids, other immunosuppressive drugs, retinoids, PUVA, UVB treatments, biologics, or electron beam therapy	10
Any extent of involvement of the skin, and no more than topical therapy required over the past 12-month period	0
Note: Treatment failure is defined as either disease progression, or less than a 25 percent reduction in the extent and severity of disease after four weeks of prescribed therapy, as documented by medical records.	
* * * * * * *	
7820 Infections of the skin not listed elsewhere (including bacterial, fungal, viral, treponemal, and parasitic diseases).	
Evaluate under the General Rating Formula for the Skin.	
7821 Cutaneous manifestations of collagen-vascular diseases not listed elsewhere (including scleroderma, calcinosis cutis, subacute cutaneous lupus erythematosus, and dermatomyositis).	
Evaluate under the General Rating Formula for the Skin.	
* * * * * * *	
7822 Papulosquamous disorders not listed elsewhere (including lichen planus, large or small plaque parapsoriasis, pityriasis lichenoides et varioliformis acuta (PLEVA), lymphomatoid papulosus, mycosis fungoides, and pityriasis rubra pilaris (PRP)).	
Evaluate under the General Rating Formula for the Skin.	
* * * * * * *	
7824 Diseases of keratinization (including icthyoses, Darier's disease, and palmoplantar keratoderma).	
Evaluate under the General Rating Formula for the Skin.	
7825 Chronic urticaria:	
For the purposes of this diagnostic code, chronic urticaria is defined as continuous urticaria at least twice per week, off treatment, for a period of six weeks or more.	
Chronic refractory urticaria that requires third line treatment for control (e.g., plasmapheresis, immunotherapy, immunosuppressives) due to ineffectiveness with first and second line treatments	60
Chronic urticaria that requires second line treatment (e.g., corticosteroids, sympathomimetics, leukotriene inhibitors, neutrophil inhibitors, thyroid hormone) for control	30
Chronic urticaria that requires first line treatment (antihistamines) for control	10
7826 Vasculitis, primary cutaneous:	
Persistent documented vasculitis episodes refractory to continuous immunosuppressive therapy	60
All of the following	30
Recurrent documented vasculitic episodes occurring four or more times over the past 12-month period; and	
Requiring intermittent systemic immunosuppressive therapy for control	30
At least one of the following	10
Recurrent documented vasculitic episodes occurring one to three times over the past 12-month period, and requiring intermittent systemic immunosuppressive therapy for control; or	
Without recurrent documented vasculitic episodes but requiring continuous systemic medication for control.	
Or rate as disfigurement of the head, face, or neck (DC 7800) or scars (DCs 7801, 7802, 7804, or 7805), depending upon the predominant disability.	
7827 Erythema multiforme; Toxic epidermal necrolysis:	
Recurrent mucosal, palmar, or plantar involvement impairing mastication, use of hands, or ambulation occurring four or more times over the past 12-month period despite ongoing immunosuppressive therapy	60
All of the following	30
Recurrent mucosal, palmar, or plantar involvement not impairing mastication, use of hands, or ambulation, occurring four or more times over the past 12-month period; and requiring intermittent systemic therapy.	
At least one of the following	10
One to three episodes of mucosal, palmar, or plantar involvement not impairing mastication, use of hands, or ambulation, occurring over the past 12-month period AND requiring intermittent systemic therapy; or	
Without recurrent episodes, but requiring continuous systemic medication for control.	
Or rate as disfigurement of the head, face, or neck (DC 7800) or scars (DCs 7801, 7802, 7804, or 7805), depending upon the predominant disability.	
Note: For the purposes of this DC only, systemic therapy may consist of one or more of the following treatment agents: immunosuppressives, antihistamines, or sympathomimetics.	
7828 Acne:	
Deep acne (deep inflamed nodules and pus-filled cysts) affecting 40 percent or more of the face and neck	30
Deep acne (deep inflamed nodules and pus-filled cysts) affecting less than 40 percent of the face and neck, or deep acne other than on the face and neck	10
Superficial acne (comedones, papules, pustules) of any extent	0
Or rate as disfigurement of the head, face, or neck (DC 7800) or scars (DCs 7801, 7802, 7804, or 7805), depending upon the predominant disability.	
7829 Chloracne:	

	Rating
Deep acne (deep inflamed nodules and pus-filled cysts) affecting 40 percent or more of the face and neck	30
Deep acne (deep inflamed nodules and pus-filled cysts) affecting the intertriginous areas (the axilla of the arm, the anogenital region, skin folds of the breasts, or between digits)	20
Deep acne (deep inflamed nodules and pus-filled cysts) affecting less than 40 percent of the face and neck; or deep acne affecting non-intertriginous areas of the body (other than the face and neck)	10
Superficial acne (comedones, papules, pustules) of any extent	0
Or rate as disfigurement of the head, face, or neck (DC 7800) or scars (DCs 7801, 7802, 7804, or 7805), depending upon the predominant disability.	

* * * * * * *

■ 3. Amend appendix A to part 4 in the table under Sec. 4.118 by revising the entries for diagnostic codes 7801, 7802, 7805, 7806, 7809, 7813, 7815 through 7817, and 7820–7833 to read as follows:

Appendix A to Part 4—Table of Amendments and Effective Dates Since 1946

Section	Diagnostic Code No.	
*	*	* * * * * * *
4.118	7800	Evaluation August 30, 2002; criterion October 23, 2008.
	7801	Criterion July 6, 1950; criterion August 30, 2002; criterion October 23, 2008; title, note 1, note 2 August 13, 2018.
	7802	Criterion September 22, 1978; criterion August 30, 2002; criterion October 23, 2008; title, note 1, note 2 August 13, 2018.
*	*	* * * * * * *
	7805	Criterion October 23, 2008; title August 13, 2018.
		General Rating Formula for DCs 7806, 7809, 7813–7816, 7820–7822, and 7824 added August 13, 2018.
	7806	Criterion September 9, 1975; evaluation August 30, 2002; criterion August 13, 2018.
*	*	* * * * * * *
	7809	Criterion August 30, 2002; title, criterion August 13, 2018.
*	*	* * * * * * *
	7813	Criterion August 30, 2002; title, criterion August 13, 2018.
*	*	* * * * * * *
	7815	Evaluation August 30, 2002; criterion, note August 13, 2018.
	7816	Evaluation August 30, 2002; criterion, note August 13, 2018.
	7817	Evaluation August 30, 2002; title, criterion, note August 13, 2018.
*	*	* * * * * * *
	7820	Added August 30, 2002; criterion August 13, 2018.
	7821	Added August 30, 2002; title, criterion August 13, 2018.
	7822	Added August 30, 2002; title, criterion August 13, 2018.
	7823	Added August 30, 2002; criterion August 13, 2018.
	7824	Added August 30, 2002; criterion August 13, 2018.
	7825	Added August 30, 2002; title, criterion August 13, 2018.
	7826	Added August 30, 2002; criterion August 13, 2018.
	7827	Added August 30, 2002; criterion August 13, 2018.
	7828	Added August 30, 2002; criterion August 13, 2018.
	7829	Added August 30, 2002; criterion August 13, 2018.
	7830	Added August 30, 2002; criterion August 13, 2018.
	7831	Added August 30, 2002; criterion August 13, 2018.
	7832	Added August 30, 2002; criterion August 13, 2018.
	7833	Added August 30, 2002; criterion August 13, 2018.
*	*	* * * * * * *

■ 4. Amend appendix B to part 4 under the heading ''THE SKIN'' by revising the entries for diagnostic codes 7801, 7802, 7805, 7809, 7813, 7817, 7821, 7822, and 7825 to read as follows:

Appendix B to Part 4—Numerical Index of Disabilities

Diagnostic Code No.	
* * * * * * *	
THE SKIN	
* * * * * * *	
7801	Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck that are associated with underlying soft tissue damage.
7802	Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck that are not associated with underlying soft tissue damage.
* * * * * * *	
7805	Scars, other; and other effects of scars evaluated under diagnostic codes 7800, 7801, 7802, or 7804.
* * * * * * *	
7809	Discoid lupus erythematosus.
* * * * * * *	
7813	Dermatophytosis.
* * * * * * *	
7817	Erythroderma.
* * * * * * *	
7821	Cutaneous manifestations of collagen-vascular diseases not listed elsewhere.
7822	Papulosquamous disorders not listed elsewhere.
* * * * * * *	
7825	Chronic urticaria.
* * * * * * *	

■ 5. Amend appendix C to part 4 as follows:

■ a. Revise the entry for ''Cutaneous manifestations of collagen-vascular diseases'' (diagnostic code 7821);

■ b. Add in alphabetical order an entry for ''Erythroderma'';

■ c. Remove the entry for ''Exfoliative dermatitis'';

■ d. Revise the entry for ''Scars''; and

■ e. Revise the entry for ''Urticaria'' (diagnostic code 7825).

The revisions and addition read as follows:

Appendix C to Part 4—Alphabetical Index of Disabilities

	Diagnostic Code No.
* * * * * * *	
Cutaneous manifestations of collagen-vascular diseases not listed elsewhere	7821
* * * * * * *	
Erythroderma	7817
* * * * * * *	
Scars:	
Burn scar(s) of the head, face, or neck; scar(s) of the head, face, or neck due to other causes; or other disfigurement of the head, face, or neck	7800
Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck that are associated with underlying soft tissue damage	7801
Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck that are not associated with underlying soft tissue damage	7802
Retina	6011
Scars, other; and other effects of scars evaluated under diagnostic codes 7800, 7801, 7802, or 7804	7805
Unstable or painful	7804
* * * * * * *	
Urticaria, chronic.	7825
* * * * * * *	

[FR Doc. 2018–14957 Filed 7–12–18; 8:45 am]

BILLING CODE 8320–01–P

Proposed Rules

Federal Register
Vol. 83, No. 135
Friday, July 13, 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

Coast Guard

33 CFR Part 117

[Docket No. USCG 2018–0473]

RIN 1625–AA09

Drawbridge Operation Regulation; Anacostia River, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Frederick Douglass Memorial Bridge across the Anacostia River, mile 1.2, in Washington, DC. This proposal is to allow the existing drawbridge to remain closed-to-navigation. This proposal is necessary to accommodate the construction of a new fixed bridge on an alignment 18 feet south of the existing drawbridge and the removal of the existing drawbridge.

DATES: Comments and related material must reach the Coast Guard on or before August 13, 2018.

ADDRESSES: You may submit comments identified by docket number USCG 2018–0473 using Federal eRulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Martin A. Bridges, Fifth Coast Guard District (dpb), telephone (757) 398–6422, email *Martin.A.Bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose and Legal Basis

The District of Columbia Department of Transportation, who owns and operates the Frederick Douglass Memorial Bridge, has requested a rule to allow the existing drawbridge to remain in the closed-to-navigation position during the construction of a new fixed bridge on an alignment 18 feet south of the existing drawbridge and the removal of the existing drawbridge.

The existing Frederick Douglass Memorial Bridge across the Anacostia River, mile 1.2, in Washington, DC, has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position. The current operating schedule for the existing drawbridge is published in 33 CFR 117.253 (a). The current rule will be replaced in its entirety.

On December 4, 2017, the Coast Guard signed Bridge Permit (2–17–5) authorizing the replacement of the existing drawbridge with a fixed bridge with a vertical clearance of 42 feet above mean high water on an alignment 18 feet south of the existing drawbridge. Issuance of the bridge permit followed a multi-year process involving completion of an environmental impact statement and Coast Guard Record of Decision; completion of a navigation impact report; public meetings held on March 4, 2008, April 28, 2011, July 30, 2013, May 5, 2014, and January 22, 2015, and publication of a preliminary public notice for navigation on November 4, 2013, and public notice for the bridge permit application on October 20, 2017.

On February 2, 2018, we published a notice of deviation from drawbridge regulation entitled ''Drawbridge Operation Regulation; Anacostia River, Washington, DC'' in the **Federal Register** (83 FR 4845). The deviation is necessary to accommodate the construction and replacement of the existing Frederick Douglass Memorial Bridge with a fixed bridge on an alignment 18 feet south of the existing drawbridge. This temporary deviation allows the bridge to remain in the closed-to-navigation position during construction and is effective from 6 a.m. on February 2, 2018, through 6 a.m. on August 1, 2018.

This proposed modification of the operating schedule is designed to mitigate vehicular congestion and maintain public safety, and provide for safe, effective and efficient bridge construction and removal, while meeting the existing and future needs of navigation.

III. Discussion of Proposed Rule

The proposed rule will allow the drawbridge to be placed in the closed-to-navigation position, while a fixed bridge with a navigational clearance of 42 feet above mean high water on an alignment 18 feet south of the existing drawbridge is constructed, and during the removal of the existing drawbridge. Given the small difference in vertical clearances above mean high water between the existing drawbridge at 40 feet and new fixed bridge at 42 feet, placing the existing drawbridge in the closed-to-navigation should not restrict present navigation from transiting through the bridge. There have been no requests for an opening of the existing drawbridge since the temporary deviation published on February 2, 2018, with the exception of vessels engaged in bridge construction and removal. There are no alternative routes and vessels able to transit under the existing drawbridge without an opening may do so.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This is not considered a significant regulatory action. This determination is based on the findings that: (1) The

potential impact is small given the limited number of vessels requiring a bridge opening over the past 10 years, with no requests since 2013; (2) the small difference in vertical clearances above mean high water between the existing drawbridge at 40 feet and new fixed bridge at 42 feet; and (3) vessels will be able to transit through the drawbridge following removal of the draw span, after the new bridge opens to vehicular traffic.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator. This rule is not expected to restrict present navigation from transiting through the bridge.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1 (series), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have 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 simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.253(a) to read as follows:

§ 117.253 Anacostia River

(a) The draw of the Frederick Douglass Memorial (South Capitol Street) bridge, mile 1.2, need not be opened for the passage of vessels.

* * * * *

Dated: June 25, 2018.

M.L. Austin,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2018–15050 Filed 7–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0635]

RIN 1625–AA00

Safety Zone; Ski Show Sylvan Beach; Fish Creek, Oneida, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for certain waters of Fish Creek during the Ski Show Sylvan Beach. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Buffalo or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before August 2, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0635 using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LCDR Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *D09-SMB-SECBuffalo-WWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On April 8, 2018, Mohawk Valley Ski Club Inc. notified the Coast Guard that it would be conducting a ski show from 12:00 p.m. to 8:00 p.m. on August 12, 2018. The show will take place on Fish Creek where the creek meets Oneida Lake starting at position 43°11′36.6″ N, 75°43′53.8″ W then South to 43°11′33.7″ N, 75°43′51.2″ W then East to 43°11′42.4″ N, 75°43′38.6″ W then North to 43°11′44.5″ N, 75°43′39.7″ W then returning to the point of origin. The Captain of the Port Buffalo (COTP) has determined that potential hazards associated with a Ski Show Sylvan Beach would be a safety concern for anyone within the aforementioned zone on Fish Creek.

The purpose of this rulemaking is to enhance the safety of vessels and racers on the navigable waters within the above stated points, before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a temporary safety zone enforced from 12:00 p.m. to 8:00 p.m. on August 12, 2018 with breaks every 30 minutes to allow traffic to pass. The safety zone will cover all navigable waters starting at position 43°11′36.6″ N, 75°43′53.8″ W then South to 43°11′33.7″ N, 75°43′51.2″ W then East to 43°11′42.4″ N, 75°43′38.6″ W then North to 43°11′44.5″ N, 75°43′39.7″ W then returning to the point of origin on Fish Creek, Oneida, NY. The duration of the zone is intended to enhance the safety of vessels and these navigable waters before, during, and after the scheduled 12:00 p.m. to 8:00 p.m. Ski Show. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would not be able to safely transit around this safety zone, which would impact a small designated area of Fish Creek. However, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a safety zone lasting 8 hours that would prohibit entry for certain waters of Fish Creek. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1, of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0635 to read as follows:

§ 165.T09–0635 Safety Zone; Ski Show Sylvan Beach; Fish Creek, Oneida, NY.

(a) *Location.* The safety zone will encompass all waters of Fish Creek in Oneida, NY, starting at position 43°11′36.6″ N, 75°43′53.8″ W then South to 43°11′33.7″ N, 75°43′51.2″ W then East to 43°11′42.4″ N, 75°43′38.6″ W then North to 43°11′44.5″ N, 75°43′39.7″ W then returning to the point of origin (NAD 83).

(b) *Enforcement Period.* This rule is effective from 12:00 p.m. until 8:00 p.m. on August 12, 2018.

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

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

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or

petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

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

Dated: July 5, 2018.

Joseph S. Dufresne,

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

[FR Doc. 2018–14993 Filed 7–12–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0615; FRL–9980–65-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Attainment Plan for the Indiana, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard

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 Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP), to EPA on October 11, 2017, for the purpose of providing for attainment of the 2010 sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) in the Indiana, Pennsylvania SO_2 nonattainment area (hereafter referred to as the ''Indiana Area'' or ''Area''). The Indiana Area is comprised of Indiana County and a portion of Armstrong County (Plumcreek Township, South Bend Township, and Elderton Borough) in Pennsylvania. The major sources of SO_2 in the Indiana Area emitting over 2,000 tpy of SO_2 include several large electric generating units (EGUs): Keystone Plant, Conemaugh Plant, Homer City Generation, and Seward Generation Station (hereafter referred to as ''Keystone,'' ''Conemaugh,'' ''Homer City,'' and ''Seward''). The SIP submission is an attainment plan which includes the base year emissions inventory, an analysis of the reasonably available control technology (RACT) and reasonably available control measure (RACM) requirements, enforceable emission limitations and control measures, a reasonable further progress (RFP) plan, a modeling demonstration of SO_2 attainment, and contingency measures for the Indiana Area. As part of approving the attainment plan, EPA is also proposing to approve into the Pennsylvania SIP SO_2 emission limits and associated compliance parameters for Keystone, Conemaugh, Homer City and Seward and proposes to find Pennsylvania has measures in place to address nonattainment new source review. EPA proposes to approve Pennsylvania's attainment plan and concludes that the Indiana Area will attain the 2010 1-hour primary SO_2 NAAQS by the applicable attainment date and that the plan meets all applicable requirements under the Clean Air Act (CAA).

DATES: Written comments must be received on or before August 13, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0615 at *http://www.regulations.gov,* or via email to *spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Megan Goold, (215) 814–2027, or by email at *goold.megan@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background for EPA's Proposed Action

On June 2, 2010, the EPA Administrator signed a final rule establishing a new primary SO_2 NAAQS as a 1-hour standard of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations. *See* 75 FR 35520 (June 22, 2010), codified at 40 CFR 50.17. This action also revoked the existing 1971 primary annual and 24-hour standards, subject to certain conditions.[1] EPA established the NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with short-term exposures to SO_2 emissions ranging from five minutes to 24 hours with an array of adverse respiratory effects including narrowing of the airways which can cause difficulty breathing (bronchoconstriction) and increased asthma symptoms. For more information regarding the health impacts of SO_2, please refer to the June 22, 2010 final rulemaking. *See* 75 FR 35520. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1)–(2) of the CAA. On August 5, 2013, EPA promulgated initial air quality designations for 29 areas for the 2010 SO_2 NAAQS (78 FR 47191), which

[1] EPA's June 22, 2010 final action revoked the two 1971 primary 24-hour standard of 140 ppb and the annual standard of 30 ppb because they were determined not to add additional public health protection given a 1-hour standard at 75 ppb. *See* 75 FR 35520. However, the secondary 3-hour SO_2 standard was retained. Currently, the 24-hour and annual standards are only revoked for certain of those areas the EPA has already designated for the 2010 1-hour SO_2 NAAQS. *See* 40 CFR 50.4(e).

became effective on October 4, 2013, based on violating air quality monitoring data for calendar years 2009–2011, where there were sufficient data to support a nonattainment designation.[2]

Effective on October 4, 2013, the Indiana Area was designated as nonattainment for the 2010 SO_2 NAAQS for an area that encompasses the primary SO_2 emitting sources of Keystone, Conemaugh, Homer City, and Seward. The October 4, 2013 final designation triggered a requirement for Pennsylvania to submit by April 4, 2015, a SIP revision with an attainment plan for how the Area would attain the 2010 SO_2 NAAQS as expeditiously as practicable, but no later than October 4, 2018, in accordance with CAA sections 172(c) and 191–192.

For a number of areas, including the Indiana Area, EPA published a notice on March 18, 2016, effective April 18, 2016, that Pennsylvania and other pertinent states had failed to submit the required SO_2 attainment plan by this 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. However, pursuant to Pennsylvania's submittal of October 11, 2017, and EPA's subsequent letter dated October 13, 2017, to Pennsylvania finding the submittal complete and noting the stopping of the sanctions' deadline, these sanctions under section 179(a) will not be imposed as a consequence of Pennsylvania having missed the April 4, 2015 deadline. Additionally, under CAA section 110(c), the March 18, 2016, finding triggered a requirement that EPA promulgate a federal implementation plan (FIP) within two years of the effective date of the finding unless, by that time, the state has made the necessary complete submittal and EPA has approved the submittal as meeting applicable requirements. This FIP obligation will no longer apply if and when EPA makes final the approval action proposed here.

Attainment plans must meet the applicable requirements of the CAA, and specifically CAA sections 172, 191, and 192. The required components of an attainment plan submittal are listed in section 172(c) of Title 1, part D of the CAA. EPA's regulations governing nonattainment SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements residing at subparts F and G, respectively. Soon after Congress enacted the 1990 Amendments to the CAA, EPA issued comprehensive guidance on SIPs, in a document entitled the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' published at 57 FR 13498 (April 16, 1992) (General Preamble). Among other things, the General Preamble addressed SO_2 SIPs and fundamental principles for SIP control strategies. *Id.* at 13545–49, 13567–68.

On April 23, 2014, EPA issued recommended guidance (hereafter 2014 SO_2 Nonattainment Guidance) for how state submissions could address the statutory requirements for SO_2 attainment plans.[3] In this guidance, EPA described the statutory requirements for an attainment plan, which include: An accurate base year emissions inventory of current emissions for all sources of SO_2 within the nonattainment area (172(c)(3)); an attainment demonstration that includes a modeling analysis showing that the enforceable emissions limitations and other control measures taken by the state will provide for expeditious attainment of the NAAQS (172(c) and (c)(6)); demonstration of RFP (172(c)(2)); implementation of RACM, including RACT (172(c)(1)); new source review (NSR) requirements (172(c)(5)); and adequate contingency measures for the affected area (172(c)(9)). A synopsis of these requirements is also provided in the notice of proposed rulemaking on the Illinois SO_2 nonattainment plans, published on October 5, 2017 at 82 FR 46434.

In order for the EPA to fully approve a SIP as meeting the requirements of CAA sections 110, 172 and 191–192 and EPA's regulations at 40 CFR part 51, the SIP for the affected area needs to demonstrate to EPA's satisfaction that each of the aforementioned requirements have been met. Under CAA sections 110(l) and 193, the EPA may not approve a SIP that would interfere with any applicable requirement concerning NAAQS attainment and RFP, or any other applicable requirement, and no requirement in effect (or required to be adopted by an order, settlement, agreement, or plan in effect before November 15, 1990) in any area which is a nonattainment area for any air pollutant, may be modified in any manner unless it ensures equivalent or greater emission reductions of such air pollutant.

CAA section 172(c)(1) directs states with areas designated as nonattainment to demonstrate that the submitted plan provides for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that SIPs must meet, and EPA has long required that all SIPs and control strategies reflect four fundamental principles of quantification, enforceability, replicability, and accountability (General Preamble, at 13567–68). SO_2 attainment plans must consist of two components: (1) Emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, Appendix W which demonstrates that these emission limits and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but by no later than the attainment date for the affected area. In all cases, the emission limits and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limits and control measures and must be quantifiable (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 so that two independent entities applying the procedures would obtain the same result), and accountable (source specific limits must be permanent and must reflect the assumptions used in the SIP demonstrations).

EPA's 2014 SO_2 Nonattainment Guidance recommends that the emission limits established for the attainment demonstration be expressed as short-term average limits (*e.g.,* addressing emissions averaged over one or three hours), but also describes the option to utilize emission limits with longer averaging times of up to 30 days so long as the state meets various suggested criteria. *See* 2014 SO_2 Nonattainment Guidance, pp. 22 to 39. The guidance recommends that—should states and sources utilize longer averaging times—the longer term

[2] EPA is continuing its designation efforts for the 2010 SO_2 NAAQS. Pursuant to a court-order finalized March 2, 2015, in the U.S. District Court for the Northern District of California, EPA must complete the remaining designations for the rest of the country on a schedule that contains three specific deadlines. Sierra Club, et al. v. Environmental Protection Agency, 13–cv–03953–SI (2015).

[3] *See* ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions'' (April 23, 2014), available at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

average limit should be set at an adjusted level that reflects a stringency comparable to the 1-hour average limit at the critical emission value shown to provide for attainment that the plan otherwise would have set.

The 2014 SO_2 Nonattainment Guidance provides an extensive discussion of EPA's rationale for concluding that appropriately set comparably stringent limitations based on averaging times as long as 30 days can be found to provide for attainment of the 2010 SO_2 NAAQS. In evaluating this option, EPA considered the nature of the standard, conducted detailed analyses of the impact 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 plan provides for attainment. *Id.* at pp. 22–39, and 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 average 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 does not create 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, and in particular, whether EPA can have reasonable confidence that a properly set longer term average limit will provide that the average fourth highest daily maximum value will be at or below 75 ppb. A synopsis of how EPA evaluates whether such plans ''provide for attainment,'' based on modeling of projected allowable emissions and in light of the NAAQS' form for determining attainment at monitoring sites follows.

For SO_2 attainment plans based on 1-hour emission limits, the standard approach is to conduct modeling using fixed emission rates. The maximum modeled emission rate that results in attainment 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 topography. In the standard approach, the state would then provide for attainment by setting a continuously applicable 1-hour emission limit at this critical emission value.

EPA recognizes that some sources 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 in turn 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 critical emission value. However, for several reasons, EPA believes that the approach recommended in its guidance document suitably addresses this concern. 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 emissions value) and that takes the source's emissions profile (and inherent level of emissions variability) into account. As a result, EPA expects 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 level, 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,'' [4] compliance with the 1-hour limit is expected to result in three exceedance days (*i.e.,* three days with 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.

To illustrate this point, EPA conducted a statistical analysis using a range of scenarios using actual plant data. The analysis is described in Appendix B of EPA's 2014 SO_2 Nonattainment Guidance. Based on the analysis described in its 2014 SO_2 Nonattainment Guidance, 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 policy rationale for allowing the use of a longer averaging period, in appropriate circumstances where the facts indicate 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 critical emission value, meets the requirement in section 110(a)(1) and 172(c)(1) for SIPs to ''provide for

[4] An ''average year'' is used to mean a year with average air quality. While 40 CFR 50 appendix T provides for averaging three years of 99th percentile daily maximum hourly values (*e.g.,* the fourth highest maximum daily hourly concentration in a year with 365 days with valid data), this discussion and an example below uses a single ''average year'' in order to simplify the illustration of relevant principles.

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 attainment 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 30-day average limit, 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 emissions 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 consider when evaluating 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 guidance, will result in attainment, EPA believes as a general matter that such limits, if appropriately determined, can reasonably be considered to provide for attainment of the 2010 SO_2 NAAQS.

The 2014 SO_2 Nonattainment 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 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 an emission database from another source. 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 (*i.e.,* using 1-hour historical emission values from the emissions database to calculate 30-day average emission values). In this recommended method, the ratio of the 99th percentile among these long 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 (critical emission value) to determine a longer term average emission limit that may be considered comparably stringent.[5]

The 2014 SO_2 Nonattainment 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 EPA's *Guideline on Air Quality Models (40 CFR part 51, appendix W).*[6] In 2005, the 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 the 2014 SO_2 Nonattainment 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, the EPA believes 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.

The meteorological data used in the analysis should generally be processed with the most recent version of AERMET. Estimated concentrations should include ambient background concentrations, should follow the form of the standard, and should be calculated as described in section 2.6.1.2 of the August 23, 2010 clarification memo on ''Applicability of Appendix W Modeling Guidance for the 1-hr SO_2 National Ambient Air Quality Standard'' (U.S. EPA, 2010a).

II. Pennsylvania's Attainment Plan Submittal for the Indiana Area

In accordance with section 172(c) of the CAA, the Pennsylvania attainment plan for the Indiana Area includes: (1) An emissions inventory for SO_2 for the plan's base year (2011); and (2) an attainment demonstration. The attainment demonstration includes the following: Analyses that locate, identify, and quantify sources of emissions contributing to violations of the 2010 SO_2 NAAQS; a determination that the control strategy for the primary SO_2 sources within the nonattainment areas constitutes RACM/RACT; a dispersion modeling analysis of an emissions control strategy for the primary SO_2 sources (Keystone, Conemaugh, Homer City, and Seward), showing attainment of the SO_2 NAAQS by the October 4, 2018, attainment date; requirements for RFP toward attaining the SO_2 NAAQS in the Area; contingency measures; the assertion that Pennsylvania's existing SIP-approved NSR program meets the applicable requirements for SO_2; and the request that emission limitations

[5] For example, if the critical emission value is 1000 pounds of SO_2 per hour, and a suitable adjustment factor is determined to be 70 percent, the recommended longer term average limit would be 700 pounds per hour.

[6] The EPA published revisions to the *Guideline on Air Quality Models on January 17, 2017.*

and compliance parameters for Keystone, Conemaugh, Homer City, and Seward be incorporated into the SIP.

III. EPA's Analysis of Pennsylvania's Attainment Plan for the Indiana Area

Consistent with CAA requirements (*see* section 172), an attainment demonstration for an SO_2 nonattainment area must include a showing that the area will attain the 2010 SO_2 NAAQS as expeditiously as practicable. The demonstration must also meet the requirements of 40 CFR 51.112 and 40 CFR part 51, Appendix W, and include inventory data, modeling results, and emissions reductions analyses on which the state has based its projected attainment. EPA is proposing that the attainment plan submitted by Pennsylvania meets all applicable requirements of the CAA, and EPA is proposing to approve the plan submitted by Pennsylvania to ensure ongoing attainment in the Indiana Area.

A. Pollutants Addressed

Pennsylvania's SO_2 attainment plan evaluates SO_2 emissions for the Indiana Area comprised of Indiana County and a portion of Armstrong County (Plumcreek Township, South Bend Township, and Elderton Borough) that is designated nonattainment for the 2010 SO_2 NAAQS. There are no precursors to consider for the SO_2 attainment plan. SO_2 is a pollutant that arises from direct emissions, and therefore concentrations are highest relatively close to the sources and much lower at greater distances due to dispersion. Thus, SO_2 concentration patterns resemble those of other directly emitted pollutants like lead, and differ from those of photochemically-formed (secondary) pollutants such as ozone. Pennsylvania's attainment plan appropriately considered SO_2 emissions for the Indiana Area.

B. Emissions Inventory Requirements

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current emissions inventories of all sources of the relevant pollutant or pollutants in the nonattainment area. These inventories provide detailed accounting of all emissions and emissions sources by precursor or pollutant. In addition, inventories are used in air quality modeling to demonstrate that attainment of the NAAQS is as expeditious as practicable. The SO_2 Nonattainment Guidance provides that the emissions inventory should be consistent with the Air Emissions Reporting Requirements (AERR) at Subpart A to 40 CFR part 51.[7]

For the base year inventory of actual emissions, a ''comprehensive, accurate and current'' inventory can be represented by a year that contributed to the three-year design value used for the original nonattainment designation. The 2014 SO_2 Nonattainment Guidance notes that the base year inventory should include all sources of SO_2 in the nonattainment area as well as any sources located outside the nonattainment area which may affect attainment in the area. Pennsylvania appropriately elected to use 2011 as the base year as the designation of nonattainment was based on data from 2009–2011. Actual emissions from all the sources of SO_2 in the Indiana Area were reviewed and compiled for the base year emissions inventory requirement. The primary SO_2-emitting point sources located within the Indiana Area are Keystone, Conemaugh, Homer City, and Seward, all coal-fired power plants. Keystone and Conemaugh each have two pulverized coal-fired (PC) boilers; Homer City has three coal-fired boilers; and Seward has two circulating fluidized bed (CFB) waste coal-fired boilers. More information about the emissions inventory for the Indiana Area (and analysis of the inventory) can be found in Pennsylvania's October 11, 2017, submittal as well as EPA's emissions inventory Technical Support Document (TSD), which can be found under Docket ID No. EPA–R03–OAR–2017–0615 and online at *www.regulations.gov.*

Table 1 shows the level of emissions, expressed in tons per year (tpy), in the Indiana Area for the 2011 base year by emissions source category. The point source category includes all sources within the Area.

TABLE 1—2011 BASE YEAR SO_2 EMISSIONS INVENTORY FOR THE INDIANA AREA

Emission source category	SO_2 Emissions (tpy)
Point	144,269.017
Area	555.610
Non-road	1.025
On-road	7.730
Total	144,833.382

EPA has evaluated Pennsylvania's 2011 base year emissions inventory for the Indiana Area and has made the preliminary determination that this inventory was developed in a manner consistent with EPA's guidance. Therefore, pursuant to section 172(c)(3), EPA is proposing to approve Pennsylvania's 2011 base year emissions inventory for the Indiana Area as it meets CAA requirements.

The attainment demonstration also provides for a projected attainment year inventory that includes estimated emissions for all emission sources of SO_2 which are determined to impact the nonattainment area for the year in which the area is expected to attain the NAAQS. Pennsylvania provided a 2018 projected emissions inventory for all known sources included in the 2011 base year inventory. The projected 2018 emissions are shown in Table 2. Pennsylvania's submittal asserts that the SO_2 emissions are expected to decrease by approximately 75,340 tons, or 40%, by 2018 from the 2011 base year. More information about the projected emissions for the Indiana Area can be found in Pennsylvania's October 11, 2017, submittal which can be found under Docket ID No. EPA–R03–OAR–2017–0615 and online at *www.regulations.gov.*

TABLE 2—2018 ANTICIPATED ACTUAL PROJECTED SO_2 EMISSION INVENTORY FOR THE INDIANA AREA

Emission source category	SO_2 Emissions (tpy)
Point	68,545.292
Area	944.688
Non-road	0.460
On-road	3.260
Total	69,493.700

C. Air Quality Modeling

The SO_2 attainment demonstration provides air quality dispersion modeling analyses to demonstrate that control strategies chosen to reduce SO_2 source emissions will bring the Area into attainment by the statutory attainment date of October 4, 2018. The modeling analyses, conducted pursuant to recommendations outlined in Appendix W to 40 CFR part 51 (EPA's Modeling Guidance), are used to assess the control strategy for a nonattainment area and establish emission limits that will provide for attainment. The analysis requires five years of meteorological data to simulate the dispersion of pollutant plumes from multiple point, area, or volume sources across the averaging times of interest. The modeling demonstration typically also relies on maximum allowable emissions from sources in the nonattainment area. Though the actual

[7] The AERR at Subpart A to 40 CFR part 51 cover overarching federal reporting requirements for the states to submit emissions inventories for criteria pollutants to EPA's Emissions Inventory System. EPA uses these submittals, along with other data sources, to build the National Emissions Inventory.

emissions are likely to be below the allowable emissions, sources have the ability to run at higher production rates or optimize controls such that emissions approach the allowable emissions limits. A modeling analysis that provides for attainment under all scenarios of operation for each source must therefore consider the worst case scenario of both the meteorology (*e.g.* predominant wind directions, stagnation, etc.) and the maximum allowable emissions.

PADEP provided two sets of modeling analyses: One analysis was developed in accordance with EPA's Modeling Guidance and the 2014 SO_2 Nonattainment Guidance, and was prepared using the default option in EPA's preferred dispersion modeling system, AERMOD; a second modeling analysis also utilized AERMOD but included a procedure called AERMOIST, an alternative model option which accounts for additional plume rise associated with the latent heat release of condensation due to moisture in a stack's plume. AERMOIST is currently not approved by EPA for regulatory use. A more detailed discussion of PADEP's modeling analysis for the Indiana Area can be found in Pennsylvania's October 11, 2017 submittal.

In addition to submitting the Indiana Area attainment plan to EPA on October 11, 2017, PADEP also submitted a request to EPA to review AERMOIST for use in the Indiana Area attainment plan. EPA has completed a review and determined that the AERMOIST procedure is not an appropriate option for use in the Indiana attainment plan for the following reasons: (1) There is no multi-monitor database of SO_2 monitoring data available for the four major sources of SO_2 in the Indiana Area to conduct a source-specific statistical test to determine if AERMOIST provides a definitive improvement over the current regulatory default version of AERMOD; (2) AERMOIST was universally applied to all the major sources in the Indiana Area regardless of whether the source plumes are actually saturated; and (3) there is a lack of supporting analysis for using relative humidity measurements in AERMOIST. For these reasons, EPA is rejecting the AERMOIST modeling analysis for the Indiana Area attainment plan. A detailed discussion of the deficiencies of the AERMOIST modeling analysis submitted for the Indiana Area can be found in EPA's AERMOIST modeling TSD for the Indiana which can be found under Docket ID No. EPA–R03–OAR–2017–0615 and available online at *www.regulations.gov*.

EPA has reviewed the default AERMOD analysis without the AERMOIST module submitted for the Indiana Area. The Indiana Area was divided into two separate modeling domains. Refer to EPA's Modeling TSD for the Indiana Area under Docket ID EPA–R03–OAR–2017–0615, available at *www.regulations.gov* for EPA's review of the modeling domains. One domain included portions of Armstrong County which only addressed emissions from Keystone as a source. The other domain covered all of Indiana County and addressed emissions from all four sources in the nonattainment area. For both domains, background concentrations included impacts from non-modeled sources. Each separate model domain used its own (different) background concentration.

AERMOD was used to determine the critical emission values (CEV) for Conemaugh, Keystone, and Seward where the modeled 1-hour emission rates demonstrate compliance with the 2010 1-hour SO_2 NAAQS. The SO_2 emission rates for Homer City were based on the unit 1, unit 2, and unit 3 combined mass-based SO_2 emission limits established in Plan Approval 32–00055H,[8] which authorized the installation of Novel Integrated Desulfurization (NID) systems, often referred to as Dry Flue Gas Desulphurization (FGD) systems on unit 1 and unit 2. This 1-hour SO_2 limit was based on air dispersion modeling that demonstrated compliance with the 2010 1-hour SO_2 NAAQS. The CEV rates used in the demonstration analysis for each of the four sources are summarized in the following table. The modeled emission rate in grams per second was converted to pounds per hour, which is the CEV limit.[9]

TABLE 3—CRITICAL EMISSION VALUES FROM INDIANA, PA SIP MODELING DEMONSTRATION

Facility	Modeled rate (g/s)	CEV limit (lbs/hr)
Conemaugh Generating Station	426.00	3,381.00
Homer City Generating Station, Unit 1	195.30	1,550.02
Homer City Generating Station, Unit 2	195.30	1,550.02
Homer City Generating Station, Unit 3	410.76	3,260.02
Keystone Generating Station	1,223.58	9,711.10
Seward Generating Station	640.00	5,079.44

Using the EPA conversion factor for the SO_2 NAAQS, the final 1-hour CEV model run design values for the Armstrong County portion (196.28 μg/m^3) and the Indiana County portion (196.44 μg/m^3) of the Indiana Area are less than 75 ppb.[10]

PADEP also provided air dispersion modeling with randomly reassigned emissions (RRE) to provide support for establishing longer term emission limits for Keystone and Seward that would provide for attainment of the NAAQS. EPA's 2014 SO_2 Nonattainment Guidance and Section I of this proposed rulemaking provide an extensive discussion of EPA's rationale for concluding that emission limits that are appropriately set based on averaging times longer than 1 hour and up to as long as 30 days can be found to provide for attainment of the 2010 SO_2 NAAQS. When determining longer term emission limits, EPA's 2014 SO_2 Nonattainment Guidance states,

''[T]he EPA is not precluding states from using other approaches to determine appropriate longer term average limits. However, the EPA would recommend in all cases that the analysis begin with determination of the critical emission values. A comparison of the 1-hour limit and the proposed longer term limit, in particular an assessment of whether the longer term

[8] Plan Approval 32–00055H was issued on April 2, 2012, and modified on April 4, 2013, by the DEP.

[9] Based on the National Institute of Standards and Technology conversion: 1 pound = 453.59237 grams.

[10] The SO_2 NAAQS level is expressed in ppb but AERMOD gives results in μg/m^3. The conversion factor for SO_2 (at the standard conditions applied in the ambient SO_2 reference method) is 1ppb = approximately 2.619 μg/m^3.

See Pennsylvania's SO_2 Round 3 Designations Proposed Technical Support Document at *https://www.epa.gov/sites/production/files/2017-08/documents/35_pa_so2_rd3-final.pdf.*

average limit may be considered to be of comparable stringency to a 1-hour limit at the critical emission value, would be a critical element of a demonstration that any longer term average limits in the SIP will help provide adequate assurance that the plan will provide for attainment and maintenance of the 1-hour NAAQS.''

As discussed in the RACM/RACT section below, a 24-hour block average SO_2 emission limit for Keystone and a rolling 30-day average SO_2 emission limit for Seward were developed by conducting additional modeling with SO_2 emissions distributions representative of future operations which were derived for each facility by evaluating emissions for 2014–2016. For each facility, the emissions were randomly reassigned to develop 100 hourly emission files for use in 100 AERMOD simulations. These AERMOD simulations included CEV rates for three facilities, and hourly emissions for either Seward or Keystone. EPA believes that the distribution of emissions modeled in the 100 RRE methodology, which were based on historical operating levels and scaled to conform with the longer term limits, are a reasonable representation of an allowable emissions distribution for both Seward and Keystone. EPA believes that the 100 RRE analyses and model results for Keystone and Seward provide adequate assurance that the longer term emission limits for both of these facilities will result in attainment of the 2010 SO_2 NAAQS by the attainment date. A more detailed discussion of the RRE modeling is provided in EPA's Modeling TSD for the Indiana Area under Docket ID EPA–R03–OAR–2017–0615, available at *www.regulations.gov.*

EPA has reviewed the modeling that Pennsylvania submitted to support the attainment demonstration for the Indiana Area and has determined that the default AERMOD modeling is consistent with CAA requirements, Appendix W to 40 CFR part 51, and EPA's 2014 SO_2 Guidance for SO_2 attainment demonstration modeling. Because the AERMOD analysis employing AERMOIST has not been approved by EPA for use in the attainment demonstration for the Indiana Area, EPA is not proposing to approve the modeling submitted by PADEP which employed AERMOIST. EPA is proposing to approve the default non-AERMOIST modeling, including the CEV and RRE simulations, provided in the attainment plan and EPA believes that the modeling reasonably demonstrates that the Indiana Area will attain the 2010 1-hour primary SO_2 NAAQS by the attainment date.

D. RACM/RACT

CAA section 172(c)(1) requires that each attainment plan provide for the implementation of all reasonably available control measures (*i.e.,* RACM) as expeditiously as practicable and shall provide for attainment of the NAAQS. Section 172(c)(6) requires SIPs to contain enforceable emission limitations and control measures as may be necessary or appropriate to provide for NAAQS attainment. EPA interprets RACM, including RACT, under section 172, as measures that a state determines to be both reasonably available and contribute to attainment as expeditiously as practicable ''for existing sources in the area.''

Pennsylvania's October 11, 2017, submittal discusses federal and state measures that Pennsylvania asserts will provide emission reductions leading to attainment and maintenance of the 2010 SO_2 NAAQS. With regards to state rules, Pennsylvania cites its low sulfur fuel rules, which were SIP-approved on July 10, 2014 (79 FR 39330). Pennsylvania's low sulfur fuel oil provisions apply to refineries, pipelines, terminals, retail outlet fuel storage facilities, commercial and industrial facilities, and facilities with units burning regulated fuel oil to produce electricity and domestic home heaters. These low sulfur fuel oil rules reduce the amount of sulfur in fuel oils used in combustion units, thereby reducing SO_2 emissions and the formation of sulfates that cause decreased visibility.

Pennsylvania's submittal discusses that the main SO_2 emitting sources at Conemaugh, Homer City, Keystone, and Seward are all equipped with FGD systems (wet limestone scrubbers, dry FGD, or in-furnace limestone injection systems) to reduce SO_2 emissions. Table 4 lists the control technology at each of the main SO_2 emitting sources at each facility.

TABLE 4—CONTROL TECHNOLOGY AT THE FOUR MAJOR SO_2 SOURCES IN THE INDIANA AREA

Facility	Unit	SO_2 control	Control installation date
Conemaugh	031—Main Boiler 1	Wet limestone scrubber	~1994
	031—Main Boiler 2	Wet limestone scrubber	~1995
Homer City	031—Boiler 1	Dry FGD	11/18/2015
	032—Boiler 2	Dry FGD	5/23/2016
	033—Boiler 3	Wet limestone scrubber	~2002
Keystone	031—Boiler 1	Wet limestone scrubber	9/24/2009
	032—Boiler 2	Wet limestone scrubber	11/22/2009
Seward	034—CFB Boiler 1	In-furnace limestone injection	~2004
	035—CFB Boiler 2	In-furnace limestone injection	~2004

With these controls installed, Pennsylvania's submittal discusses facility-specific control measures, namely SO_2 emission limits for Conemaugh, Homer City, and Seward, and new SO_2 emission limits for Keystone. Keystone's new limits were developed through air dispersion modeling (default AERMOD) submitted by PADEP. The modeling analysis is discussed in section III.C. Air Quality Modeling of this proposed rulemaking and in the Modeling TSD. In order to ensure that the Indiana Area demonstrates attainment with the SO_2 NAAQS, PADEP asserts that the following combination of emission limits at the four facilities is sufficient for the Indiana Area to meet the SO_2 NAAQS and serve as RACM/RACT:

- Conemaugh's current SO_2 emission limits contained in the Title V Operating Permit (TVOP) 32–00059 because the emission limits for Conemaugh determined by the modeling as necessary for SO_2 attainment would be less stringent;
- Seward's current SO_2 emission limit in TVOP 32–00040 because the emission limits for Seward determined by the modeling as necessary for SO_2 attainment would be less stringent;
- Homer City's current SO_2 emission limits established in Plan Approval 32–00055H and Plan Approval 32–00055I; and

• A new, more stringent combined SO_2 emission limit for Keystone Unit 1 and Unit 2 of 9,600 pounds per hour (lbs/hr) block 24-hour average limit.

The emission limits for each of the SO_2-emitting facilities are listed in Table 5.

TABLE 5—SO_2 EMISSION LIMITS FOR INDIANA AREA FACILITIES

Facility	Source description	Emission limit (lbs/hr)	Averaging period
Conemaugh	Unit 1 Unit 2	1,656 (TVOP 32–00059)	3-hour block.
Homer City	Unit 1 Unit 2 Unit 3	6,360 (Plan Approval 32–00055H) and limits specified in Plan Approval 32–00055I.	1-hour block.
Keystone	Unit 1 Unit 2	9,600 (New limit based on default AERMOD).	24-hour block.
Seward	Unit 1 Unit 2	3,038.4 (TVOP 32–00040)	30-day rolling.

The emission limits for Conemaugh, Keystone and Seward have averaging times greater than 1-hour (ranging between three hours and 30 days). The default non-AERMOIST modeling analysis for the Indiana Area was used to establish CEVs for each facility. These (1-hour) CEVs were used for developing longer than 1-hour emission limits for Seward, Conemaugh, and Keystone. SO_2 limits at Conemaugh are set to a 3-hour block average. This average is roughly in line with the CEV modeled limit and the ratio from Appendix C in EPA's 2014 SO_2 Nonattainment Guidance. Keystone's limits were set to a 24-hour block average based on the 100 RRE simulation method discussed in Section III.C. Air Quality Modeling in this proposed rulemaking. A similar approach was used to establish a 30-day rolling average for Seward. Appendices C–1a and C–4 of Pennsylvania's October 11, 2017 SIP submittal provide a detailed explanation of the longer term emission limits. EPA believes the 100 RRE iteration approach used in Pennsylvania's submittal for determining longer term emission limits for Seward and Keystone can be used to demonstrate compliance with the 2010 SO_2 NAAQS. EPA's analysis of the default AERMOD modeling analysis using longer term emission limits shows, as discussed in detail in the Modeling TSD, that the emission limits listed in Table 5 are sufficient for the Indiana Area to attain the 1-hour SO_2 NAAQS. EPA's analysis of the longer term emission limits is discussed in more detail in the Modeling TSD for the Indiana Area under Docket ID EPA–R03–OAR–2017–0615, available at *www.regulations.gov.*

The emission limits or compliance parameters, such as contingency measures, or both, were established through Consent Orders and Agreements (COAs) and Consent Orders (COs) between PADEP and the respective facility (*see* Appendices B–1 through B–4 of the October 11, 2017, SIP submittal). The collective emission limits and all related compliance parameters (*i.e.* the measures which include system audits, record-keeping and reporting, and corrective actions) have been proposed for incorporation into the SIP to make these changes permanently federally enforceable. PADEP affirms that the implementation of existing and new emission limits and corresponding compliance parameters for the four EGUs will enable the Indiana Area to attain and maintain the SO_2 NAAQS.

EPA is proposing to approve Pennsylvania's determination that the proposed SO_2 control strategy at Keystone, Conemaugh, Homer City, and Seward constitutes RACM/RACT for each SO_2 source in the Indiana Area based on the modeling analysis previously described. EPA finds Pennsylvania's control strategy for RACM/RACT including emission limits and compliance parameters for the four EGUs will enable the Indiana Area to attain and maintain the NAAQS.

Furthermore, PADEP requests that the unredacted portions of the COAs, COs, Plan Approvals, and TVOP submitted by PADEP with the attainment plan be approved into the Pennsylvania SIP. Including the emission limits listed in the CO for Keystone, the Plan Approval for Homer City, and the TVOPs for Conemaugh and Seward (*see* Table 4), and corresponding compliance parameters found in the COAs and COs for Keystone, Conemaugh, Homer City, and Seward in the Pennsylvania SIP means that these measures will become permanent and enforceable SIP measures to meet the requirements of the CAA. EPA, therefore, proposes to approve Pennsylvania's October 11, 2017 SIP submittal as meeting the RACM/RACT requirements of section 172(c)(1) and the enforceable emission limitation and control measures requirements of section 172(c)(6) of the CAA.

E. RFP Plan

Section 172(c)(2) of the CAA requires that an attainment plan includes a demonstration that shows reasonable further progress (*i.e.,* RFP) for meeting air quality standards will be achieved through generally linear incremental improvement in air quality. Section 171(1) of the CAA defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D) or may reasonably be required by EPA for the purpose of ensuring attainment of the applicable NAAQS by the applicable attainment date.'' As stated in the 1994 SO_2 Guidelines Document [11] and repeated in the 2014 SO_2 Nonattainment Guidance, EPA continues to believe that this definition is most appropriate for pollutants that are emitted from numerous and diverse sources, where the relationship between particular sources and ambient air quality are not directly quantified. In such cases, emissions reductions may be required from various types and locations of sources. The relationship between SO_2 and sources is much more defined, and usually there is a single step between pre-control nonattainment and post-control attainment. Therefore, EPA interpreted RFP for SO_2 as adherence to an ambitious compliance schedule in both the 1994 SO_2 Guideline Document and the 2014 SO_2 Nonattainment Guidance. EPA finds the control measures included in Pennsylvania's submittal demonstrate attainment for the Area with the 2010 SO_2 NAAQS based on the modeling submitted by

[11] SO_2 Guideline Document, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, EPA–452/R–94–008, February 1994. Located at: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

Pennsylvania. The permits and compliance orders submitted by Pennsylvania for inclusion in the SIP require these control measures and resulting emission reductions to be achieved as expeditiously as practicable. As a result, based on air quality modeling reviewed by EPA, this is projected to yield a sufficient reduction in SO_2 emissions from the major sources in the Indiana Area resulting in modeled attainment of the SO_2 NAAQS for the Indiana Area. Therefore, EPA has determined that PADEP's SO_2 attainment plan for the Indiana Area fulfills the RFP requirements for the Indiana Area. EPA does not anticipate future nonattainment, or that the Area will not attain the NAAQS by the October 4, 2018 attainment date. EPA proposes to approve Pennsylvania's attainment plan with respect to the RFP requirements.

F. Contingency Measures

In accordance with section 172(c)(9) of the CAA, contingency measures are required as additional measures to be implemented in the event that an area fails to meet the RFP requirements or fails to attain the standard by its attainment date. These measures must be fully adopted rules or control measures that can be implemented quickly and without additional EPA or state action if the area fails to meet RFP requirements or fails to meet its attainment date, and should contain trigger mechanisms and an implementation schedule. However, SO_2 presents special considerations. As stated in the final 2010 SO_2 NAAQS promulgation on June 22, 2010 (75 FR 35520) and in the 2014 SO_2 Nonattainment Guidance, EPA concluded that because of the quantifiable relationship between SO_2 sources and control measures, it is appropriate that state agencies develop a comprehensive program to identify sources of violations of the SO_2 NAAQS and undertake an aggressive follow-up for compliance and enforcement.

The COAs or COs for Conemaugh, Homer City, Keystone, and Seward (*see* Appendices B–1 through B–4 of the October 11, 2017 submittal) each contain the following measures that are designed to keep the Indiana Area from triggering an exceedance or violation of the SO_2 NAAQS: (1) Upon execution of the COA or CO, if SO_2 emissions from the combined SO_2 emitting sources at the facility exceed 99% of the SO_2 emissions limit for the facility (listed in Table 3), within 48 hours the facility is required to undertake a full system audit of the SO_2 emitting sources and submit a written report to PADEP within 15 days, and corrective actions shall be identified by PADEP as necessary; and (2) Upon execution of the COA or CO, if the Strongstown monitor (ID 42–063–0004) measures a 1-hour concentration exceeding 75 ppb, PADEP will notify the facility in the Area, and the facility in the Area is required to identify whether any of the SO_2-emitting sources at the respective facility were running at the time of the exceedance, and within a reasonable time period leading up to the exceedance, not to exceed 24 hours. If any of the SO_2-emitting sources were running at the time of the exceedance, the facility must then analyze the meteorological data on the day the daily exceedance occurred to ensure that the daily exceedance was not due to SO_2 emissions from the respective facility. The facility's findings must be submitted to PADEP within 30 days of being notified of the exceedance.

Additionally, if PADEP identifies a daily maximum SO_2 concentration exceeding 75 ppb at a PADEP-operated SO_2 ambient air quality monitor in the Indiana Area, within five days, PADEP will contact Conemaugh, Homer City, Keystone, and Seward to trigger the implementation of the daily exceedance report contingency measure described in section VIII.C. of the October 11, 2017 submittal. If necessary, section 4(27) of the Pennsylvania Air Pollution Control Act (APCA) authorizes PADEP to take any action it deems necessary or proper for the effective enforcement of APCA and the rules and regulations promulgated under APCA. Such actions include the issuance of orders and the assessment of civil penalties. A more detailed description of the contingency measures can be found in section VIII of the October 11, 2017 submittal as well as the COAs and COs included in the submittal and included for incorporation by reference into the SIP.

EPA is proposing to find that Pennsylvania's October 11, 2017 submittal includes sufficient measures to expeditiously identify the source of any violation of the SO_2 NAAQS and for aggressive follow-up including enforcement measures within PADEP's authority as necessary. Therefore, EPA proposes that the contingency measures submitted by Pennsylvania follow the 2014 SO_2 Nonattainment Guidance and meet the section 172(c)(9) requirements.

G. New Source Review[12]

Section 172(c)(5) of the CAA requires that an attainment plan require permits for the construction and operation of new or modified major stationary sources in a nonattainment area. Pennsylvania has a fully implemented Nonattainment New Source Review (NNSR) program for criteria pollutants in 25 Pennsylvania Code Chapter 127, Subchapter E, which was approved into the Pennsylvania SIP on December 9, 1997 (62 FR 64722). On May 14, 2012 (77 FR 28261), EPA approved a SIP revision pertaining to the pre-construction permitting requirements of Pennsylvania's NNSR program to update the regulations to meet EPA's 2002 NSR reform regulations. EPA then approved an update to Pennsylvania's NNSR regulations on July 13, 2012 (77 FR 41276). These rules provide for appropriate NSR as required by CAA sections 172(c)(5) and 173 and 40 CFR 51.165 for SO_2 sources undergoing construction or major modification in the Indiana Area without need for modification of the approved rules. Therefore, EPA concludes that the Pennsylvania SIP meets the requirements of section 172(c)(5) for this Area.

IV. EPA's Proposed Action

EPA is proposing to approve Pennsylvania's SIP revision for the Indiana Area, as submitted through PADEP to EPA on October 11, 2017, for the purpose of demonstrating attainment of the 2010 1-hour SO_2 NAAQS. Specifically, EPA is proposing to approve the base year emissions inventory, a modeling demonstration of SO_2 attainment, an analysis of RACM/RACT, enforceable emission limitations and control measures, a RFP plan, and contingency measures for the Indiana Area and is proposing that the Pennsylvania SIP has met requirements for NSR for the 2010 1-hour SO_2 NAAQS. Additionally, EPA is proposing to approve into the Pennsylvania SIP specific SO_2 emission limits,

[12] The CAA new source review (NSR) program is composed of three separate programs: Prevention of significant deterioration (PSD), NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in undesignated areas and in areas that meet the NAAQS—designated ''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—designated ''unclassifiable areas.'' The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—designated ''nonattainment areas.'' The Minor NSR program addresses construction or modification activities that do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR programs. Section 173 of the CAA lays out the NNSR program for preconstruction review of new major sources or major modifications to existing sources, as required by CAA section 172(c)(5). The programmatic elements for NNSR include, among other things, compliance with the lowest achievable emissions rate and the requirement to obtain emissions offsets.

compliance parameters, and contingency measures established for the SO_2 sources impacting the Indiana Area.

EPA has determined that Pennsylvania's SO_2 attainment plan for the 2010 1-hour SO_2 NAAQS for Indiana County meets the applicable requirements of the CAA. Thus, EPA is proposing to approve Pennsylvania's attainment plan for the Indiana Area as submitted on October 11, 2017. EPA's analysis for this proposed action is discussed in Section III of this proposed rulemaking. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Final approval of this SIP submittal will remove EPA's duty to promulgate and implement a FIP under CAA section 110(c).

V. Incorporation by Reference

In this proposed rule, 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 portions of the COAs or COs entered between Pennsylvania and Conemaugh, Homer City, Keystone, and Seward that are not redacted, as well as the unredacted portions of the TVOPs or Plan Approval included in the October 11, 2017 submittal. These include emission limits and associated compliance parameters (*i.e.* the measures which include system audits, record-keeping and reporting, and corrective actions). EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rulemaking for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, concerning the SO_2 attainment plan for the Indiana nonattainment area in Pennsylvania, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: June 27, 2018.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2018–14947 Filed 7–12–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

RIN 0648–XG273

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar in the Western and Central North Pacific Ocean and Eastern Indian Ocean

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

ACTION: Receipt of application for rulemaking and letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to the use of Surveillance Towed Array Sensor Systems Low Frequency Active (SURTASS LFA) sonar systems onboard U.S. Navy surveillance ships for training and testing activities conducted under the authority of the Secretary of the Navy in the western and central North Pacific and eastern Indian oceans beginning August 2019. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than August 13, 2018.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910–3225 and electronic comments should be sent to *ITP.Youngkin@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/node/23111* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Dale Youngkin, Office of Protected Resources, NMFS; phone: (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-military-readiness-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.*) generally direct the Secretary of Commerce (further 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.

The National Defense Authorization Act (NDAA) (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and defined ''harassment'' as it applies to a ''military readiness activity'' as follows (Section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment).

Summary of Request

On June 4, 2018, NMFS received an application from the Navy requesting authorization to take individuals of 46 species of marine mammals (10 mysticete, 31 odontocete, and 5 pinniped species) representing 139 stocks, by harassment, incidental to training and testing activities conducted under the authority of the Secretary of the Navy (categorized as military readiness activities) using SURTASS LFA sonar beginning August 13, 2019.

The Navy states that these training and testing activities may expose some of the marine mammals present in the Study Area to sound from low-frequency active sonar sources, which may result in the disruption of behavioral patterns. The Navy requests authorization to take individuals of 46 species or stocks of marine mammals by Level B Harassment.

NMFS published the first incidental take rule for SURTASS LFA sonar, effective from August 2002 through August 2007, on July 16, 2002 (67 FR 46712); the second rule, effective from August 2007 through August 2012, on August 21, 2007 (72 FR 46846); and the third rule, effective from August 2012 through August 2012, on August 20, 2012 (77 FR 50290).

In 2016, the Navy submitted an application for a fourth incidental take regulation under the MMPA (DoN, 2016) for the taking of marine mammals by harassment incidental to the deployment of up to four SURTASS LFA sonar systems from August 15, 2017 through August 14, 2022. NMFS published a proposed rule on April 27, 2017 (82 FR 19460). On August 10, 2017, the Secretary of Defense, after conferring with the Secretary of Commerce, determined that it was necessary for the national defense to exempt all military readiness activities that use SURTASS LFA sonar from compliance with the requirements of the MMPA for two years from August 13, 2017 through August 12, 2019, or until such time when NMFS issues regulations and a LOA under Title 16, Section 1371 for military readiness activities associated with the use of SURTASS LFA sonar, whichever is earlier. During the exemption period, all military readiness activities that involve the use of SURTASS LFA sonar are required to comply with all mitigation, monitoring, and reporting measures set forth in the 2017 National Defense Exemption (NDE) for SURTASS LFA sonar. As a result of the NDE (available at *http://www.surtass-lfa-eis.com/wp-content/uploads/2018/01/SURTASS_LFA_NDE_10Aug17.pdf*), NMFS did not finalize its April 2017 proposed rule.

For this current requested rule making, the Navy is proposing to continue using SURTASS LFA sonar systems onboard USNS surveillance ships for training and testing activities conducted under the authority of the Secretary of the Navy within the western and central North Pacific, and eastern Indian oceans. The operating characteristics of the LFA sonar (inclusive of compact LFA sonar systems) have remained the same since 2001 and are consistent with the parameters described in previous rulemakings. For this rulemaking, the Navy scoped the geographic extent of the Study Area to better reflect the areas where the Navy anticipates conducting SURTASS LFA sonar training and testing activities for the requested rule/LOA. Under the proposed action, the Navy would transmit 496 LFA sonar transmission hours per year pooled across all SURTASS LFA sonar equipped vessels in the first four years of the authorization, with an increase in usage to 592 LFA transmission hours in year five and continuing into the foreseeable future, regardless of the number of vessels. This is a reduction from the current condition of 1,020 LFA transmission hours per year (255 hours of LFA sonar per vessel per year) under the NDE, and the previously authorized 1,728 LFA transmission hours per year (432 hours of LFA sonar per vessel per year) under the 2012—2017 Rule.

Description of the Specified Activity

The Navy proposes to continue to use the system onboard USNS surveillance ships for training and testing activities conducted under the authority of the Secretary of the Navy in the western and central Pacific Ocean and eastern Indian Ocean. The U.S. Navy currently has four surveillance ships that utilize SURTASS LFA sonar systems: the USNS ABLE, the USNS EFFECTIVE, the USNS IMPECCABLE and the USNS VICTORIOUS. The Navy may develop and field additional SURTASS LFA equipped vessels, either to replace or complement the Navy's current SURTASS LFA capable fleet, and these vessels may be in use beginning in the fifth year of the time period covered by their latest application. Thus, the Navy's activity analysis included consideration of the sonar hours associated with future testing of new or updated LFA sonar system components and new ocean surveillance vessels. This resulted in two annual transmit hour scenarios: Years 1 to 4 would entail a maximum of 496 LFA transmission hours total per year across all SURTASS LFA vessels, while year 5 and beyond would include an increase in LFA sonar transmit hours to a maximum of 592 hours across all vessels to accommodate future testing of new ocean surveillance vessels and new or updated sonar system components. The number of transmission hours per year is pooled across all SURTASS LFA sonar equipped vessels, regardless of the number of ships. The SURTASS LFA sonar transmission hours represent a distribution across six activities that include:

- Contractor crew proficiency training (80 hours/year);
- Military crew (MILCREW) proficiency training (96 hours/year);
- Participation in, or support of, Navy exercises (96 hours/year);
- Vessel and equipment maintenance (64 hours/year);
- Acoustic research testing (160 hours/year); and
- New SURTASS LFA sonar system testing (96 hours/year, occurring in year 5 and beyond only).

The application describes the activity types, the equipment and platforms involved, and the duration and potential locations of the specified activities.

A suite of proposed mitigation measures have been included in the proposed action to minimize the potential effects to marine mammals that could potentially be affected during SURTASS LFA sonar activities. For training and testing activities of the proposed action, these mitigation measures include:

- Restricting the use of SURTASS LFA sonar such that it will not operate in Arctic and Antarctic waters;
- Restricting the use of SURTASS LFA sonar from within the foreign territorial seas of other nations;
- Ensuring sound pressure levels (SPL) will not exceed 180 decibels (dB) re 1 micro pascals (μPa) root mean square (rms) within 12 nautical miles of any emerged features of any coastline, or within designated offshore biologically important areas (OBIAs) for marine mammals; and
- Minimizing exposure of marine mammals to SURTASS LFA sonar signal received levels of 180 dB re 1 μPa (rms) or more by monitoring for their presence and suspending sonar transmission when animals enter the mitigation zone.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the Navy's request and NMFS' development and implementation of regulations governing the incidental taking of marine mammals by the Navy's SURTASS LFA sonar activities.

Dated: July 9, 2018.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–14967 Filed 7–12–18; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 83, No. 135
Friday, July 13, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0023]

Notice of Request To Renew an Approved Information Collection (Petitions for Rulemaking)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to renew the approved information collection regarding petitions for rulemaking. The approval for this information collection will expire on November 30, 2018. FSIS is making no changes to the approved collection.

DATES: Submit comments on or before September 11, 2018.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2018–0023. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Petitions for Rulemaking.

OMB Control Number: 0583–0136.

Expiration Date: 11/30/2018.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS, by delegation (7 CFR 2.18, 2.53), exercises the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

The Administrative Procedure Act requires that Federal agencies give interested persons the right to petition for issuance, amendment, or repeal of a rule (5 U.S.C. 553(e)).

FSIS has regulations to govern the submission to the Agency of petitions for rulemaking (9 CFR part 392). These regulations are designed to encourage the filing of well-supported petitions that contain information that the Agency needs to evaluate a requested rulemaking in a timely manner. FSIS uses the information associated with a petition to assess the merits of the requested action and to determine whether to issue, amend, or repeal regulations in response to the petition. FSIS is requesting a renewal of the approved information collection addressing paperwork requirements regarding petitions submitted to the Agency. FSIS is making no changes to the approved collection.

FSIS has made the following estimates based upon an information collection assessment.

Estimate of Burden: FSIS estimates that it takes respondents an average of 40 hours per year to complete and submit a petition.

Respondents: Official establishments, official plants, firms, trade associations, and public interest groups.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 400. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410, *Fax:* (202) 690–7442, *Email: program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Paul Kiecker,

Acting Administrator.

[FR Doc. 2018–15015 Filed 7–12–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Institute of Food and Agriculture's (NIFA) intention to extend and revise a currently approved information collection entitled, ''Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Funds.''

DATES: Written comments on this notice must be received by September 11, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments concerning this notice and requests for copies of the information collection may be submitted by any of the following methods: Email: *rmartin@nifa.usda.gov;* Fax: 202–720–0857; Mail: Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW, Washington, DC 20250–2216.

FOR FURTHER INFORMATION CONTACT: Robert Martin, eGovernment Program Leader; Email: *rmartin@nifa.usda.gov;* Phone: 202–401–5924.

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements for State Plans of Work for Agricultural Research and Extension Capacity Grants.

OMB Number: 0524–0036.

Expiration Date of Current Approval: January 1, 2019.

Type of Request: Notice of intent to extend and revise the submission requirements for a currently approved information collection. The burden for this submission remains unchanged.

Abstract: Type of Request: Intent to seek approval for the extension and revision of a currently approved information collection for three years.

Abstract: The purpose of this collection of information is to continue implementing the requirements of sections 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) which require that a plan of work must be submitted by each institution and approved by the National Institute of Food and Agriculture (NIFA) before formula funds may be provided to the 1862 and 1890 land-grant institutions.

The formula funds are authorized under the Hatch Act for agricultural research activities at the 1862 land-grant institutions, under the Smith-Lever Act for the extension activities at the 1862 land-grant institutions, and under sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 for research and extension activities at the 1890 land-grant institutions. The plan of work must address critical agricultural issues in the State and describe the programs and projects targeted to address these issues using the NIFA formula funds. The plan of work also must describe the institution's multistate activities as well as their integrated research and extension activities.

This collection of information also includes the reporting requirements of section 102(c) of AREERA for the 1862 and 1890 land-grant institutions. This section requires the 1862, 1890, and 1994 land-grant institutions receiving agricultural research, education, and extension formula funds from NIFA of the Department of Agriculture (USDA) to establish and implement processes for obtaining input from persons who conduct or use agricultural research, extension, or education concerning the use of such funds effective October 1, 1999.

Section 102(c) further requires that the Secretary of Agriculture promulgate regulations that prescribe what the institutions must do to meet this requirement and the consequences of not complying with this requirement. The Stakeholder Input Requirements for Recipients of Agricultural Research, Education, and Extension Formula Funds (7 CFR part 3418) final rule (65 FR 5993, Feb. 8, 2000) applies not only to the land-grant institutions receiving formula funds but also to the veterinary and forestry schools that are not land-grant institutions but receive forestry research funds under the McIntire-Stennis Act of 1962 and animal health and disease research funds under section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). Failure to comply with the requirements of this rule may result in the withholding of a recipient institution's formula funds and redistribution of its share of formula funds to other eligible institutions. The institutions are required to annually report to NIFA: (1) The actions taken to seek stakeholder input to encourage

their participation; (2) a brief statement of the process used by the recipient institution to identify individuals and groups who are stakeholders and to collect input from them; and (3) a statement of how collected input was considered. There is no legislatively prescribed form or format for this reporting requirement. However, the 1862 and 1890 land-grant institutions are required to report on their Stakeholder Input Process annually as part of their Annual Report of Accomplishments and Results.

Section 103(e) of AREERA requires that the 1862, 1890, and 1994 land-grant institutions establish a merit review process, prior to October 1, 1999, in order to obtain agricultural research and extension funds. Section 104 of AREERA also stipulated that a scientific peer review process be established for research programs funded under section 3(c)(3) of the Hatch Act (commonly referred to as Hatch Multistate Research Funds).

This notice also revises the Plan of Work to include Extension Program Initiations and Annual Reports in the REEport platform in place of the current Planned Programs and make the current REEport Hatch and Evans-Allen approved Research Project Initiations and Annual Progress Reports as a part of the Plan of Work and Annual Report of Accomplishments. This will reduce the overall burden for Hatch and Evans-Allen research grant recipients. The burden for Extension Grant recipients is estimated to remain the same.

The revised Plan of Work will have the following sections:

(1). Institutional Profile and Executive Summary

(2). Merit Review Process

(3). Stakeholder Input

(4). Multistate Extension and Integrated Research and Extension

(5). Critical Issues

(6). Extension Program Initiations and Research Project Initiations in the REEport Platform

I. Initial 5-Year Plan of Work

Estimate of Burden: The Initial 5-Year Plan of Work as revised will submitted for the FY 2020–2024 Plan of Work in 2019. The total reporting and record keeping requirements for the submission of the ''Initial 5-Year Plan of Work'' is estimated to average 64 hours per response. There are six components of this ''5-Year Plan of Work'': ''Critical Issues,'' ''Extension Program and Research Project Initiations in the REEport Platform,'' ''Stakeholder Input Process,'' ''Merit Review Process,'' ''Multi state Activities,'' and ''Integrated Activities.''

Estimated Number of Respondents: 75.

Estimated Number of Responses: 150.

Estimated Total Annual Burden on Respondents: 9,600 hours.

Frequency of Responses: Annually.

II. Annual Update to 5-Year Plan of Work

Estimate of the Burden: The total reporting and record keeping requirements for the submission of the ''Annual Update to the 5-Year Plan of Work'' is estimated to average 64 hours per response. There are six components of this ''5-Year Plan of Work'': ''Critical Issues,'' ''Extension Program and Research Project Initiations in the REEport Platform,'' ''Stakeholder Input Process,'' ''Merit Review Process,'' ''Multi state Activities,'' and ''Integrated Activities.''

Estimated Number of Respondents: 75.

Estimated Number of Responses: 150.

Estimated Total Annual Burden on Respondents: 9,600 hours.

Frequency of Responses: Annually.

III. Annual Report of Accomplishments and Results

Estimate of the Burden: The total annual reporting and record keeping requirements of the ''Annual Report of Accomplishments and Results'' is estimated to average 260 hours per response.

Estimated Number of Respondents: 75.

Estimated Number of Responses: 150.

Estimated Total Annual Burden on Respondents: 39,000 hours.

Frequency of Responses: Annually.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden 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.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Done in Washington, DC, on June 7, 2018.

Thomas G. Shanower,

Acting Director, National Institute of Food and Agriculture.

[FR Doc. 2018–14997 Filed 7–12–18; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Announcement of Requirements and Registration for U.S. Department of Agriculture (USDA) Innovations in Food and Agricultural Science and Technology (I–FAST) Prize Competition

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice.

SUMMARY: The National Institute of Food and Agriculture (NIFA), USDA, is announcing the I–FAST prize competition (the ''I–FAST Competition'' or the ''Competition'') to develop and implement the Innovations in Food and Agricultural Science and Technology (I–FAST) Program. NIFA will partner with the National Science Foundation (NSF) Innovation Corps (I-Corps) to provide entrepreneurship training to NIFA grantees under this I–FAST pilot program. The goals are to identify valuable product opportunities that can emerge from NIFA supported academic research. Selected NIFA I–FAST project teams will participate in the educational programs with NSF I-Corps Program. Over a period of six months the NIFA supported teams in the I–FAST program will learn what it will take to achieve an economic impact with their particular innovation. The final goal of the I–FAST Competition is to facilitate technology transfer of innovations that can make an impact in the marketplace and the global economy.

DATES: Competition Submission Period—Pre-Application and Evaluation Interviews:

- *Pre-Application Open Period:* July 10, 2018 to August 3, 2018.
- *Pre-Application Evaluation and Interviews:* August 6, 2018 to August 9, 2018.
- *Full Application Open Period:* August 10, 2018 to August 17, 2018.
- *Final Evaluation and Judging—Full Application:* August 20, 2018 to August 22, 2018.
- *Verification of Winners:* August 23, 2018.
- *Announcement of Winner(s):* August 24, 2018.

NSF I-Corps Training for Winner(s): Winning team(s) will need to be

available to travel to and attend one of the following NSF I-Corps training sessions with the following dates and locations:

Fall 2018 COHORTS:

Fall Cohort #1: Location TBD (Likely Detroit, MI)

- *Kickoff (on-site):* September (arrive 25) 26–28, 2018.
- *Web sessions (online):* Thursdays 1:00–4:00 p.m. Eastern Time (ET)—October 4, 11, 18, 25 and November 1, 2018.

Lessons Learned (on-site): November 8–9, 2018.

Fall Cohort #2: Location TBD (Likely Los Angeles or San Diego, CA)

- *Kickoff (on-site):* September (arrive 30) to October 1–3, 2018.
- *Web sessions (online):* Mondays 1:00–4:00 p.m. ET –October 10, 17, 24, 31 and November 7, 2018.

Lessons Learned (on-site): November 15–16, 2018.

The Pre-Application Phase Competition Submission Period begins July 10, 2018 at 10:00 a.m. ET and ends August 3, 2018 at 11:59 p.m. ET.

Pre-Application Interviews will take place August 6, 2018 to August 9, 2018.

The Full-Application Phase Competition Submission Period begins August 10, 2018 at 10:00 a.m. ET and ends August 17, 2018 at 11:59 p.m. ET.

Competition dates are subject to change. Entries submitted before or after the Competition Submission Period will not be reviewed or considered for award. For more details, visit the *www.challenge.gov* website.

FOR FURTHER INFORMATION CONTACT: Questions about the Competition can be directed to Scott Dockum at *sdockum@nifa.usda.gov,* or phone 202–720–6346 or Olivia Moreno at *Olivia.moreno@nifa.usda.gov,* or 202–603–9186.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

The National Institute of Food and Agriculture (NIFA), USDA, mission is to invest in and advance agricultural research, education, and extension to solve societal challenges. As part of this mission NIFA is charged with providing grant funding for research, education, and extension that address key problems of national, regional, and multi-state importance in sustaining all components of agriculture. A majority of NIFA grant funding is provided to academic institutions to focus on developing research in the areas of farm efficiency and profitability, ranching, renewable energy, forestry (both urban and agroforestry), aquaculture, rural communities and entrepreneurship, human nutrition, food safety, biotechnology, and conventional breeding.

NIFA will partner with the NSF Innovation Corps (I-Corps) who will provide an Entrepreneurial Immersion course and training to NIFA grantees through this I–FAST Competition. The goals of this Competition are to spur translation of fundamental research to the market place, to encourage collaboration between academia and industry, and to train NIFA-funded faculty, students and other researchers to understand innovation and entrepreneurship.

The purpose of the I–FAST Competition is to identify NIFA-funded research teams (an I–FAST team includes the Principal Investigator (PI), the Entrepreneurial Lead, and the Mentor) who will receive additional support, in the form of mentoring, training, and funding to accelerate the translation of knowledge derived from fundamental research into emerging products and services that can attract subsequent third-party funding. NIFA-funded research teams will be required to participate in Entrepreneurial Immersion courses provided by the NSF I-Corps program. The NSF I-Corps is a program specifically designed to broaden the impact of select, basic research projects by preparing scientists and engineers to focus beyond the laboratory. Leveraging experience and guidance from established entrepreneurs and a targeted curriculum within the NSF I-Corp program, NIFA I–FAST teams will learn to identify valuable product opportunities that can emerge from NIFA supported academic research. The I–FAST Competition will help create a stronger national ecosystem for innovation that couples scientific discovery with technology development to address agricultural and societal needs.

Each team that receives an I-FAST award is required to participate in the following NSF I-Corps activities: (1) Attendance by the entire team at an on-site three-day NSF I-Corps Entrepreneurial Immersion course; (2) Mandatory participation in the I-Corps weekly Webinars following the in-person three day on-site meeting; (3) Completion of approximately 15 hours of preparation per week over the duration of the program; (4) Attendance of a two day lessons learned in-person meeting at the end of the training. During the training, teams are expected to engage in at least 100 contacts with potential customers and provide a 5-page summary report back to NIFA on the outcome of the training and milestones to be met by the team (*i.e.,* commercialization, market proposition, and lessons learned from the program).

Team Eligibility Rules and Responsibilities for Participating in the Competition

The I-FAST Competition is open to teams (''Teams'' or ''Participants'') that are made up of individuals from academic/university institutions that have received a prior NIFA award in a scientific or engineering field relevant to the proposed innovation that is currently active or that has been active within five years from the closing date of the Pre-Application Open Period. The prior award could range from a modest single-investigator award to a large, distributed center and also includes awards involving students. All individuals supported (*i.e.* Senior/Key Personnel or Other Personnel) under the prior award are eligible to serve on the Team. Individuals not eligible to serve on the Team include a Federal employee acting within the scope of their employment, individuals whose primary place of business is outside of the United States, and individuals who are not a citizen or permanent resident of the United States.

Makeup of I-FAST Competition Teams: Each Team shall consist of three members:

(1) Entrepreneurial Lead (EL)
(2) I-FAST Team Mentor
(3) Principal Investigator (PI)

I-FAST teams are made up of individuals from an academic/university institution except for the Mentor who may reside with a non-academic institution as described below. Also described below, are the responsibilities of each team member should the Team be selected as a winner of the competition.

The Entrepreneurial Lead (EL) could be a postdoctoral scholar, graduate, or other student with relevant knowledge of the technology located at the academic/university institution and a deep commitment to investigate the commercial landscape surrounding the innovation. The EL should also be capable and have the will to support the transition of the technology to commercial viability. The EL will be responsible for: (1) Developing the team to include the mentor and PI, (2) leading the development of the pre-application, participating in the I-FAST interviews and developing the full application, if selected, (3) starting and completing all training activities in the Entrepreneurial Immersion course provided by the NSF I-Corps program, (4) communicating and coordinating with team members to achieve the goals of the team, (5)

developing and monitoring team activity milestones from the Entrepreneurial Immersion course, (6) ensuring the team milestones are completed on time, and (7) ensuring the team is in communication with the NIFA I-FAST Competition Director and the NSF I-Corps Program Director as needed.

Ideally, the I-FAST Teams Mentor will be an experienced or emerging entrepreneur with proximity to the academic/university institution and have prior experience developing and commercializing other products within the broader technology space related to the specific project under development. The Mentor should be selected as a third-party resource, or may be a person that has an established relationship with the team (*e.g.,* Board Member, consultant), but cannot be an employee nor directly involved with the technology development. The EL will need to identify a Mentor that has business expertise in the proposed technology sector and has entrepreneurial experience. A Mentor will be someone with appropriate contacts in the technology area of commercialization which are critical for propelling the technology towards commercialization. The EL of the team should seek input from their University Technology Transfer Office for potential Mentors. The I-FAST Team's Mentor will be responsible for guiding the team forward using existing entrepreneurial experience and tracking the team's progress through regular communication with the EL, PI, the NIFA I-FAST competition director, and the NSF I-Corps Program Director, as needed.

The PI is expected to have in-depth knowledge of the innovation developed under the prior NIFA Grant and, if selected, will be responsible for: (1) Coordinating with the university on the transfer of prize funds from NIFA, (2) tracking of the prize funding for team activities, (3) reporting to NIFA on disbursements and obligations of the prize funding, (4) guiding the EL and Mentor on technical aspects of the innovation, (5) communicating as needed with the NIFA I-FAST Competition Director and the NSF I-Corps Program Director, (6) ensuring the EL meets the required milestones for the NSF I–CORP training, and (7) participating as a team member. The Principal Investigator who received the earlier NIFA grant for the technology is allowed to participate on the team, but cannot be the Entrepreneurial Lead.

During the I-Corps course, each participating team, including all its team members, must:

- Attend, in person, an evening reception and 3-day kick-off Entrepreneurial Immersion course;
- Conduct approximately 100 customer interviews over the 6-week program, and submit interview summary reports. This process of customer discovery includes in-person face to face meetings with potential customers and requires the team to be ''outside the building'' for these activities. It is expected that the team will not use telephone or online conferencing during the customer discovery process. It is expected the team will require a minimum of 15 hours and a maximum of 40 hours per week for at least five weeks following the in person training;
- Participate in 5 weekly webinar sessions and submit regular updates to the team's business model canvas. In addition, it is expected that I-Corps teams will take advantage of instructor office hours; and
- Attend, in person, the final 2-day course close out/lessons learned session (to be held in the same region as the kick-off course).

Teams are strongly encouraged to consider the time commitments and requirements of the program before submitting an application. If one or more team members cannot meet these requirements, the team should not submit an application.

Selected I-FAST Teams that fail to meet the requirements of the program must provide NIFA documented justification for failing to meet the requirements. NIFA will determine based on the justification or no justification, whether the team is subject to reimbursing NIFA for any prize funding.

Amount of the Prize

The NIFA I-FAST Competition Prize Purse will be a maximum of $250,000 which will be divided to provide $50,000 each to a maximum of five (5) teams. Prize Purse funds are required to be used by winning Teams to fully participate in the NSF I-Corps program curriculum.

NIFA reserves the right to award less than the maximum number of available prizes.

Payment of the Prize

Prizes awarded under this Competition will be paid by electronic funds transfer to the academic/university institution the Team(s) represent(s). Once prize winners are selected, NIFA will provide the winners with the forms and financial documents that must be completed and returned to NIFA to set up the electronic transfer. All Federal, state and local taxes are the sole responsibility of the winner(s).

Submission Process for Participants

The Competition will have a three-phase selection process. Initially, Teams will submit a pre-application. From the pre-applications, NIFA will conduct phone interviews. Selected Teams will be invited to submit a full application. From the full applications, NIFA will select the winning Team(s).

Teams can enter the contest by submitting the pre-application through the ''Enter a Submission'' function on *www.Challenge.gov,* and then send the pre-application, with name and contact info, to *contest@nifa.usda.gov*. The pre-application shall contain the following information:

Prepare a three-page Executive Summary that describes the following:

(1) Composition of the Team and roles (EL, Mentor, and PI) of the members proposing to undertake the commercialization feasibility research.

(2) Contact information for ALL of the members.

(3) Relevant current/previous NIFA award(s) including award number, Title of the Project, and the NIFA program the award was funded under.

(4) Brief description of the potential commercial impact.

(5) Brief description of the current commercialization plans for the innovation.

After the interviews, Teams that are selected to submit a full application will submit it via *challenge.gov* through the ''Enter a Submission'' function and then send the application with name and contact info to *contest@nifa.usda.gov*. The full application shall include the following project description information:

1. I-Corps Team (one page limit).

a. Briefly describe the I-Corps team and provide rationale for its formation, focusing on members' entrepreneurial expertise, relevance to the innovation effort, and members' experience in collaborating on previous projects.

b. Include contact information for all team members.

2. Lineage of the Proposed Innovation (one page limit).

a. Provide the current/previous NIFA award(s) including award number, Title of Project and the NIFA program that funded the award.

b. Briefly describe how this research has led the Team to believe that a commercial opportunity exists for the effort moving forward.

3. Description of the Potential Commercial Impact (two page limit).

a. Provide a brief profile of a typical customer of the proposed innovation.

b. Describe how the proposed innovation will meet the customer's needs.

c. Describe how the customer currently meets those needs.

d. Your approach—What is the proposed innovation? How does it relate to the fundamental research already conducted under previous award(s)?

e. How much do you think a customer would pay for your solution?

4. Brief description of the project plan (one page limit).

a. Current Status—In what stage is the development: proof-of-principle, proof-of-concept, prototype (alpha, beta), etc.

b. Provide a brief description of the proof-of-concept or technology demonstration that will be provided at the end of the project.

The total page limit for the project description full application is five (5) pages.

From the Teams submitting full applications, a maximum of five Teams will be selected as winners to enter into the I-FAST Program.

Judging

The information on the Competition will be provided via *www.challenges.gov.*

NIFA will screen all entries for eligibility and completeness. Entries from Teams that do not meet the eligibility requirements and/or that fail to include required submission elements will not be evaluated or considered for award. Eligible and complete entries will be judged by a fair and impartial panel of individuals from NIFA and NSF (the ''Judging Panel'').

Pre-Application Evaluation: The Judging Panel will evaluate the pre-application to determine the following:

(1) Did the technology proposed receive past NIFA funding within the specified timeframe?

(2) Does the team have the required team members and are the roles of each team member clearly described and meet the noted responsibilities?

(3) Does the commercialization plan provide a good understanding of the team's knowledge of the current state of the art and how the technology could enter into a potential market?

(4) Were the page limits met?

Following the evaluation, the Judging Panel will conduct a phone interview with each selected team. This will emphasize the time commitment and availability of the entire team to complete the NSF I–CORPS program during one of the fall 2018 cohorts.

Full-Application Evaluation: The Judging Panel will evaluate the Full-application to determine the following and approximately equal consideration will be given to each criterion except for item (3), which will receive twice the value of any of the other items:

1. *I-Corps Team:* Does the application clearly describe: the I-Corps team, the rationale for the team's formation, members' entrepreneurial expertise, relevance to the innovation effort, and members' experience in collaborating?

2. *Lineage of the Proposed Innovation:* Does the application provide a table of previous NIFA awards and identify the original Principle Investigator (PI)? Does the application clearly describe how this research has led the Team to believe that a commercial opportunity exists for the effort moving forward?

3. *Description of the Potential Commercial Impact:* Does the application clearly describe the profile of a typical customer of the proposed innovation? Does the application describe the customer needs to be met by the proposed innovation? Does the application describe how the customer currently meets those needs with the current state of the art and does the customer believe this innovation is better than the current technology? Does the application clearly describe the proposed innovation and how it relates to the fundamental research already conducted under previous award(s)? Does the application describe how much a customer would pay for the solution?

4. *Project plan:* Does the project plan clearly describe the current status including the stage of development? Does the application provide a description of the proof-of-concept or technology demonstration that will be provided at the end of the project?

5. *Page Limits:* Did the application meet the required page limits?

Additional Rules and Conditions

A. General Conditions

By entering the Competition, each Team certifies that its entry complies with all applicable Federal and State laws and regulations.

Each Team warrants that its entry is free of viruses, spyware, malware, and any other malicious, harmful, or destructive device. Teams submitting entries containing any such device will be held liable and may be prosecuted to the fullest extent of the law.

Entries containing any matter which, in the sole discretion of NIFA, is indecent, defamatory, in obvious bad taste, demonstrates a lack of respect for public morals or conduct, promotes discrimination in any form, shows unlawful acts being performed, is slanderous or libelous, adversely affects the reputations of NIFA or NSF, is unacceptable as determined by NIFA, then such entry shall be deemed disqualified and will not be evaluated or, if evaluated, will not be considered for award.

The winning Team(s) must comply with all applicable laws and regulations regarding Prize Purse receipt and disbursement.

NIFA's failure to enforce any term of any applicable rule or condition shall not constitute a waiver of that term.

B. Entry Conditions, Release & Liability

By entering the Competition, each Team agrees to:

(1) Comply with and be bound by all applicable rules and conditions, and the decisions of NIFA, which are binding and final in all matters relating to this Competition.

(2) Release and hold harmless NIFA and NSF and all their respective past and present officers, directors, employees, agents, and representatives (collectively the ''Released Parties'') from and against any and all claims, expenses, and liability arising out of or relating to the Team's entry or participation in the Competition and/or the Team's acceptance, use, or misuse of the Prize Purse or recognition. Provided, however, that Participants are not required to waive claims arising out of the unauthorized use or disclosure by NIFA or NSF of the intellectual property, trade secrets, or confidential business information of the Participant.

The Released Parties are not responsible for: (1) Any incorrect or inaccurate information, whether caused by Teams, printing errors, or by any of the equipment or programming associated with or used in the Competition; (2) technical failures of any kind, including, but not limited to, malfunctions, interruptions, or disconnections in phone lines or network hardware or software; (3) unauthorized human intervention in any part of the entry process for the Competition; (4) technical or human error that may occur in the administration of the Competition or the processing of entries; or (5) any injury or damage to persons or property that may be caused, directly or indirectly, in whole or in part, from Team's participation in the Competition or receipt or use or misuse of the Prize Purse. If for any reason a Team's entry is confirmed to have been deleted erroneously, lost, or otherwise destroyed or corrupted, that Team's sole remedy is to submit another entry in the Competition.

C. Termination and Disqualification

NIFA reserves the authority to cancel, suspend, and/or modify the Competition, or any part of it, if any fraud, technical failures, or any other factor beyond NIFA's reasonable control impairs the integrity or proper functioning of the Competition, as determined by NIFA in its sole discretion.

NIFA reserves the right to disqualify any Team it believes to be tampering with the entry process or the operation of the Competition or to be acting in violation of any applicable rule or condition.

Any attempt by any person to undermine the legitimate operation of the Competition may be a violation of criminal and civil law, and, should such an attempt be made, NIFA reserves the authority to seek damages from any such person to the fullest extent permitted by law.

D. Verification of Potential Winner(s)

All potential Competition winners are subject to verification by NIFA whose decisions are final and binding in all matters related to the Competition.

Potential winner(s) must continue to comply with all terms and conditions of the Competition rules, and winning is contingent upon fulfilling all requirements. The potential winner(s) will be notified by email and/or telephone. If a potential winner cannot be contacted, or if the notification is returned as undeliverable, the potential winner forfeits. In the event that a potential winner, or an announced winner, is found to be ineligible or is disqualified for any reason, NIFA may make award, instead, to the next runner up, as previously determined by the Judging Panel.

Prior to awarding the Prize Purse, NIFA will verify that the potential winner(s) is/are not suspended, debarred, or otherwise excluded from doing business with the U.S. Federal Government. Suspended, debarred, or otherwise excluded parties are not eligible to win the Competition.

E. Intellectual Property

By entering the Competition, each Team certifies that it is the author and/or authorized owner of its entry, and that the entry is wholly original with the Team (or is an improved version of an existing project plan the Team is legally authorized to enter into the Competition), and that the submitted entry does not infringe on any copyright, patent, or any other rights of any third party. Each Team agrees to hold the Released Parties harmless for any infringement of copyright, trademark, patent, and/or other real or intellectual property right that may be caused, directly or indirectly, in whole or in part, from that Team's participation in the Competition.

All legal rights in any materials produced or submitted in entering the Competition are retained by the Team and/or the legal holder of those rights. Entry into the Competition constitutes express authorization for NIFA, NSF, and the Judging Panel to review and analyze any and all aspects of submitted entries, including any trade secret or proprietary information contained in or evident from review of the submitted entries.

F. Privacy & Disclosure Under Freedom of Information Act (FOIA)

Personal and contact information is not collected for commercial or marketing purposes. Information submitted throughout the Competition will be used only to communicate with Teams regarding entries and/or the Competition.

Teams' entries to the Competition may be subject to disclosure under the FOIA. If a Team believes that all or part of its Competition entry is protected from release under FOIA (*e.g.,* if the information falls under FOIA exemption #4 for ''trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential'') the Team will be responsible for clearly marking the page(s)/section(s) of information it believes are protected.

Authority: 15 U.S.C. 3719.

Done at Washington, DC, on July 3, 2018.

Kim L. Hicks,

Branch Chief, Grants and Agreements Management Branch USDA, Agricultural Research Service, Financial Management and Agreements Division.

[FR Doc. 2018–14996 Filed 7–12–18; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice To Implement a Guarantee Systems User Fee for Lender Use of the Single Family Housing Section 502 Guaranteed Loan Program Automated Systems

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Housing Opportunity Through Modernization Act of 2016 was signed into law on July 29, 2016. It created Section 502(i) in the Housing Act of 1949, later amended by Section 758 of the Consolidated Appropriations Act, 2018, which permits the Secretary to assess and collect a guarantee underwriting user fee (also known as a technology fee) from lenders for their use of the Rural Housing Service's (Agency's) automated guaranteed loan systems. The collection of the fee will enable the Agency to fund future information technology enhancements needed to improve program delivery and reduce burden to the public. The fee amount will be published in the Single Family Housing Guaranteed Loan Program (SFHGLP) Handbook HB–1–3555, available at *https://www.rd.usda.gov/publications/regulations-guidelines/handbooks.*

The fee will not exceed $50 per loan, and constitutes a reasonable and customary cost that is an authorized loan purpose in accordance with the Guaranteed Rural Housing Program. The primary method of collecting the fee will be through the Agency's Lender Loan Closing (LLC) system when a loan goes to closing.

DATES: Written or email comments on the proposed rule must be received on or before September 11, 2018 to be assured for consideration.

ADDRESSES: You may submit comments on this proposed rule by any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments electronically.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express mail, or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250–0742.

All written comments will be available for public inspection during regular work hours at 1400 Independence Ave. SW, Washington, DC 20250–0742.

FOR FURTHER INFORMATION CONTACT: Kate Jensen, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–0784, telephone: (503) 894–

2382, email is *kate.jensen@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The estimated time required for technological development and user acceptance testing is one year from the start of development. The Agency does not plan to collect a technology fee during the first year of the project, and technology fee collections are not expected prior to the first quarter of fiscal year 2019. Presently the estimated amount of the guarantee loan systems user fee is $25 with an expected implementation date of January 2, 2019. The Agency will advise lenders in advance of the implementation date of the actual amount of the guarantee loan systems user fee, along with all pertinent development and operational details.

The use of the LLC is currently voluntary and lenders submit more than 98 percent of loan closings through that channel. In order to effectively serve the public and keep pace with modern lending practices, the Agency must have ready access to funding for the maintenance and enhancement of automated systems required for the secure and efficient delivery of the single family housing loan programs. The system improvement will also enhance the Agency's ability to effectively monitor the processing, underwriting, and closing of all guaranteed loans and protect the investment of the public.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Dated: July 9, 2018.

Joel C. Baxley,

Administrator, Rural Housing Service.

[FR Doc. 2018–14995 Filed 7–12–18; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a planning meeting of the Colorado Advisory Committee to the Commission will convene at 12:00 p.m. (MDT) on Wednesday, August 1, 2018, in the Board Room, Independence Institute, 727 East 16th Avenue, Denver, CO 80203. The purpose of the meeting is to review potential civil rights topics for future study in the state.

DATES: Wednesday, August 1, 2018, at 12:00 p.m. (MDT).

ADDRESSES: Mt. Evans Room, Byron Rogers Federal Office Building, 1961 Stout Street, Denver, CO 80294.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ebohor@usccr.gov,* or 303–866–1040.

SUPPLEMENTARY INFORMATION: Persons who plan to attend the meeting and who require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Rocky Mountain Regional Office at least ten (10) working days before the scheduled date of the meeting.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Tuesday, September 4, 2018. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

The activities of this advisory committee, including records and documents discussed during the meeting, will be available for public viewing, as they become available at: *https://facadatabase.gov/committee/meetings.aspx?cid=238.* Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

—Introductions
—Discussion of Potential Civil Rights topics and Topics of Study
—Open Comment
—Adjourn

Dated: July 9, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–14965 Filed 7–12–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Connecticut Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a roundtable meeting of the Connecticut Advisory Committee to the Commission will convene at 10:00 a.m. (EDT) on Thursday, August 9, 2018, in the Legislative Office Building of the Capitol Building, 210 Capitol Avenue, Hartford, CT 06106. The

purpose of the roundtable will be to hear from experts about varied civil rights topics.

DATES: Thursday, August 9, 2018 (EDT) Time: 10:00 a.m.—Roundtable Meeting and Public Session.

ADDRESSES: Legislative Office Building, Room 2A, 300 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez at *ero@usccr.gov,* or 202–376–7533.

SUPPLEMENTARY INFORMATION: The purpose of the roundtable meeting is to examine topical civil rights issues in Connecticut. The Committee will hear from elected officials, advocates and experts. The public is invited to the meeting and encouraged to address the committee following the presentations.

If other persons who plan to attend the meeting require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Eastern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Time will be set aside at the end of the briefing so that members of the public may address the Committee after the formal presentations have been completed. Persons interested in the issue are also invited to submit written comments; the comments must be received in the regional office by Monday, September 10, 2018. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://facadatabase.gov/committee/meetings.aspx?cid=239* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Welcome and Introductions
David J. McGuire, Chair, Connecticut Advisory Committee
Opening Statement
David J. McGuire, Chair, Connecticut Advisory Committee
Roundtable Meeting
Invited Experts to Present Topical Civil Rights Issues
Open Comment

Dated: July 10, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–15030 Filed 7–12–18; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Idaho 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 Idaho Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Mountain Time) Thursday, July 26, 2018, for the purpose of voting on a civil rights project topic.

DATES: The meeting will be held on Thursday, July 26, 2018, at 12:00 p.m. MT.

ADDRESSES: Public Call Information: Dial: 719–457–0349 Conference ID: 2195650.

FOR FURTHER INFORMATION CONTACT: Angelica Trevino at *atrevino@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the number listed above. 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 Angelica Trevino at *atrevino@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 *http://facadatabase.gov/committee/meetings.aspx?cid=245.* 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, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Establish Meeting Dates
III. Discuss Civil Rights Issues in Idaho
IV. Vote on Project Topic
V. Public Comment
VI. Adjournment

Dated: July 10, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–15031 Filed 7–12–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a planning meeting of the Wyoming Advisory Committee to the Commission will convene at 12:00 p.m. (MDT) on Saturday, July 28, 2018, in the Windflower Room, Library, Cheyenne. The purpose of the meeting is to review potential civil rights topics for future study in the state.

DATES: Saturday, July 28, 2018, at 12:00 p.m. (MDT).

ADDRESSES: Windflower Room, Public Library, Cheyenne.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ebohor@usccr.gov,* or 303–866–1040.

SUPPLEMENTARY INFORMATION: Persons who plan to attend the meeting and who require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Rocky Mountain Regional Office at least ten (10) working days before the scheduled date of the meeting.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Tuesday, August 28, 2018. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

The activities of this advisory committee, including records and documents discussed during the meeting, will be available for public viewing, as they become available at: *https://database.faca.gov/committee/meetings.aspx?cid=283.* Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

Discussion of Potential Civil Rights topics
Open Comment
Adjourn

Dated: July 9, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–14966 Filed 7–12–18; 8:45 am]

BILLING CODE P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission telephonic business meeting.

DATES: Wednesday, July 18, 2018, at 3:00 p.m. ET.

ADDRESSES: Meeting to take place by telephone.

FOR FURTHER INFORMATION CONTACT: Brian Walch, (202) 376–8371, *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public by telephone only.

Participant Access Instructions: Listen Only, Toll Free: 1–877–260–1479; Conference ID: 713–3156. Please dial in 5–10 minutes prior to the start time.

Meeting Agenda

I. Approval of Agenda
II. Discussion of Discovery Plan
III. Adjourn Meeting.

Dated: July 11, 2018.

Brian Walch,

Director, Communications and Public Engagement.

[FR Doc. 2018–15110 Filed 7–11–18; 4:15 pm]

BILLING CODE 6335–01–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) Wednesday, August 1, 2018. The purpose of the meeting is for the Committee to discuss draft report on human trafficking in Oregon.

DATES: The meeting will be held on Wednesday, August 1, 2018, at 1:00 p.m. PT.

ADDRESSES: Public Call Information: Dial: 719–325–2100 Conference ID: 9213427.

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. Review Report Outline
III. Review Draft Findings and Recommendations
IV. Public comment
V. Next Steps
VI. Adjournment

Dated: July 10, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–15032 Filed 7–12–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Annual Survey of Manufactures

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and

respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before September 11, 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(s) and instructions should be directed to Julius Smith, Jr., U.S. Census Bureau, Economy-Wide Statistics Division, Room 8K053, 4600 Silver Hill Road, Washington, DC 20233, (301) 763–7662 or via the internet at *julius.smith.jr@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau has conducted the Annual Survey of Manufactures (ASM) since 1949 to provide key measures of manufacturing activity during intercensal periods. In census years ending in ''2'' and ''7'', the Census Bureau mails and collects the ASM as part of the Economic Census. In other years, the ASM is mailed and collected as a stand-alone survey. This survey is an integral part of the Federal Government's statistical data on U.S. manufacturers. The ASM furnishes up-to-date estimates of employment and payroll, hours and wages of production workers, value added by manufacture, cost of materials, value of shipments by product, inventories, and expenditures for both plant equipment and structures. The survey provides data at the two- through six-digit North American Industry Classification System (NAICS) levels. It also provides geographic data by state at a more aggregated industry level.

The survey provides valuable information to private companies, research organizations, and trade associations. Industry makes extensive use of the annual figures on product shipments at the U.S. level in its market analysis, product planning, and investment planning. The ASM data are used to benchmark and reconcile monthly and quarterly data on manufacturing production and inventories.

With the 2018 ASM, the Census Bureau plans to make the following changes to this data collection:

MA–10000(L)—Long Form

a. Special Inquiry: Add a new Special Inquiry on basic robotic use in manufacturing to gauge the prevalence of robotics use in the manufacturing sector across different geographies and by firm size.

b. Item 22 (Product Classification): Previously, Item 22, Details of Sales Shipments Receipts or Revenue was collected using the North American Industry Classification System (NAICS). Moving forward, the collection of Item 22 will be based on the North American Product Classification System (NAPCS). NAPCS is a comprehensive demand-based hierarchical classification system for products that is not industry-of-origin based, but can be linked to the NAICS industry structure, and is consistent across the three North American countries.

c. Item 22 (Miscellaneous Receipts): Due to the implementation of NAPCS, Miscellaneous Receipts will not be collected. In previous ASM years, products were collected by NAICS codes which were specific to manufacturing-only. Out of sector products, produced by manufacturing establishments were classified as Miscellaneous Receipts. Miscellaneous Receipts included contract work, resales, and other. NAPCS is an economy-wide solution, which will allow ASM respondents to classify out of sector products in valid NAPCS codes.

MA–10000(S)—Short Form

a. All respondents will complete the long form, MA–10000(L). The MA–10000(S), short form will be eliminated. Historically, all establishments of multiunit companies plus the large single-location companies in the sample were asked to report on the MA–10000(L). The remaining single-location companies in the sample were asked to report on the MA–10000(S). In 2014, approximately 3,000 out of 51,000 sampled establishments received the MA–10000(S). This change will impact less than 6% of respondents. The MA–10000(S) was an abbreviated version of the MA–10000(L), and collected significantly less detailed data. Data not collected on the MA–10000(S) were imputed. Imputation rates and estimates will improve by eliminating the MA–10000(S).

II. Method of Collection

The ASM statistics are derived from a sample of manufacturing establishments. The 2012 Economic Census—Manufacturing contained approximately 294,600 active manufacturing establishments. For sample efficiency and cost considerations, the population was partitioned into two groups: Establishments eligible to be mailed a questionnaire (101,250 establishments) and establishments not eligible to be mailed a questionnaire (193,350 establishments). The group of establishments that is not eligible to be mailed a questionnaire still contributes to the ASM estimates. The group of establishments that is eligible to be mailed a questionnaire is defined as the mail stratum. It is comprised of larger single-location manufacturing companies and all manufacturing establishments of multi-location companies. Of the 101,250 establishments in the mail stratum, 47,800 establishments were selected for the ASM sample using methodology similar to what was used for previous ASM samples. The initial sample was supplemented with manufacturing establishments that were newly opened in 2013 (births) to yield a sample of 50,200 establishments for the 2014 ASM. Births added to the mail stratum are large, single-location companies and new manufacturing establishments of multi-location companies. Births are added annually to the mail sample, and the current sample size is approximately 55,000 establishments.

The initial mailing will include a letter instructing respondents to report online. Paper forms will not be available. The electronic reporting system provides a cost-effective and user-friendly method to collect data from companies. Companies will be supplied a unique authentication code for the electronic reporting tool. Respondents have the option of printing a worksheet that lists all of the questions. Respondents can print the worksheet to use as a guide to respond or can print the worksheet after completing the questionnaire as a record of their response. As in the previous section, all respondents will complete the long form.

The group of establishments that is not eligible to be mailed a questionnaire is defined as the nonmail stratum. The nonmail stratum contained the remaining 193,350 single-location companies. Although this group still contributes to the ASM estimates, no data are collected from companies in the nonmail stratum. Rather, data are imputed using administrative records of the Internal Revenue Service (IRS), the Social Security Administration (SSA), and the Bureau of Labor Statistics (BLS)

or are imputed based on industry averages. Though the nonmail companies account for nearly two-thirds of the establishments in the universe, they account for only about 6 percent of the manufacturing output. The nonmail stratum is supplemented annually with small manufacturing births that are not included in the mail stratum.

III. Data

OMB Control Number: 0607–0449.

Form Number(s): MA–10000(L).

Type of Review: Regular submission.

Affected Public: Business or Other for Profit, Non-profit Institutions, Small Businesses or Organizations, and State or Local Governments.

Estimated Number of Respondents: 55,000.

Estimated Time per Response: 4 hours.

Estimated Total Annual Burden Hours: 220,000.

Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 131 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–14982 Filed 7–12–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain companies covered by this administrative review made sales of certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea) at less than normal value during the period of review (POR) February 1, 2016, through January 31, 2017.

DATES: Applicable July 13, 2018.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5760 or (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 2018, Commerce published the *Preliminary Results* of the administrative review.[1] We invited interested parties to comment on the *Preliminary Results.* We received a case brief from Hyundai Steel Company, and a rebuttal brief from Nucor Corporation. This review covers two respondents, Dongkuk Steel Mill Co., Ltd. (DSM) and Hyundai Steel Company (Hyundai Steel).

Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the antidumping duty order are certain CTL plate. Imports of CTL plate are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[2]

Analysis of Comments Received

The sole issue raised by parties in this review, pertaining to the home market date of sale, is addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. 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 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.*

Changes Since the Preliminary Results

Based on our analysis of comments received, we made no changes to the margins for the final results of this review.

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the respondents for the period February 1, 2016, through January 31, 2017.

Producer/exporter	Weighted-average dumping margin (percent)
Dongkuk Steel Mill Co., Ltd ..	0.90
Hyundai Steel Company	11.64

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1),

[1] *See Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 10670 (March 12, 2018) (*Preliminary Results*).

[2] *See* the Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea; 2015–2016,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

For DSM and Hyundai Steel, we calculated importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[3] For entries of subject merchandise during the period of review produced by DSM or Hyundai Steel for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. We intend to issue liquidation instructions to CBP 15 days after publication of the final results of these reviews.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice for all shipments of CTL plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior complete segment of this proceeding, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 0.98 percent,[4] the all-others rate determined in the less-than-fair-value investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: July 9, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive duties and functions of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issue
Comment: Home Market Date of Sale

[FR Doc. 2018–15018 Filed 7–12–18; 8:45 am]

BILLING CODE 3510–DS–P

[3] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[4] *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014–2015,* 81 FR 62712, 62714 (September 12, 2016).

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC) Public Meeting

AGENCY: International Trade Administration, DOC.

ACTION: Notice of an open meeting of a Federal Advisory Committee.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Environmental Technologies Trade Advisory Committee (ETTAC).

DATES: The meeting is scheduled for Tuesday, July 24, 2018 from 9:00 a.m.–2:00 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register or to submit written comments for dissemination prior to the meeting is 5:00 p.m. EDT on Friday, July 13, 2018. The deadline for members of the public to request auxiliary aids is 5:00 p.m. EDT on Friday, July 13, 2018.

ADDRESSES: The meeting will take place at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. The address to register and obtain call-in information; submit comments; or request auxiliary aids is: Ms. Amy Kreps, Office of Energy & Environmental Industries (OEEI), International Trade Administration, Room 28018, 1401 Constitution Avenue NW, Washington, DC 20230 or email: *amy.kreps@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Amy Kreps, Office of Energy & Environmental Industries (OEEI), International Trade Administration, Room 28018, 1401 Constitution Avenue, NW, Washington, DC 20230 (Phone: 202–482–3835; Fax: 202–482–5665; email: *amy.kreps@trade.gov*)

SUPPLEMENTARY INFORMATION: The meeting will take place on July 24 from 9:30 a.m. to 2:00 p.m. EDT. The general meeting is open to the public and time will be permitted for public comment from 1:30–2:00 p.m. EDT. Members of the public seeking to attend the meeting are required to register in advance. Those interested in attending must provide notification by Friday, July 13, 2018 at 5:00 p.m. EDT, via the contact information provided above. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at (202) 482–3835 no less than one week prior to the meeting. Requests received after this date will be accepted, but it may not be possible to accommodate them.

Written comments concerning ETTAC affairs are welcome any time before or after the meeting. To be considered during the meeting, written comments must be received by Friday, July 13, 2018 at 5:00 p.m. EDT to ensure transmission to the members before the meeting. Minutes will be available within 30 days of this meeting.

Topic to be considered: At this final meeting of the current (2016–2018) ETTAC charter, interagency representatives of the Trade Promotion Coordinating Committee's Environmental Trade Working Group (TPCC ETWG) will respond to the recommendations that the ETTAC presented to the Secretary of Commerce's designee on May 15. The meeting will be co-chaired by senior officials from the International Trade Administration and the U.S. Environmental Protection Agency. The ETTAC's recommendations cover two primary themes: (1) Recommendations regarding how the U.S. Government can help level the playing field, address barriers and increase opportunities for U.S. environmental exporters through market development efforts, export financing, and trade policy engagements and negotiations; and recommendations aimed at improving the overall quality of services delivered by the U.S. Government to U.S. environmental exporters through enhancements to digital tools aimed at improving lead generation, lead dissemination, and metrics and tracking. The recommendations were developed by the ETTAC's three subcommittees: Trade Promotion and Export Market Development, Professional Services and Infrastructure Advancement, and Trade Policy and American Competitiveness. OEEI will make the final agenda available to the public at least one week prior to the meeting. Please email *amy.kreps@trade.gov* or contact 202–482–3835 for a copy.

Background: The ETTAC is mandated by Section 2313(c) of the Export Enhancement Act of 1988, as amended, 15 U.S.C. 4728(c), to advise the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, through the Secretary of Commerce, on the development and administration of programs to expand U.S. exports of environmental technologies, goods, services, and products. The ETTAC was originally chartered in May of 1994. It was most recently re-chartered until August 2018.

Dated: July 9, 2018.

Man Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2018–14994 Filed 7–12–18; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 19, 2018, the United States Court of International Trade (Court) issued its final judgment in *Xi'an Metals & Minerals Import & Export Co., Ltd.* v. *United States,* Consol. Court No. 15–00109, sustaining, in part, and vacating, in part, the U.S. Department of Commerce's (Commerce) final remand results in the fifth administrative review of certain steel nails from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's final results of the administrative review, covering the period of review (POR) August 1, 2012, through July 31, 2013, and that Commerce is amending the final results with respect to the dumping margin assigned to The Stanley Works (Langfang) Fastening Systems Co., Ltd. (Stanley). The margin for Xi'an Metals & Minerals Import & Export Co., Ltd. (Xi'an Metals) remains unchanged as a result of the Court's final judgment.

DATES: Applicable June 19, 2018.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2312.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 2015, Commerce issued the *Final Results,* in which it determined weighted-average dumping margins of 13.19 percent for Stanley and 72.52 percent Xi'an Metals.[1] On September 6, 2017, the Court remanded to Commerce certain aspects of the *Final Results,* ordering Commerce to reconsider, in relevant part: (1) The potential double counting of certain labor costs by including line items such as ''Salary & Bonus,'' ''Welfare,'' and ''Social Security and Compensation'' as selling, general, and administrative (SG&A) expenses in the surrogate financial ratios; [2] and (2) the presence of a transcription error in Stanley's post-verification factors of production (FOP) database.[3]

On December 21, 2017, Commerce filed the AR5 Remand Redetermination with the Court.[4] Under respectful protest, Commerce recalculated the surrogate financial ratios by reclassifying certain labor-related line items from the selling, general, and administrative expenses numerator, to the materials, labor, and energy denominator of the financial ratios.[5] Additionally, under respectful protest, Commerce corrected the transcription error present in Stanley's post-verification FOP database.[6] As a result of these modifications, there were changes to the dumping margins assigned to both Xi'an Metals and Stanley. The resulting antidumping margins for Xi'an Metals and Stanley were 64.27 percent and 8.04 percent, respectively.[7]

On June 19, 2018, the Court sustained the AR5 Remand Redetermination with respect to the correction of the transcription error in Stanley's FOP database.[8] In addition, the Court vacated the remand order with respect to the issue of the calculation of the surrogate financial ratios, and reinstated this aspect of Commerce's *Final Results.*[9] In light of the Court's *Final Judgment,* the dumping margin for Xi'an Metals is unchanged from its dumping margin assigned in the *Final Results.* Additionally, because the Court reinstated the *Final Results* with respect to the calculation of the surrogate financial ratios, for these amended final results, we recalculated Stanley's dumping margin to reflect only the correction of the transcription error in Stanley's FOP database.[10]

[1] *See Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012–2013,* 80 FR 18816 (April 8, 2015) and accompanying Issues and Decision Memorandum (*Final Results*).

[2] *See Xi'an Metals & Minerals Import & Export Co., Ltd.* v. *United States,* 256 F.Supp. 3d 1346, 1356 (CIT September 6, 2017) (*Remand Order*).

[3] *Id.,* at 1359.

[4] *See* Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 15–00109, Slip Op. 17–120 (CIT 2017), dated December 21, 2017 (AR5 Remand Redetermination), available at *http://enforcement.trade.gov/remands/17-120.pdf.*

[5] *Id.,* at 7–14.

[6] *Id.,* at 15–16.

[7] *Id.,* at 19.

[8] *See Xi'an Metals & Minerals Import & Export Co., Ltd.* v. *United States,* Consol. Court No. 15–00109, Slip Op. 18–70 (CIT June 19, 2018) (*Final Judgment*) at 3.

[9] *Id.,* at 2–3.

[10] *See* ''Amended Final Results for the Fifth Administrative Review of Certain Steel Nails from

Continued

Timken Notice

In its decision in *Timken,* 893 F.2d at 341,[11] as clarified by *Diamond Sawblades,*[12] the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (Act), Commerce must publish a notice of a court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's June 19, 2018, *Final Judgment* constitutes a final decision of the Court that is not in harmony with Commerce's *Final Results.* This notice is published in fulfillment of the publication requirement of *Timken.*

Amended Final Results

Because there is now a final court decision, Commerce is amending the *Final Results* with respect to Stanley. The revised weighted-average dumping margin for Stanley for the period August 1, 2012, through July 31, 2013, is as follows:

Exporter	Weighted-average margin (percent)
Stanley	10.16

Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by Xi'an Metals and Stanley using the appropriate assessment rates.

Cash Deposit Requirements

As stated in the AR5 Remand Redetermination, the cash deposit rate for Stanley has been superseded by cash deposit rates calculated in intervening administrative reviews of the antidumping duty order on certain steel nails from China.[13] Thus, we will not alter Stanley's cash deposit rate.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: July 6, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–15011 Filed 7–12–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–845]

Certain Hot-Rolled Steel Flat Products From Brazil: Preliminary Results of the Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on certain hot-rolled steel flat products from Brazil. The period of review (POR) is March 22, 2016, through Septemer 30, 2017. This review covers six producers/exporters of the subject merchandise. Commerce selected one mandatory respondent, Companhia Siderurgica Nacional (CSN), for individual examination. We preliminarily determine that sales of subject merchandise have been made below normal value (NV) during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable July 13, 2018.

FOR FURTHER INFORMATION CONTACT: Peter Zukowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0189.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by this investigation are certain hot-rolled steel flat products from Brazil. For a complete description of the scope of this order, please see the accompanying Preliminary Decision Memorandum.[1]

Methodology

Commerce is conducting this review in accordance with sections 751(a) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as the Appendix to this notice.

Adverse Facts Available

Pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available with adverse inferences (AFA) for CSN because this respondent did not respond to Commerce's antidumping duty questionnaire. For a complete explanation of the methodology and analysis underlying the preliminary application of AFA, *see* the Preliminary Decision Memorandum.

Adjustment for Export Subsidies

In the original investigation, we subtracted from the final dumping margin of 33.14 percent the portion of CSN's countervailing duty rate attributable to export subsidies (4.07 percent) in order to calculate the cash-deposit rate of 29.07 percent.[2] Since the publication of the *Antidumping Duty Order,* we have not conducted an

the People's Republic of China: Analysis Memorandum for Stanley,'' dated concurrently with this notice.

[11] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[12] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[13] *See Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014,* 81 FR 14092 (March 16, 2016); *Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments and Final Partial Rescission; 2014–2015,* 82 FR 14344 (March 20, 2017); and *Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 83 FR 11683 (March 16, 2018).

[1] *See* the Memorandum, ''Certain Hot-Rolled Steel Flat Products from Brazil: Decision Memorandum for Preliminary Results of the Antidumping Duty Administrative Review; 2016–2017'' (dated concurrently with this **Federal Register** notice) (Preliminary Decision Memorandum).

[2] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016) (*Antidumping Duty Order*).

administrative review of the countervailing duty order on Hot-Rolled Steel from Brazil.[3] Therefore, the portion of the countervailing duty rate attributable to export subsidies currently in effect for CSN is 4.07 percent. Further, imports from CSN during the POR were subject to countervailing duties to offset export subsidies of 4.07 percent or more. As such, we have adjusted the dumping margin to ensure that, in accordance with section 772(c)(1)(C) of the Act, we do not collect duties attributable to export subsidies twice.

Rate for Non-Selected Companies

In accordance with the U.S. Court of Appeals for the Federal Circuit's decision in *Albemarle Corp.* v. *United States,*[4] we are applying to the non-selected companies the adjusted dumping margin we are preliminarily applying to CSN in this administrative review.[5] This is the only rate determined in this review for an individual respondent, and thus, it is applicable to the non-selected companies under section 735(c)(5)(B) of the Act. For a detailed discussion, see the Preliminary Decision Memorandum.

Preliminary Results of the Review

As a result of this review, Commerce preliminarily determines that for the period March 22, 2016, through Septemer 30, 2017, the following weighted-average dumping margins exist:[6]

Exporter and/or producer	Weighted-average dumping margin	Rate adjusted for export subsidies
Aperam South America	34.28	30.21
ArcelorMittal Brasil	34.28	30.21
Companhia Siderurgica Nacional	34.28	30.21
Companhia Siderurgica Suape	34.28	30.21
Marcegaglia do Brasil	34.28	30.21
Usinas Siderurgicas de Minas Gerais SA	34.28	30.21

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary results within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, there are no calculations to disclose because, in accordance with section 776 of the Act, we have relied on the application of AFA to CSN, the only mandatory respondent subject to this review, for purposes of these preliminary results for CSN. Because the AFA dumping margin is based solely on a dumping margin applied in a prior segment of this proceeding, there are no calculations to disclose.

Public Comment

Interested parties may submit case briefs not later than 30 days after the date of publication of this notice.[7] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] Case and rebuttal briefs should be filed using ACCESS.[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[11] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[12]

Commerce intends to issue the final results of this administrative review, including the results of its analysis of arguments raised in any written briefs, not later than 120 days after the publication of these preliminary results in the **Federal Register**, unless otherwise extended.[13]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[14] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[15] We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, de minimis within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV)

[3] This is the first administrative review following the completion of the investigation.

[4] *See Albemarle Corp.* v. *United States,* 821 F.3d 1345 (Fed. Cir. 2016).

[5] *See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016,* 83 FR 17527 (April 20, 2018).

[6] *See* Preliminary Decision Memorandum for more detail.

[7] *See* 19 CFR 351.309(c)(ii).

[8] *See* 19 CFR 351.309(d)(1).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] *See* 19 CFR 351.303.

[11] *See* 19 CFR 351.310(c).

[12] *Id.*

[13] *See* section 751(a)(3)(A) of the Act.

[14] *See* 19 CFR 351.212(b).

[15] *See* section 751(a)(2)(C) of the Act.

investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 29.07 percent, the all-others rate established in the LTFV investigation.[16] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 6, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Application of Facts Available and Adverse Inferences
A. Use of Facts Available
B. Application of Facts Available With an Adverse Inference
C. Selection and Corroboration of Adverse Facts Available Rate
D. Rate for Non-Selected Companies
V. Conclusion

[FR Doc. 2018–15013 Filed 7–12–18; 8:45 am]

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[16] *See Antidumping Duty Order.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918]

Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Shanghai Wells Hanger Co., Ltd., Hong Kong Wells Ltd., and Hong Kong Wells Ltd. (USA) (collectively, Shanghai Wells) sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR), October 1, 2016, through September 30, 2017. Interested parties are invited to comment on these preliminary results.

DATES: Applicable July 13, 2018.

FOR FURTHER INFORMATION CONTACT: Trenton Duncan or Ian Hamilton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3539, or (202) 482–4798, respectively.

SUPPLEMENTARY INFORMATION:

Background

This administrative review is being conducted in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this administrative review on steel wire garment hangers from the People's Republic of China (China) on December 7, 2017.[1] On April 26, 2018,[2] Commerce partially rescinded the review on 17 companies. Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. As a result, the revised deadline for the preliminary results of this administrative review is now July 6, 2018.[3]

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 57705 (December 7, 2017).

[2] *See Steel Wire Garment Hangers from the People's Republic of China; 2016–2017; Partial Rescission of the Ninth Antidumping Duty Administrative Review,* 83 FR 18276 (April 26, 2018).

[3] *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,*'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

Scope of the Order

The merchandise subject to the *Order* is steel wire garment hangers.[4] The products are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7326.20.0020, 7323.99.9060, and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description of the scope of the order remains dispositive.[5]

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[6] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review and the entity's rate is not subject to change, (*i.e.,* 187.25 percent).[7]

Separate Rates

Commerce preliminarily determines that information placed on the record by Shanghai Wells demonstrates that this entity is entitled to separate rate status.[8] For additional information, see the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. We calculated constructed export prices and export prices in accordance with section 772 of the Act. Because China is a non-market economy

[4] *See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China,* 73 FR 58111 (October 6, 2008) (*Order*).

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China; 2016–2017,'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[6] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[7] *See Steel Wire Garment Hangers from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 41480 (July 15, 2015), and accompanying Preliminary Decision Memorandum, unchanged in *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2013–2014,* 80 FR 69942 (November 12, 2015).

[8] *See* Shanghai Wells' January 18, 2018 Section A Questionnaire Response at 1–8.

(NME) within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. A list of the topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum is available at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

Commerce preliminarily determines that the following weighted-average dumping margin exists for the POR:

Exporter	Weighted-average dumping margin (percent)
Shanghai Wells Hanger Co., Ltd./Hong Kong Wells Ltd [9]	3.25

Disclosure and Public Comment

Commerce intends to disclose the calculations performed for these preliminary results to the parties no later than ten days after the date of the public announcement of this notice in accordance with 19 CFR 351.224(b).

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the case briefs are filed.[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[11] If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230, at a date and time to be determined.[12] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*e.g.,* in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[13] Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For any individually examined respondent whose (estimated) *ad valorem* weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1).[14] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate calculated in the final results of this review is not zero or *de minimis.* Where either the respondent's *ad valorem* weighted-average dumping margin is zero or *de minimis,*[15] or an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries that were not reported in the U.S. sales data submitted by companies individually examined during this review, Commerce will instruct CBP to liquidate such entries at the rate for the China-wide entity.[16] Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's cash deposit rate) will be liquidated at the rate for the China-wide entity.[17]

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section

[9] In the first administrative review of the *Order,* Commerce found that Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. (collectively Shanghai Wells) are a single entity and, because there were no changes to the facts that supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. *See Steel Wire Garment Hangers from the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review,* 75 FR 68758, 68761 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 27994, 27996 (May 13, 2011); *see also Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2015–2016,* 82 FR 54324 (November 17, 2017).

[10] *See* 19 CFR 351.309(d).

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.310(d).

[13] *See* 19 CFR 351.212(b)(1).

[14] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[15] *See* 19 CFR 351.106(c)(2).

[16] *Id.*

[17] *Id.*

751(a)(2)(C) of the Act: (1) For each specific company listed in the final results of this review, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the *ad valorem* rate is *de minimis,* then the cash deposit rate will be zero); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate published for the most recently completed period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: July 6, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
   a. NME Country Status
   b. Separate Rates
   c. Separate Rates Recipients—Wholly Foreign-Owned
   d. Surrogate Country and Surrogate Value Data
   e. Surrogate Country
   f. Date of Sale
   g. Comparisons to Normal Value
   h. Results of Differential Pricing Analysis
   i. U.S. Price
   j. Value-Added Tax
   k. Normal Value
   l. Factor Valuation Methodology
   m. Currency Conversion
5. Conclusion

[FR Doc. 2018–15019 Filed 7–12–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–828]

Stainless Steel Butt-Weld Pipe Fittings From Italy: Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) finds that Filmag Italia Spa (Filmag) did not sell stainless steel butt-weld pipe fittings at prices below normal value during the period of review (POR) February 1, 2016, through January 31, 2017.

DATES: Applicable July 13, 2018.

FOR FURTHER INFORMATION CONTACT: John Drury or Kent Boydston, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–5649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 2018, Commerce published in the **Federal Register** the *Preliminary Results* and gave parties an opportunity to comment.[1] No comments were received.

Scope of the Order

The merchandise covered by the order is certain stainless steel butt-weld pipe fittings from Italy.[2] Stainless steel butt-weld pipe fittings are under 14 inches in outside diameter (based on nominal pipe size), whether finished or unfinished. The product encompasses all grades of stainless steel and ''commodity'' and ''specialty'' fittings. Specifically excluded from the definition are threaded, grooved, and bolted fittings, and fittings made from any material other than stainless steel.

The butt-weld fittings subject to the order is currently classifiable under subheading 7307.23.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, to 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, titled ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Butt-Weld Pipe Fittings from Italy; 2016–2017'' (Preliminary Decision Memorandum), which is issued concurrent with these results and hereby adopted by this notice.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). Export price was calculated in accordance with section 772(a) of the Act. Normal value was calculated in accordance with section 773(a)(1)(B) of the Act. For a full description of the methodology underlying our analysis, *see* the Preliminary Decision Memorandum, available at *http://enforcement.trade.gov/frn/.*

Final Results of Review

In the *Preliminary Results,* Commerce determined that Filmag did not make sales at below normal value for the period February 1, 2016, through January 31, 2017. We have not received information contradicting our preliminary finding. Thus, there is no reason to modify our preliminary analysis, and no decision memorandum accompanies this **Federal Register** notice.

Final Results of Review

Commerce determines that the following weighted-average dumping margin exists for the period of review

[1] *See Stainless Steel Butt-Weld Pipe Fittings from Italy: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 10839 (March 13, 2018), and the accompanying Preliminary Decision Memorandum.

[2] *See Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines,* 66 FR 11257 (February 23, 2001).

from February 1, 2016, through January 31, 2017:

Manufacturer/exporter	Weighted-average margin (percent)
Filmag Italia Spa	0.00

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Filmag will be that established in the final results of this administrative review; (2) for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent review period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the all-others rate of 26.59 percent, the rate established in the investigation of this proceeding.[3] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice of the final results of this administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h).

Dated: July 6, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive duties and functions of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–15012 Filed 7–12–18; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Italy,* 65 FR 81830 (December 27, 2000).

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletion from the Procurement List.

SUMMARY: This action adds products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a service from the Procurement List previously furnished by such agency.

DATES: *Date added to and deleted from the Procurement List:* August 12, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 4/27/2018 (83 FR 82) and 6/4/2018 (83 FR 107); the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.

2. The action will result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and service are added to the Procurement List:

Products

NSN(s)—Product Name(s): 8105–00–NIB–1437—Envelopes, Packing List, 4–½″ x 5–½″
Mandatory Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX
Mandatory for: Total Government Requirement
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products

Distribution: A-List
NSN(s)—Product Name(s): 6230–00–NIB–0066—Work Light, LED, Articulating Arm, Red and Black
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI
Mandatory for: Broad Government Requirement
Contracting Activity: Defense Logistics

Agency Troop Support

Distribution: B-List

Service

Service Type: Custodial Service
Mandatory for: U.S. Customs and Border Protection, All CBP Facilities, U.S. Virgin Islands, VI, 5500 Veterans Drive, St. Thomas, VI
Mandatory Source of Supply: The Corporate Source, Inc., New York, NY
Contracting Activity: U.S. Customs and Border Protection, Border Enforcement CTR DIV

Deletion

On 6/15/2018 (83 FR 116), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletion from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing a small entity to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service deleted from the Procurement List.

End of Certification

Accordingly, the following service is deleted from the Procurement List:

Service

Service Type: Microfiche/Microfilm Reproduction Service
Mandatory for: Great Plains Area: Department of Housing and Urban Development (HUD) Chicago, IL
Mandatory Source of Supply: Lester and Rosalie Anixter Center, Chicago, IL
Contracting Activity: Housing and Urban Development

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2018–15034 Filed 7–12–18; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete products and services from the Procurement List that were previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: August 12, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following products and services are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s):
8415–01–581–6578—Liner, Parka, U.S. Navy, Coyote Brown, Medium/XX-Long
8415–01–588–8415—Liner, Parka, U.S. Navy, Coyote Brown, Medium/XX-Long
Mandatory Source(s) of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC, Bestwork Industries for the Blind, Inc., Cherry Hill, NJ
Contracting Activity: W6QK ACC–APG NATICK

NSN(s)—Product Name(s): 8415–01–588–8415—Liner, Parka, U.S. Navy, Coyote Brown, Medium/XX-Long
Mandatory Source of Supply: Bestwork Industries for the Blind, Inc., Cherry Hill, NJ
Contracting Activity: DLA Troop Support

Services:

Service Type: Operation of Postal Service Center Service
Mandatory for: Eglin Air Force Base: East of Memorial Trail (excluding the airfield) Eglin, FL
Mandatory Source of Supply: Lakeview Center, Inc., Pensacola, FL
Contracting Activity: Dept. of the Air Force, FA2823 AFTC PZIO

Service Type: Furniture Service
Mandatory for:
MCALF Bogue Field, HWY 70, Bogue, NC
MCAS Cherry Point, Hwy 101, Cherry Point, NC
MCOLF Atlantic Field, Air Base Road, Atlantic, NC
Mandatory Source of Supply: Coastal Enterprises of Jacksonville, Inc., Jacksonville, NC
Contracting Activity: DOD/Department of the Navy

Service Type: Custodial Service
Mandatory for: U.S. Geological Survey, Willamette Research Station, 1350 SE Goodnight Avenue, Corvallis, OR
Mandatory Source of Supply: Willamette Valley Rehabilitation Center, Inc., Lebanon, OR
Contracting Activity: Geological Survey, Office of Acquisition and Grants—Sacramento

Service Type: Janitorial/Custodial Service
Mandatory for: Department of the Air Force: 440th Airlift Wing, 300 East College Avenue, Milwaukee, WI
Mandatory Source of Supply: Milwaukee Center for Independence, Inc., Milwaukee, WI
Contracting Activity: Dept. of the Air Force, FA6605 440 AW LGC GEN Mitchel ARS

Service Type: Custodial Service
Mandatory for: Air National Guard, 1401 Robert B. Miller, Jr., Drive, Garden City, GA
Mandatory Source of Supply: Trace, Inc., Boise, ID
Contracting Activity: Dept of the Army, W7M3 USPFO Activity GA ARNG

Service Type: Parts Sorting—Hardware Service
Mandatory for: Robins Air Force Base, Robins AFB, GA
Mandatory Source of Supply: Houston County Association for Exceptional Citizens, Inc., Warner Robins, GA
Contracting Activity: Dept. of the Air Force, FA7014 AFDW PK

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2018–15033 Filed 7–12–18; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0076, Risk Management Requirements for Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is announcing an opportunity for public comment on the proposed collection of

certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or renewal of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to financial resource requirements for derivatives clearing organizations and the Form DCO used to apply for registration as a derivatives clearing organization.

DATES: Comments must be submitted on or before September 11, 2018.

ADDRESSES: You may submit comments, identified by ''Risk Management Requirements for Derivatives Clearing Organizations,'' by any of the following methods:

- The Agency's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Eileen Chotiner, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418–5467; email: *echotiner@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the collection of information listed below.

Title: Risk Management Requirements for Derivatives Clearing Organizations (OMB Control No. 3038–0076). This is a request for extension of a currently approved information collection.

Abstract: Commission Regulations 39.12, 39.13, 39.14, 39.15, 39.16 and 39.18 establish risk management requirements for registered derivatives clearing organizations (''DCOs''). Regulation 39.3 requires any person seeking to register as a DCO to submit a completed Form DCO as provided in the appendix to part 39, accompanied by all applicable exhibits. The Commission will use the information in this collection to assess compliance of DCOs and DCO applicants with requirements for DCOs prescribed in the Commodity Exchange Act and Commission regulations.

With respect to the collection of information, the CFTC invites comments on:

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

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement

1. Collection 3038–0076—Derivatives Clearing Organization Applicants Reporting Requirement (Regulation 39.3 and Form DCO)

Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total annual burden hours
3	1	3	400	1200

2. Collection 3038–0076—Event-Specific System Safeguards Reporting Requirements for Derivatives Clearing Organizations (Regulations 39.18(g) and (h))

[1] 17 CFR 145.9.

Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total annual burden hours
16	2	32	0.1	3.2

3. Collection 3038–0076—Recordkeeping Requirements for Derivatives Clearing Organizations

Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total annual burden hours
16	1	16	50	800

Types of Respondents/Affected Entities: Derivatives clearing organizations (DCOs) and applicants for registration as a DCO.

Estimated Number of Respondents: 19.[2]

Estimated Total Number of Annual Responses: 51.

Estimated Total Annual Burden Hours: 2003 hours (1200 + 3.2 + 800).

Frequency of collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: July 9, 2018.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2018–14964 Filed 7–12–18; 8:45 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2018–0016]

Privacy Act of 1974; System of Records

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection (Bureau), gives notice of the establishment of a modified Privacy Act System of Records.

DATES: Comments must be received no later than August 13, 2018. The Modification will be effective on August 13, 2018 unless the comments received result in a contrary determination.

[2] Includes 16 currently registered DCOs (an increase of 2 since the last extension) and 3 potential applicants.

ADDRESSES: You may submit comments, identified by the title and docket number (see above), by any of the following methods:

- *Electronic: privacy@cfpb.gov* or *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Claire Stapleton, Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of comments. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect the documents by telephoning 202–435–7220.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, at (202) 435–7220. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Bureau revises its Privacy Act System of Records Notice (''SORN'') CFPB.005—Consumer Response System. In revising this SORN, the Bureau modifies the authorized purposes for this system, the categories of individuals covered by this system, and categories of records in this system, to reflect Bureau activities using personally identifiable information in this system of records relating to quality control and consumer education and engagement efforts. The Bureau also modifies the policies and practices for the retrieval of records in this system to reflect that records may be retrieved by an individual's email address in addition to the methods for retrieval previously listed.

The report of the modified systems of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act'' and the Privacy Act, 5 U.S.C. 552a(r).

SYSTEM NAME AND NUMBER:

CFPB.005—CFPB Consumer Response System.

SECURITY CLASSIFICATION:

This information system does not contain any classified information or data.

SYSTEM LOCATION:

Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

SYSTEM MANAGER(S):

Office of Consumer Response, Product Section Chief, Bureau of Consumer Financial Protection, Division of

Consumer Education and Engagement, Office of Consumer Response, 1700 G Street NW, Washington DC 20552, (855) 411–2372.

PURPOSE(S) OF THE SYSTEM:

The information in the system is being collected to enable the Bureau to receive, respond to, and refer complaints or inquiries regarding consumer financial products or services. The system serves as a record of the complaint or inquiry, and is used for collecting complaint or inquiry data; responding to or referring the complaint or inquiry; aggregating data that will be used to inform other functions of the Bureau and, as appropriate, other agencies and/or the public; providing related educational and informational content; and preparing reports as required by law. The information will also be used for administrative purposes to ensure quality control, performance, and improving management processes. This system consists of complaints or inquiries received by the Bureau or other entities and information concerning responses to or referrals of these complaints or inquiries, as appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are individuals who submit complaints or inquiries to the Bureau (on their own or others' behalf), individuals on whose behalf complaints or inquiries are submitted by others (such as attorneys, members of Congress, third party advocates, and/or other governmental organizations); individuals who are the subjects of complaints by virtue of their engagement in business as a sole proprietor, and individuals from other Federal, State agencies, or the Bureau with whom the Bureau shares data. This includes complaints or inquiries received by prudential regulators, Federal Trade Commission, other Federal agencies, State agencies, or the Bureau. The term ''prudential regulators'' refers to any Federal banking agency, as that term is defined in section 3 of the Federal Deposit Insurance Act, and the National Credit Union Administration. Information collected regarding consumer products and services is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other business entities and organizations is not subject to the Privacy Act. Other individuals covered by this system include employees, contractors, or others at the Bureau who work in or with the Office of Consumer Response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain: (1) Correspondence or other information received; (2) information from the entity or individual referring the inquiry or complaint; (3) records created of verbal communications by or with complainants or other individuals; (4) information regarding third party advocates or others who submit complaints or inquiries on another's behalf; (5) information identifying the entity that is the subject of the complaint or inquiry or its employees; (6) communication with or by the entity that is the subject of the complaint or inquiry or its employees; (7) unique identifiers, codes, and descriptors categorizing each complaint or inquiry file; (8) information about how complaints or inquiries were responded to or referred, including any resolution; (9) records used to respond to or refer complaints or inquiries, including information in the Bureau's other systems of records; (10) identifiable information regarding both the individual who is making the inquiry or complaint, and the individual on whose behalf such inquiry or complaint is made, and employees of the entity about which the complaint or inquiry was made, including name, Social Security number, account numbers, address, phone number, email address, date of birth; and (11) identifiable information regarding an employee, contractor, or others at the Bureau who access the system, including their name and any login information used to access the consumer response system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrievable by a variety of fields including without limitation the individual's name, Social Security number, complaint/inquiry case number, address, account number, transaction number, phone number, email address, date of birth, or by some combination thereof.

HISTORY:

79 FR 21440 (Apr. 16, 2014) (CFPB.005 CFPB Consumer Response System).

Dated: July 5, 2018.

Claire Stapleton,

Chief Privacy Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2018–14990 Filed 7–12–18; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Public Scoping Meetings for the Draft Supplemental Environmental Impact Statement for the Allatoona Lake Water Supply Storage Reallocation Study and Updates to Weiss and Logan Martin Reservoir Project Water Control Manuals in the Alabama-Coosa-Tallapoosa River Basin

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Supplement to Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Mobile District, issued a Notice of Intent (NOI) in the **Federal Register** (83 FR 18829) published on April 30, 2018, to prepare a Supplemental Environmental Impact Statement (SEIS), pursuant to the National Environmental Policy Act (NEPA), to evaluate potential changes to the Water Control Manuals (WCMs) for three reservoirs in the Alabama-Coosa-Tallapoosa (ACT) River Basin and to the Master WCM for the ACT River Basin. The Draft SEIS will be prepared as an integrated document with the reallocation study. The USACE will hold five public scoping meetings during the months of July and August as part of its preparation to conduct the water supply storage reallocation study and update the WCMs for the Alabama Power Company's Weiss and Logan Martin reservoirs in the ACT River Basin.

DATES: The meeting dates and times are:

1. Monday, July 30, 2018, 4–8 p.m. (EDT), Acworth, GA.

2. Tuesday, July 31, 2018, 4–8 p.m. (EDT), Rome, GA.

3. Wednesday, August 1, 2018, 4–8 p.m. (CDT), Gadsden, AL.

4. Thursday, August 2, 2018, 4–8 p.m. (CDT), Childersburg, AL.

5. Friday, August 3, 2018, 4–8 p.m. (CDT), Montgomery, AL.

ADDRESSES: The meeting locations are:

1. Acworth, GA—Cauble Park Beach House, 4425 Beach Street, Acworth, Georgia 30101, (770) 917–1234.

2. Rome, GA—Forum River Civic Center, Berry/Shorter Room, 301 Tribune Street, Rome, Georgia 30161, (706) 291–5281.

3. Gadsden, AL—The Pitman Theater, 629 Broad St., Gadsden, Alabama 35901, (256) 549–4740.

4. Childersburg, AL—Friends on Eighth, 109 8th Ave. SW, Childersburg, Alabama 35044, (205) 296–2397.

5. Montgomery, AL—AUM Center for Lifelong Learning, 75 TechnaCenter

Drive, Montgomery, AL 36117, (334) 244–3343.

Following the scoping meetings, individuals who have not already submitted their comments should submit them by August 15, 2018, by either:

* Email to *act-arc@usace.army.mil,* or

* Mail to Mr. Mike Malsom, Inland Environment Team, Environment and Resources Branch, Planning and Environmental Division, USACE-Mobile, Post Office Box 2288, Mobile, AL 36628–0001.

FOR FURTHER INFORMATION CONTACT: Direct questions about the NEPA process to Mr. Mike Malsom by mail at Inland Environment Team, Environment and Resources Branch, Planning and Environmental Division, USACE-Mobile, Post Office Box 2288, Mobile, AL 36628–0001; telephone at (251) 690–2023; electronic facsimile at (251) 694–3815; or email at *ACT-ACR@usace.army.mil.* You can also request to be added to the mailing list for public distribution of notices, meeting announcements, and documents.

SUPPLEMENTARY INFORMATION: Additional information on the ACT River Basin study will be posted as it becomes available on the Mobile District website at *http://www.sam.usace.army.mil/.*

The USACE will hold five public scoping meetings during the months of July and August as part of its preparation to conduct the water supply storage reallocation study and update the WCMs for the Alabama Power Company's Weiss and Logan Martin reservoirs in the ACT River Basin. The public is invited to attend the scoping meetings, which will provide information on the study process and afford interested parties the opportunity to submit to USACE input about their issues and concerns regarding that process. Each of the public scoping meetings will be presented in an open house format, allowing time for participants to review specific information and to provide comments either on forms available at the meeting or to a court reporter on-site at the meeting.

Curtis M. Flakes,

Chief, Planning and Environmental Division.

[FR Doc. 2018–14975 Filed 7–12–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare Supplement II to the Final Environmental Impact Statement, Mississippi River and Tributaries (MR&T) Project, Mississippi River Mainline Levees and Channel Improvement

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (''USACE''), Memphis District, Vicksburg District, and the New Orleans District, is announcing its intent to prepare Supplement II (SEIS II) to the Final Environmental Impact Statement, Mississippi River and Tributaries (MR&T) Project, Mississippi River Mainline Levees and Channel Improvement of 1976 (1976 EIS), as updated and supplemented by Supplement No. 1, Mississippi River and Tributaries Project, Mississippi River Mainline Levee Enlargement and Seepage Control of 1998 (SEIS I) to the 1976 EIS, to cover construction of remaining authorized work on the Mississippi River mainline levees (MRL) feature. Over the past twenty years since the finalization of SEIS I, USACE has determined that various sections (reaches) of the mainline levee system are deficient in varying amounts, and that certain remedial measures need to be undertaken to control seepage and to raise and stabilize the deficient sections of the levee to protect the lower Mississippi River Valley against the Project Design Flood (PDF) and maintain the structural integrity of the MRL system. The Proposed Action of SEIS II is to supplement and, as necessary, augment the 1976 EIS and SEIS I using the primary MR&T goals of: (1) Providing flood protection from the PDF; and (2) developing an environmentally sustainable project; formulating alternatives; identifying significant resources; assessing the direct, indirect, and cumulative impacts to those resources; investigating and environmentally assessing potential borrow areas; developing mitigation measures; and evaluating and selecting a preferred method for the construction of necessary authorized MRL Project features, which may include but are not limited to, implementing seepage control measures and the construction of various remediation measures for deficient levee reaches to bring these reaches to the project design grade. SEIS II will evaluate the potential direct, indirect, and cumulative impacts for an array of alternatives, including a No Action alternative.

FOR FURTHER INFORMATION CONTACT: Comments and questions about SEIS II should be submitted to USACE by email to: *MRL-EIS-2@usace.army.mil;* or by regular mail to: U.S. Army Corps of Engineers, ATTN: CEMVN–PDC–UDC, 167 North Main Street, Room B–202, Memphis, Tennessee 38103–1894. For additional information, including but not limited to a copy of SEIS I and the 1976 EIS, please visit the Project website at: *http://www.mvk.usace.army.mil/MRLSEIS/.*

SUPPLEMENTARY INFORMATION:

1. Project Background and Authorization. The MR&T Project (and the MRL feature) was authorized by the Flood Control Act of 1928, as amended. The 1976 EIS was filed with the Council of Environmental Quality on 8 April 1976. SEIS I, which was prepared to supplement the 1976 EIS to evaluate the effects of continued construction of the MRL levee enlargements, stability berms, seepage control, and erosion protection measures, was filed with the Environmental Protection Agency on 31 July 1998. SEIS I focused on the levees of the MRL that were the most deficient in height and on seepage control measures for levee reaches with observable signs of seepage during previous high water events.

The MR&T Project is designed to manage flood risk damages in the alluvial valley between Cape Girardeau, Missouri and the Head of Passes, Louisiana. The goal of the MR&T Project is to provide an environmentally sustainable project for comprehensive flood damage control, protection, and risk reduction from the ''Project Design Flood'', in the alluvial valley beginning at Cape Girardeau, Missouri to the Head of Passes, Louisiana, by means of levees, floodwalls, floodways, reservoirs, banks stabilization and channel improvements in and along the Mississippi River and its tributaries. The mainline levee system, comprised of levees, floodwalls, backwater areas, floodways, and various control structures, is approximately 1,610 miles long. The PDF is a hypothetical flood that was developed to determine the design flood to be used in designing the MR&T levee system in the lower Mississippi River Basin, and is defined as the ''greatest flood having a reasonable probability of occurrence'' when the operable features of the entire MR&T Project are considered. The PDF upon which the current design for the construction of the mainline levee system and remaining unconstructed levees is based, is the ''Refined 1973

MR&T PDF Flowline.'' The Mississippi River mainline levees protect the lower Mississippi River Valley against the PDF by confining flow to the leveed channel, except where it enters backwater areas, overflows several levees designed to overtop and fill tributary basins, or is intentionally diverted into four floodway areas. (A figure which depicts the PDF in cubic feet per second for the lower Mississippi River and its tributaries as set forth in SEIS I will be available for review at the Project website.) The MR&T Project functions as a system and provides flood risk reduction across portions of seven states: Illinois, Missouri, Kentucky, Tennessee, Arkansas, Mississippi and Louisiana (a map of the area will be available on the Project website). The MR&T System includes an extensive levee system; floodways to divert excess flows past critical reaches; channel improvement and stabilization features to protect the integrity of flood risk management measures and to ensure proper alignment and depth of the navigation channel; and a system of reservoirs to regulate flows and backwater areas to provide storage during extreme events. The integrity of the levee system is also bolstered by control measures such as landside berms, drainage trenches, drainage blankets, and relief wells, and tributary basin improvements including levees, headwater reservoirs, and pumping stations that expand flood risk management coverage and improve drainage into adjacent areas within the alluvial valley.

Through evaluation of information and data obtained from levee inspections, seepage analyses, research, studies, and engineering assessments, USACE has concluded that certain levee reaches are not at Project design grade due to effects from various changed conditions, including, but not limited to consolidation of levee materials, subsidence, and changes in river conditions and in survey datums over time. Additionally, advances in geotechnical mapping, data collected from recent high water events, and subsequent seepage analyses that have taken place since the finalization of SEIS I, have revealed the need for additional seepage control measures and the construction of other authorized Project features to facilitate structural integrity and stability of the MRL feature of the MR&T Project. As a result, in October of 2017, USACE completed an engineering risk assessment and programmatic review of the MRL based on the 1973 Refined MR&T Flowline Study. The assessment showed that the integrity of the MRL levee system was at risk because numerous levee reaches are not currently constructed to the pass the PDF due to either height or seepage deficiencies. Based on the results, USACE has determined that SEIS II is necessary to formulate alternatives, identify significant resources, assess the direct, indirect, and cumulative impacts to the significant resources, develop mitigation measures, and evaluate and select a recommended plan.

2. Proposed Action. The Proposed Action is the construction of necessary additional authorized MRL Project features (*e.g.,* levee enlargements; stability berms, underseepage controls such as berms, relief wells, cutoffs, riverside blankets and pit fills; and erosion protection such as slope paving), to improve sections of deficient MRL levees in order to provide the required PDF protection. The Proposed Action, and associated evaluations, does not include reformulation of the MRL feature. Measures to manage flood risk reduction along the mainline levee system from Cape Girardeau, Missouri to Head of Passes, Louisiana, include but are not limited to, raising and widening portions of the levee to the authorized design grade and cross-sections, stabilizing floodwalls, and seepage control (*e.g.* berms, relief wells, and cutoff trenches).

3. Alternatives. SEIS II will evaluate an array of site specific alternatives, including the No-Action alternative, with a focus to avoid and minimize reasonably foreseeable adverse effects from construction of necessary additional authorized MRL Project features. Alternatives will include evaluations of measures, or combination of measures, along with evaluation of locations of borrow areas that avoid and minimize reasonably foreseeable adverse effects. Potential alternatives may include flood risk reduction measures such as raising and widening portions of the levee to the authorized design grade and cross-sections, installing or stabilizing floodwalls, levee setbacks, and various seepage control measures such as, seepage berms, relief wells with the associated drainage and/or pumping plants for water conveyance, and cutoff trenches. Other alternatives will be developed through the scoping period based on public input. Additionally, SEIS II will identify measures to avoid, offset, or minimize impacts to resources where feasible.

4. Scoping. Scoping is the National Environmental Policy Act (NEPA) process utilized for determining the range of alternatives and significant issues to be addressed in SEIS II. USACE invites full public participation to promote open communication on the issues surrounding the Proposed Action. The public will be involved in the scoping and evaluation process through advertisements, notices, and other means. Project information will also be available on the Project website at: *http://www.mvk.usace.army.mil/MRLSEIS/.* All individuals, organizations, NGOs, affected Indian tribes, and local, state, and Federal agencies that have an interest are urged to participate in the scoping process. The purpose of this Notice is to obtain suggestions and information that may inform the scope of the issues and range of alternatives to be evaluated in SEIS II, as well as to provide notice and request public input on the reasonably foreseeable effects to natural and cultural resources.

This Notice of Intent commences the formal public scoping comment period which shall continue through October 1, 2018. Scoping is the NEPA process utilized for seeking public involvement in determining the range of alternatives and significant issues to be addressed in SEIS II. USACE invites full public participation to promote open communication in the public scoping phase and invites interested parties to identify potential issues, concerns, and reasonable alternatives that should be considered in SEIS II.

In order for public comments to be recorded for inclusion in the Administrative Record and be considered in the SEIS II development process, members of the public, interested persons and entities must submit their comments to USACE by mail, email, or verbally at the Scoping Meeting(s). Written comments submitted for consideration are due no later than October 1, 2018. Written comments may be submitted: (1) To USACE at public scoping meetings; (2) by regular U.S. Mail mailed to: U.S. Army Corps of Engineers, ATTN: CEMVN–PDC–UDC, 167 North Main Street, Room B–202, Memphis, Tennessee 38103–1894; and (3) by email to: *MRL-SEIS-2@usace.army.mil. Please include your name and return address on the first page of your written comments.*

All personally identifiable information (for example, name, address, etc.) voluntarily submitted by a commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. All timely received comment letters will be accessible on the Project website at *http://www.mvk.usace.army.mil/MRLSEIS/.*

5. Public Scoping Meetings: Public scoping meeting(s) will be held at various locations within the Project Area during approximately July or August of 2018 to present information to the public and to receive comments from the public. The date(s), time(s), and location(s) of the scoping meeting(s) will be publicly announced in advance by USACE on the Project website at: *http://www.mvk.usace.army.mil/MRLSEIS/,* and in any other forms deemed appropriate once those dates, times, and locations are determined by USACE. Notices of the public scoping meetings will also be sent by USACE through email distribution lists, posted on the Project website, and mailed to public libraries, government agencies, and interested groups and individuals. Scoping meeting dates and locations will also be advertised in local newspapers. Interested parties unable to attend the scoping meetings can access additional information on SEIS II at: *http://www.mvk.usace.army.mil/MRLSEIS/.*

6. Potentially Significant Issues. SEIS II will analyze the reasonably foreseeable impacts on the human and natural environment resulting from the Proposed Action. The scoping, public involvement, and interagency coordination processes will help identify and define the range of potential significant issues that will be considered. Important resources and issues evaluated in SEIS II could include, but are not limited to, the direct, indirect, and cumulative effects on aquatic resources; bottomland hardwoods; wetlands; waterfowl; wildlife resources; water quality; cultural resources; geology and soils including agricultural land and prime and unique farmland; hydrology and hydraulics; air quality; threatened and endangered species and their critical habitat; socioeconomics; environmental justice; recreation; and cumulative effects of related projects along the MRL. USACE will also consider issues identified and comments made throughout scoping, public involvement, and interagency coordination. USACE expects to better define the issues of concern and the methods that will be used to evaluate those issues through the scoping process.

7. *Availability.* The current SEIS II development schedule anticipates the release of the draft of SEIS II by USACE for public review and comment in 2020. After it is published, USACE will hold public comment meetings to present the results of studies and identification of a recommended plan, to receive comments, and to address questions concerning the draft SEIS II.

Dated: June 27, 2018.

Michael C. Derosier,

Colonel, U.S. Army, Commander and District Engineer.

[FR Doc. 2018–14972 Filed 7–12–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities—Associate Degree Preservice Program Improvement Grants To Support Personnel Working With Young Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2018 for Personnel Development to Improve Services and Results for Children with Disabilities—Associate Degree Preservice Program Improvement Grants to Support Personnel Working with Young Children with Disabilities, Catalog of Federal Domestic Assistance (CFDA) number 84.325N.

DATES:

Applications Available: July 13, 2018.

Deadline for Transmittal of Applications: August 13, 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: Julia Martin Eile, U.S. Department of Education, 400 Maryland Avenue SW, Room 5175, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7431. Email: *Julia.Martin.Eile@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 purposes of this program are to (1) help address State-identified needs for personnel in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research and experience, to be successful in serving those children.

Priorities: In accordance with 34 CFR 75.105(b)(2)(v), the absolute and competitive preference priorities are from allowable activities specified in the statute (see sections 662 and 681 of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1462 and 1481).

Absolute Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Associate Degree Preservice Program Improvement Grants To Support Personnel Working With Young Children With Disabilities

Background

The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation.

The purpose of this priority is to fund eight Associate Degree Preservice Improvement Grants and improve the quality of existing associate degree programs so that associate degree-level personnel are well prepared to work with infants, toddlers, preschool, and early elementary school children ages birth through 8 (young children) with disabilities and their families in inclusive early childhood programs and elementary schools. Associate degree-level personnel play critical roles in the development and learning of all young children, including young children with disabilities, as child care providers, preschool teachers, assistant teachers, and paraprofessionals. In these roles, associate degree-level personnel can use evidence-based (as defined in this notice) practices (EBPs) to meaningfully include young children with disabilities in early childhood programs and classrooms, individualize interventions and accommodations, collect data to monitor progress, and collaborate with other professionals. In elementary schools, paraprofessionals are often

responsible for providing direct services to children, such as small group instruction, one-on-one tutoring, and assisting with classroom management. Studies have shown, however, that associate degree programs do not adequately prepare personnel to work with young children with disabilities (Chang, Early, & Winton, 2005; Giangreco, 2010; Maxwell, Lim, & Early, 2006). This priority is consistent with two of the priorities from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs, which were published in the **Federal Register** on March 2, 2018 (83 FR 9096): Priority 5—Meeting the Unique Needs of Students and Children with Disabilities and/or Those with Unique Gifts and Talents; and Priority 8—Promoting Effective Instruction in Classrooms and Schools.

The Office of Special Education Programs (OSEP) began to address the need for more qualified associate degree-level personnel in FYs 2010 and 2011 by funding projects to enhance and redesign community college programs. A number of those grantees were four-year institutions that partnered with community colleges and successfully redesigned their associate degree programs. They did this by incorporating content on serving children with disabilities and their families into courses and practicum experiences to increase the competencies of associate degree-level personel to work with children with disabilities and their families (Catlett, Maude, & Nollsch, 2014; Catlett, Maude, & Skinner, 2016).

OSEP will build on this work by funding four-year insitutions of higher education (IHEs) to partner with a minimum of three community colleges to enhance and redesign their associate degree programs to better prepare associate degree students to meet the needs of young children with disabilities and their families.

Priority:

The purpose of this priority is to fund eight Associate Degree Preservice Program Improvement Grants to Support Personnel Working with Young Children with Disabilities to achieve, at a minimum, the following expected outcomes:

(a) Redesigned curricula and increased faculty knowledge and capacity to deliver new content in the curricula that better prepares associate degree students to work with young children with disabilities and their families and support their meaningful participation, development, and learning in early childhood programs and elementary schools;

(b) Increased competencies of associate degree students to work with young children with disabilities and their families and support their meaningful participation, development, and learning in early childhood programs and elementary schools;

(c) Increased numbers of associate degree-level personnel who have the competencies to work with young children with disabilies and their families and support their meaningful partication, development, and learning in early childhood programs and elementary schools; and

(d) Refinement and verification of a model to effectively enhance and redesign associate degree programs to prepare associate degree-level personnel to work with young children with disabilities and their families through partnerships with four-year IHEs.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need in the field for associate degree-level personnel with the competencies to serve young children with disabilities and their families and support their meaningful participation, development, and learning in early childhood programs and elementary schools. To meet this requirement, the applicant must—

(i) Present applicable national and State data demonstrating the need to improve the competencies of associate degree-level personnel to serve young children with disabilities and their families and support their meaningful participation, development, and learning in early childhood programs and elementary schools;

(ii) Demonstrate knowledge of the competencies that associate degree-level personnel need to effectively serve young children with disabilities and their families and support their meaningful participation, development, and learning in early childhood programs and elementary schools; and

(iii) Demonstrate knowledge of current educational issues and policy initiatives relating to the preparation of a competent early childhood workforce, especially associate degree-level personnel;

(2) Address the need for faculty to have the competencies to deliver content that will prepare associate degree students to serve young children with disabilities and their families and support their meaningful participation, development, and learning in early childhood programs and elementary schools. To meet this requirement, the applicant must—

(i) Present applicable national or State data demonstrating the need to improve preservice preparation at the associate degree-level to prepare students to serve young children with disabilities and their families; and

(ii) Present information about the current capacity of faculty preparing associate degree students to align the curriculm to State and national professional organization personnel standards, integrate content on serving young children with disabilities and their families, and design the curriculum utilizing adult learning principles.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in this notice) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on adult learning principles that will inform the proposed project; and

(ii) How the proposed project will incorporate current research and EBPs

in the development and delivery of curriculum enhancement and redesign;

(5) Develop or refine a process to effectively enhance and redesign associate degree programs to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to develop partnerships with a minimum of three community colleges in the State to enhance and revise the associate degree curricula within these community colleges to prepare early intervention, early childhood special education, and early childhood education personnel to serve children ages birth through age 8 with disabilities. (In States where the age range for certification of early childhood personnel is other than birth through age 8 (*e.g.,* birth through age 3, birth through age 5, ages 3 through 5), we defer to the age range in such State's certification); and

(ii) Its proposed approach to partner with community colleges to enhance or redesign the associate degree programs' curricula by incorporating EBPs into courses and by providing at least one practicum experience in a setting that serves young children with disabilities and their families. The applicant must describe how the improved associate degree program will be—

(A) Aligned to State standards for associate degree-level personnel, or in States that do not have State standards, meet appropriate national professional organization standards for associate degree-level professions; and

(B) Designed to ensure that associate degree students receive training and develop competencies in the following areas:

(*1*) Collaborating and working effectively with other practicioners;

(*2*) Implementing instructional and intervention practices, such as the Division for Early Childhood Recommended Practices, the Council for Exceptional Children High-Leverage Practices in Special Education, or similar best practice recommendations;

(*3*) Supporting young children with disabilities' literacy and science, technology, engineering and mathematics (STEM) development by implementing EBPs and supporting families to understand their young children's literacy and STEM development;

(*4*) Supporting young children with disabilities' social, emotional, and behavioral development and implementing positive behavioral interventions and supports;

(*5*) Using technology to enhance children's development and access to natural learning opportunities or participation in early childhood programs;

(*6*) Observing and collecting data for progress monitoring;

(*7*) Engaging and commuicating effectively with families;

(*8*) Assisting in the implementation of transition plans and services across settings from early intervention to preschool and preschool to elementary school; and

(*9*) Working with children and families from diverse cultural and linguistic backgrounds, including dual language learners with disabilities;

(iii) Its proposed approach to ensure that faculty in the community colleges have the necessary support, knowledge, skills, and competiences to enhance or redesign their associate degree program and implement the new content to prepare associate degree students to work with young children with disabilities and their families; and

(iv) Its proposed approach to using resources developed by other projects funded by the Department of Education and the Department of Health and Human Services when partnering with community colleges to redesign or enhance their associate degree programs.

(c) Demonstrate, in the narrative section of the application under ''Quality of the project evaluation,'' how—

(1) The applicant will use comprehensive and appropriate methodologies to evaluate how well the goals or objectives of the proposed project have been met, including the project processes and outcomes;

(2) The applicant will collect, analyze, and use data related to specific and measureable goals, objectives, and outcomes of the project. To address this requirement, the applicant must describe—

(i) How student competencies and other project processes and outcomes will be measured for formative purposes, including proposed instruments, data collection methods, and possible analysis;

(ii) How data on faculty competencies will be collected and analyzed; and

(iii) How data on the quality of the process used to enhance and redesign the associate degree program will be collected and analyzed;

(3) The methods of evaluation will produce quantitative and qualitative data for objective performance measurement that are related to the outcomes of the proposed project;

(4) The methods of evaluation will provide performance feedback and allow for periodic assessment of progress towards meeting the project outcomes. To address this requirement, the applicant must describe how—

(i) Results of the evaluation will be used as a basis for improving the proposed project to prepare associate degree-level personnel to provide evidence-based services to young children with disablities and their families;

(ii) Results of the evaluation will be used to refine the process for enhancing and redesigning associate degree programs; and

(iii) The grantee will report the evaluation results to OSEP in its annual and final performance reports.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage 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, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the project's products and services are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, faculty, doctoral-level students, technical assistance and professional development providers, researchers, and

policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) If the project maintains a website, include relevant information about the revised program and documents in a form that meets government or industry recognized standards of accessibility;

(3) Include, in the budget, attendance at a two and one-half day project directors' conference in Washington, DC, during each year of the project period; and

(4) Provide an assurance that the project will submit the revised curriculum and syllabi for courses that are included in the improved associate degree programs to the OSEP project officer with the submission of the annual performance report during each year of the grant and make any necessary revisions required by OSEP.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that meet the following priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application that meets this priority.

This priority is:

Applicants that partner with one or multiple local or State entities, such as schools (including early childhood programs), local educational agencies (LEAs) or State educational agencies (SEAs), State lead agencies, businesses, or not-for-profit organizations, to help meet the goals of the project.

Note: The Department is particularly interested in partnerships that are designed to identify and address local needs for personnel in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, with disabilities; and partnerships designed to guarantee post-graduation employment opportunities for personnel who successfully complete a relevant training program with an associate degree from any partner community college.

References

Catlett, C., Maude, S.P., & Nollsch, M. (2014). Young Exceptional Children Monography, No. 16.

Catlett, C., Maude, S.P., & Skinner, M. (2016, October). *The blueprint process for enhancing early childhood preservice programs and courses.* Unpublished manuscript.

Chang, F., Early, D., & Winton, P. (2005). Early childhood teacher preparation in special education at 2- and 4-year institutions of higher education. *Journal of Early Intervention, 27,* 110–124.

Giangreco, M.F. (2010). One-to-one paraprofessionals for students with disabilities in inclusive classrooms: Is conventional wisdom wrong? *Intellectual & Developmental Disabilities, 48*(1), 1–13.

Maxwell, K.L., Lim, C–I., & Early, D.M. (2006). *Early childhood teacher preparation programs in the United States: National report.* Chapel Hill: University of North Carolina, FPG Child Development Institute.

Definitions

The following definitions are from 34 CFR 77.1:

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Logic model (also referred to as a 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.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

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).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

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.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priorities in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 304.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,200,000.

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: $145,000–$150,000.

Maximum Awards: We will not make an award exceeding $150,000 for a single budget period of 12 months.

Estimated Number of Awards: 8.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs; nonprofit and for-profit organizations engaged in the preparation of early childhood personnel.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: SEAs; LEAs, including charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations suitable to carry out the activities proposed in the application. The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding under this competition must

involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

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. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2018.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 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, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is either 12 point or larger.
- 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 abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opporutnities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses; and

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(iii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(iv) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(v) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted by the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) 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; and

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources and quality of project personnel for the proposed project.

(2) In determining the quality of project personnel, the Secretary considers 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.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel;

(ii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization; and

(iii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) 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;

(ii) The extent to which the time commitments of the project director and

principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project; and

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* (a) 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.

(b) In addition, in making a competitive grant award, the Secretary also requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *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.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. 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.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the

effectiveness and quality of the Personnel Development to Improve Services and Results for Children with Disabilities program. These measures include: (1) The percentage of preparation programs that incorporate scientifically- or evidence-based practices in their curricula; (2) the percentage of scholars completing Personnel Preparation funded training programs who are knowledgeable and skilled in evidence-based practices for children with disabilities; (3) the percentage of scholars who exit training programs prior to completion due to poor academic performance; (4) the percentage of degree/certification recipients who are working in the area(s) for which they are trained upon program completion; and (5) the Federal cost per scholar who completed the preparation program.

In addition, the Department will gather information on the following outcome measures: (1) The percentage of scholars who completed the preparation program and are employed in high-need districts; (2) the percentage of scholars who completed the preparation program and are employed in the field of special education for at least two years; and (3) the percentage of scholars who completed the preparation program and who are rated effective by their employers.

Grantees may be asked to participate in assessing and providing information on these aspects of program quality.

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).

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) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW, Room 5113, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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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: July 10, 2018.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2018–15055 Filed 7–12–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Model Demonstration Projects To Improve Academic Outcomes of Students With Intellectual Disabilities in Elementary and Middle School

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for a new award for fiscal year (FY) 2018 for Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Model Demonstration Projects to Improve Academic Outcomes of Students with Intellectual Disabilities in Elementary and Middle School, Catalog of Federal Domestic Assistance (CFDA) number 84.326M.

DATES:

Applications Available: July 13, 2018.

Deadline for Transmittal of Applications: August 13, 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: Kristen Rhoads, U.S. Department of Education, 400 Maryland Avenue SW, Room 5142, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–6715. Email: *Kristen.Rhoads@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priorities: This notice includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority, and the competitive preference priority within this absolute priority, are from allowable activities specified in the statute or otherwise authorized in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1463, 1481(d)).

Absolute Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Model Demonstration Projects to Improve Academic Outcomes of Students with Intellectual Disabilities in Elementary and Middle School.

Background: The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational,

and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation.

Model demonstrations to improve early intervention, educational, or transitional results for students with disabilities have been authorized under the Individuals with Disabilities Education Act (IDEA) since the law's inception. For the purposes of this priority, a model is a set of existing evidence-based (as defined in this notice) interventions and implementation strategies (*i.e.,* core model components) that research suggests will improve outcomes for children, teachers, instructional personnel, school or district leaders, or systems, when implemented with fidelity. Model demonstrations involve investigating the degree to which a given model can be implemented and sustained in typical settings, by staff employed in those settings, while achieving outcomes similar to those attained under research conditions.

The purpose of this priority is to fund three cooperative agreements to establish and operate model demonstration projects that will assess how models can:

(a) Improve outcomes in English Language Arts, including literacy, and other academic subjects for students with intellectual disabilities [1] in elementary or middle schools;

(b) Align instruction to grade-level, State-adopted content standards and provide access to the general education curriculum;

(c) Provide students with intellectual disabilities the opportunity to meet challenging objectives and receive an individualized education program (IEP) that is both meaningful and appropriately ambitious in light of each student's circumstances; and

(d) Be implemented and sustained by educators in both general and special education settings.

On March 22, 2017, the U.S. Supreme Court (the Court) issued a unanimous opinion in *Endrew F.* v. *Douglas County School District Re–1,* 137 S. Ct. 988 (2017). The Court interpreted the scope of the free appropriate public education (FAPE) requirements in IDEA and overturned the Tenth Circuit's decision that Endrew, a child with autism, was entitled to an educational benefit that was guaranteed to provide only ''merely more than *de minimis*'' progress. The Court determined that, ''[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.'' The Court additionally emphasized the requirement that ''every child should have the chance to meet challenging objectives.'' This decision underlines the importance of exploring models focused on improving academic outcomes for students with intellectual disabilities, a population frequently subject to low expectations and held to low standards.

A growing research base indicates that students with intellectual disabilities demonstrate gains in reading at the same rate as their peers despite demonstrating significantly lower levels of overall performance (Schulte, Stevens, Elliott, Tindal, & Nese, 2016). Promising strategies, practices (*e.g.,* embedded trial instruction with time delay, peer tutoring, direct instruction, systematic prompting with feedback, and more), and curricula exist that support academic instruction and improve student outcomes in literacy and other academic content areas (Browder, Mims, Spooner, & Ahlgrim-Delzell, & Lee, 2008; Butler, Miller, Lee, & Pierce, 2001; Jimenez, Browder, Spooner, & DiBiase, 2012; Hudson, Browder, & Wood, 2013; Lemons, Allor, Al Otaiba, & LeJune, 2016).

Instruction of students with intellectual disabilities, however, has not typically provided them with the chance to meet challenging objectives. Instead of teaching grade-level content that meets State standards, instruction for students with intellectual disabilities has been typically limited to non-academic functional life skills. For example, literacy instruction for students with intellectual disabilities has historically focused on only one component of literacy development—recognition of sight words considered important for daily living (Browder, Wakeman, Spooner, Ahlgrim-Delzell, & Algozzine, 2006).

Further, teachers have reported difficulties in aligning instruction to grade-level academic content standards for students with intellectual disabilities (Jimenez & Henderson, 2011). This is due, in part, to the reality that, when compared to their peers, these students may have greatly divergent levels of functional and academic skill attainment, may require significant modifications and individualization of the curriculum, need differing modes of access to content and instruction, or need additional time for learning (Allor, Mathes, Roberts, Cheatham, & Champlin, 2010).

To overcome this history and these challenges, to ensure that students with intellectual disabilities in elementary and middle schools receive appropriate access to challenging objectives and grade-level academic standards, and to ensure that these students progress in the general education curriculum, with accompanying services and supports as required under IDEA, educators must have access to evidence-based practices on instruction in academic subjects, particularly English Language Arts, including literacy. This competition, therefore, aims to fund model demonstration projects that will demonstrate and refine methods of professional development that result in educators successfully implementing appropriate, evidence-based practices in English Language Arts, including literacy, and other academic subjects. The model demonstration projects proposed under this priority must make use of evidence-based practices.

This priority is consistent with two priorities from the Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities): Priority 5—Meeting the Unique Needs of Students and Children With Disabilities and/or Those With Unique Gifts and Talents; and Supplemental Priority 8—Promoting Effective Instruction in Classrooms and Schools. In particular, priority 5 from the Supplemental Priorities emphasizes meeting the unique needs of students with disabilities, including their academic needs, through offering the opportunity to meet challenging objectives and receive an educational program that is both meaningful and appropriately ambitious in light of each student's circumstances. Priority 8 from the Supplemental Priorities emphasizes promoting innovative strategies to increase the number of students who have access to effective educators and principals or other school leaders.

Priority: The purpose of this priority is to fund three cooperative agreements to establish and operate model demonstration projects. The proposed model demonstration projects must address instruction that improves outcomes in English Language Arts, including literacy, for students with intellectual disabilities, and may include instruction in other academic subjects. The model demonstration projects will assess how models can:

(a) Improve outcomes in English Language Arts, including literacy, and other academic subjects for students

[1] For this competition, having an IEP with intellectual disability as a primary or secondary disability category is not required to be a student with an intellectual disability.

with intellectual disabilities in elementary or middle schools;

(b) Align instruction to grade-level, State-adopted content standards and provide access to the general education curriculum;

(c) Provide students with intellectual disabilities the opportunity to meet challenging objectives and receive an IEP that is both meaningful and appropriately ambitious in light of each student's circumstances; and

(d) Be implemented and sustained by educators in both general and special education settings. Applicants must propose models that meet the following requirements:

(a) The model's core intervention components must include:

(1) A framework that includes, at a minimum, assessment, incorporating approaches for measuring student progress, and the application of evidence-based core instructional practices;

(2) Evidence-based instructional practices for improving outcomes in English Language Arts, including literacy, or other academic subjects, as appropriate, for students with intellectual disabilities in elementary or middle school that are designed to—

(i) Help students meet challenging objectives; and

(ii) Support comprehensive, standards-aligned instruction in grade-level content.

(3) Valid and reliable measures of student-level, instructor-level, and system-level outcomes, using standardized measures when applicable;

(4) Procedures to refine the model based on the ongoing assessment of student-level, instructor-level, and system-level performance; and

(5) Measures of the model's social validity, *i.e.,* measures of educators', parents', and students' [2] satisfaction with the model components, processes, and outcomes.

(b) The model's core implementation components must include:

(1) Criteria and strategies for selecting [3] and recruiting sites, including approaches to introducing the model to, and promoting the model among, site participants,[4] with consideration given to the following criteria:

(i) Each project must include at least three elementary or at least three middle schools; and

(ii) In each of the schools, all of the students participating in the model demonstration project must have an intellectual disability, as defined in this notice. Across all implementation sites, the project must serve no fewer than 50 students with intellectual disabilities;

(2) A lag site implementation design, which allows for model development and refinement at the first site in year one of the project period, with sites two and three implementing a revised model based on data from the first site beginning in subsequent project years.

Note: When designing the project, applicants should consider project period length as well as relevant research indicating that learning may take longer for students with intellectual disabilities (Allor et al., 2010) and provide strong justification for timing of implementation for sites two and three.

(3) A professional development component that includes an evidence-based coaching strategy, to enable site-based staff to implement the interventions with fidelity; and

(4) Measures of the results of the professional development (*e.g.,* improvements in teachers'/service providers' knowledge) required by paragraph (b)(3) of this section, including measures of the fidelity of implementation.

(c) The core strategies for sustaining the model must include:

(1) Documentation that permits current and future site-based staff to replicate or appropriately tailor and sustain the model at any site; [5] and

(2) Strategies for the grantee to disseminate or promote the use of the model, such as developing easily accessible online training materials, coordinating with TA providers who might serve as future trainers, or providing technical support (*e.g.,* webinars, training sessions, or workshops) for users who may want to learn about and implement the model and its components.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. Each project funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements

An applicant must include in its application—

(a) A detailed review of the literature addressing the proposed model or its intervention or implementation components and processes to improve access to challenging objectives and grade-level content, and improve outcomes, in English Language Arts, including literacy, and other academic subjects, as appropriate, for students with intellectual disabilities in elementary or middle school;

(b) A logic model (as defined in this notice) that depicts, at a minimum, the goals, activities, outputs, and outcomes (described in paragraph (a) under the heading *Priority*) of the proposed model demonstration project.

Note: The following websites provide resources for constructing logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(c) A description of the activities and measures to be incorporated into the proposed model demonstration project (*i.e.,* the project design) to improve access to grade-level content and improve outcomes in English Language Arts, including literacy, and other academic subjects, as appropriate, for students with intellectual disabilities, including a timeline of how and when the components are introduced within the model. A detailed and complete description must include the following:

[2] Applicants must ensure the confidentiality of individual student data, consistent with the Confidentiality of Information regulations under both Part B and Part C of IDEA, which incorporate requirements and exceptions under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the ''Family Educational Rights and Privacy Act'' (FERPA), but also include several provisions that are specifically related to children with disabilities receiving services under IDEA and provide protections beyond the FERPA regulations. Therefore, examining the IDEA requirements first is the most effective and efficient way to meet the requirements of both IDEA and FERPA for children with disabilities. Applicants should also be aware of State laws or regulations concerning the confidentiality of individual records. See *https://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf* and *https://studentprivacy.ed.gov/resources/ferpaidea-cross-walk.* Final FERPA regulatory changes became effective January 3, 2012, and include requirements for data sharing. Applicants are encouraged to review the final FERPA regulations published on December 2, 2011 (76 FR 75604). Questions can be sent to the Family Policy Compliance Office (*www.ed.gov/fpco*) at (202) 260–3887 or *FERPA@ed.gov.*

[3] For factors to consider when selecting model demonstration sites, the applicant should refer to *Assessing Sites for Model Demonstration: Lessons Learned for OSEP Grantees* at *http://mdcc.sri.com/documents/MDCC_Site_Assessment_Brief_09-30-11.pdf.* The document also contains a site assessment tool.

[4] For factors to consider while preparing for model demonstration implementation, the applicant should refer to *Preparing for Model Demonstration Implementation* at *http://mdcc.sri.com/documents/MDCC_PreparationStage_Brief_Apr2013.pdf.*

[5] For a guide on documenting model demonstration sustainment and replication, the applicant should refer to *Planning for Replication and Dissemination From the Start: Guidelines for Model Demonstration Projects* Revised at *http://mdcc.sri.com/documents/MDCC_ReplicationBrief_SEP2015.pdf.*

(1) All the intervention components, including, at a minimum, those listed under paragraph (a) under the heading *Priority.*

(2) The existing and proposed child, teacher, service provider, or system outcome measures and social validity measures. The measures should be described as completely as possible, referenced as appropriate, and included, when available, in Appendix A.

(3) All the implementation components, including, at a minimum, those listed under paragraph (b) under the heading *Priority.* The existing or proposed implementation fidelity measures, including those measuring the fidelity of the professional development strategy, should be described as completely as possible, referenced as appropriate, and included, when available, in Appendix A. In addition, this description should include:

(i) Demographics, including, at a minimum, the number of students with intellectual disabilities, their ages, and their grade levels (while ensuring confidentiality of individual data), at all implementation sites that have been identified and successfully recruited for the purposes of this application using the selection and recruitment strategies described in paragraph (b)(1) under the heading *Priority;*

(ii) Whether the implementation sites are located in rural, urban, or suburban local educational agencies (LEAs) or are schools identified for comprehensive support and improvement [6] or schools implementing targeted support and improvement plans [7] under title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA); and

Note: Applicants are encouraged to identify, to the extent possible, the sites willing to participate in the applicant's model demonstration. Final site selection will be determined in consultation with the Office of Special Education Programs (OSEP) project officer following the kick-off meeting described in paragraph (e)(1) of these application requirements.

(iii) The lag site implementation design for implementation consistent with the requirements in paragraph (b)(2) under the heading *Priority.*

(4) All the strategies to promote sustaining and replicating the model, including, at a minimum, those listed under paragraph (c) under the heading *Priority.*

(d) A description of the evaluation activities and measures to be incorporated into the proposed model demonstration project. A detailed and complete description must include:

(1) A formative evaluation plan, consistent with the project's logic model, that includes evaluation questions, source(s) of data, a timeline for data collection, and analysis plans. The plan must show how the outcome data (*e.g.,* child, teacher, or systems measures, social validity) and implementation data (*e.g.,* fidelity, effectiveness of professional development activities) will be used separately or in combination to improve the project during the performance period. These data will be reported in the Annual Performance Report (APR). The plan also must outline how these data will be reviewed by project staff, when they will be reviewed, and how they will be used during the course of the project to adjust the model or its implementation to increase the model's usefulness, generalizability, and potential for sustainability; and

(2) A summative evaluation plan, including a timeline, to collect and analyze data on positive changes to child, teacher, service provider, or system outcome measures over time or relative to comparison groups that can be reasonably attributable to project activities. The plan must show how the child, teacher, service provider, or system outcome and implementation data collected by the project will be used separately or in combination to demonstrate the promise of the model.

(e) A budget for attendance at the following:

(1) A one and one half-day kick-off meeting to be held in Washington, DC, after receipt of the award;

(2) A three-day Project Directors' Conference in Washington, DC, occurring twice during the project performance period; and

(3) Four travel days spread across years two through four of the project period to attend planning meetings, Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP, to be held in Washington, DC.

Other Project Activities: To meet the requirements of this priority, each project, at a minimum, must:

(a) Communicate and collaborate on an ongoing basis with other Department-funded projects, including, at minimum, OSEP-funded TA centers that might disseminate information on the model or support the scale-up efforts of a promising model;

(b) Maintain ongoing telephone and email communication with the OSEP project officer and the other model demonstration projects funded under this priority; and

(c) If the project maintains a website, include relevant information about the model, the intervention, and the demonstration activities that meets government- or industry-recognized standards for accessibility.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that address the following priority. Under 34 CFR 75.105(c)(2)(i), we award an additional two points to an application that meets this priority.

The priority is:

Promising Evidence Supporting the Proposed Model (Two Points).

Projects that are supported by evidence that meets the conditions set out in the definition of ''promising evidence'' (as defined in this notice). The application must include:

A literature review, as required under paragraph (a) under the heading *Application Requirements,* that includes research that meets at least the promising evidence standard supporting the proposed model, its components, and processes to improve academic grade-level content, particularly English Language Arts, and academic outcomes for students with intellectual disabilities in elementary or middle school.

Note: An applicant addressing this competitive preference priority must identify at least one, but no more than two, study citations that meet this standard and must clearly mark them in the reference list of the proposal.

References

Allor, J.H., Mathes, P.G., Roberts, J.K., Cheatham, J.P., & Champlin, T.M. (2010). Comprehensive reading instruction for students with intellectual disabilities: Findings from the first three years of a longitudinal study. *Psychology in the Schools, 47*(5), 445–466.

Browder, D.M., Mims, P.J., Spooner, F., Ahlgrim-Delzell, L., & Lee, A. (2008). Teaching elementary students with multiple disabilities to participate in shared stories. *Research and Practice for*

[6] For the purposes of this priority, ''schools identified for comprehensive support and improvement'' means a statewide identified category of schools that includes (a) not less than the lowest-performing five percent of all schools receiving funds under this part in the State; (b) all public high schools in the State failing to graduate one-third or more of their students; (c) public schools in the State described under subsection 1111(d)(3)(A)(i)(II) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA); and (d) at the discretion of the State, additional statewide categories of schools, as defined in section 1111(c)(4)(D)(i) of the ESEA.

[7] For the purposes of this priority, ''schools implementing targeted support and improvement plans'' means a school that has developed and is implementing a school-level targeted support and improvement plan to improve student outcomes based on the indicators in the statewide accountability system as defined in section 1111(d)(2) of the ESEA.

Persons with Severe Disabilities, 33(1–2), 3–12.
Browder, D.M., Wakeman, S.Y., Spooner, F., Ahlgrim-Delzell, L., & Algozzine, B. (2006). Research on reading instruction for individuals with significant cognitive disabilities. *Exceptional Children, 72*(4), 392–408.
Butler, F.M., Miller, S.P., Lee, K.H., & Pierce, T. (2001). Teaching mathematics to students with mild-to-moderate mental retardation: A review of the literature. *Mental Retardation, 39*(1), 20–31.
Hudson, M.E., Browder, D.M., & Wood, L.A. (2013). Review of experimental research on academic learning by students with moderate and severe intellectual disability in general education. *Research and Practice for Persons with Severe Disabilities, 38*(1), 17–29.
Individuals with Disabilities Education Improvement Act of 2004, Public Law 108–446. (2004). 20 U.S.C. 1400 *et seq.*
Jimenez, B.A., Browder, D.M., Spooner, F., & DiBiase, W. (2012). Inclusive inquiry science using peer-mediated embedded instruction for students with moderate intellectual disability. *Exceptional Children, 78*(3), 301–317.
Jimenez, B. & Henderson, K. (2011). Math education: Students with significant cognitive disabilities—A PowerPoint presentation for professional development. *Modules Addressing Special Education and Teacher Education (MAST).* Greenville, NC: East Carolina University.
Lemons, C.J., Allor, J.H., Al Otaiba, S., & LeJeune, L.M. (2016). 10 Research-Based Tips for Enhancing Literacy Instruction for Students With Intellectual Disability. *TEACHING Exceptional Children, 49*(1), 18–30.
Schulte, A.C., Stevens, J.J., Elliott, S.N., Tindal, G., & Nese, J.F. (2016). Achievement gaps for students with disabilities: Stable, widening, or narrowing on a statewide reading comprehension test? *Journal of Educational Psychology, 108*(7), 925–942.

Definitions

The following definitions are from 34 CFR 77.1 or 34 CFR 300.8(c)(6):

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Intellectual disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

Logic model (also referred to as a 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.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

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).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study

using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

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.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

What Works Clearinghouse Handbook (*WWC Handbook*) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and other requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the absolute priority and related definitions in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: $1,200,000.

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: $375,000 to $400,000 per year.

Estimated Average Size of Awards: $400,000 per year.

Maximum Award: We will not make an award exceeding $400,000 for a single budget period of 12 months.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies (SEAs); LEAs, including charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Under 34 CFR 75.708 (b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and private nonprofit organizations suitable to carry out the activities proposed in the application. The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

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. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34

CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2018.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 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, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- 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 abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(ii) 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.

(iii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(iv) The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(b) *Quality of the project design (35 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

(iii) The quality of the proposed demonstration design and procedures for documenting project activities and results.

(iv) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project.

(v) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

(c) *Adequacy of resources and quality of the management plan (25 points).*

(1) The Secretary considers the adequacy of resources and the quality of the management plan for the proposed project.

(2) In determining the adequacy of resources and the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(v) 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.

(vi) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(d) *Quality of the project evaluation (25 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(v) 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. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *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.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. 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.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Model Demonstration Projects to Improve Academic Outcomes of Students with Intellectual Disabilities in Elementary and Middle School under the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. These measures are:

- Current Program Performance Measure: The percentage of effective evidence-based program models developed by model demonstration projects that are promoted to States and their partners through the Technical Assistance and Dissemination Network.
- Pilot Program Performance Measure: The percentage of effective program models developed by model demonstration projects that are sustained beyond the life of the model demonstration project.

The current program performance measure and the pilot program performance measure apply to projects

funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

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).

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) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW, Room 5113, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* 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: July 10, 2018.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2018–15054 Filed 7–12–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–342–B]

Application To Export Electric Energy; Royal Bank of Canada

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Royal Bank of Canada (Applicant or RBC) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before August 13, 2018.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. §§ 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. § 824a(e)).

On September 10, 2013, DOE issued Order No. EA–342–A to RBC, which authorized the Applicant to transmit electric energy from the United States to Canada, effective September 4, 2013, as a power marketer for a five-year term using existing international transmission facilities. That authority expires on September 4, 2018. On February 28, 2018, RBC filed an application with DOE for renewal of the export authority contained in Order No. EA–342–A for an additional five-year term.

RBC's application states that ''[n]either RBC nor any of its affiliates (collectively, the 'RBC Companies') owns, operates or controls any electric power transmission or distribution facilities in the United States,'' and that ''[t]he RBC Companies also do not own, operate or control any electric generation assets.'' Further, ''[n]either RBC nor any of its affiliates holds a franchise or service territory for the transmission, distribution or sale of electric power.'' The electric energy that RBC proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by RBC have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning RBC's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–342–B. An additional copy is to be provided directly to both Chantal Marchese, Royal Bank of Canada, 200 Bay Street, 10th Floor, North Tower, Toronto, Ontario, Canada M5J 2J5, and Marcus Chun, RBC Capital Markets, 200 Bay Street, 9th Floor, South Tower, Toronto, Ontario, Canada M5J 2J2.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on July 6, 2018.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity.

[FR Doc. 2018–14999 Filed 7–12–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–515–000]

Notice of Request Under Blanket Authorization: Columbia Gas Transmission, LLC

Take notice that on June 29, 2018, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Houston, Texas 77002–2700, filed a prior notice request pursuant to Sections 157.205 and 157.216 of the Commission's regulations, for authorization to abandon two injection/withdrawal (I/W) wells at its Brinker Storage Field, located in Columbiana County, Ohio, one I/W well at its Victory B Storage Field, located in Marshall County, West Virginia, and associated pipelines and appurtenances. Columbia proposes to abandon these facilities under authorities granted by its blanket certificate issued in Docket No. CP83–76, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application should be directed to Linda Farquhar, Manager, Project Determinations & Regulatory Administration, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas, 77002–2700, at (832) 320–5685 or fax (832) 320–6685 or *linda_farquhar@transcanada.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website (*www.ferc.gov*) under the e-Filing link. 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.

Dated: July 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14979 Filed 7–12–18; 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: EC18–78–000.

Applicants: Florida Power & Light Company.

Description: Response to June 5, 2018 Deficiency Letter of Florida Power & Light Company.

Filed Date: 7/5/18.

Accession Number: 20180705–5111.

Comments Due: 5 p.m. ET 7/26/18.

Docket Numbers: EC18–120–000.

Applicants: National Grid USA.

Description: Application for Authorization Under Section 203 of the Federal Power Act of National Grid USA.

Filed Date: 7/6/18.

Accession Number: 20180706–5008.

Comments Due: 5 p.m. ET 7/27/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–958–006.

Applicants: Transource Kansas, LLC.

Description: Compliance filing: Transource Kansas Compliance Filing—Compliance Filing Re Docket Nos EL18–13 to be effective 6/1/2018.

Filed Date: 7/5/18.

Accession Number: 20180705–5110.

Comments Due: 5 p.m. ET 7/26/18.

Docket Numbers: ER18–1519–001.

Applicants: Duke Energy Progress, LLC, Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.

Description: Compliance filing: Correction to Order 842 (Primary Frequency Response) Filing to be effective 5/15/2018.

Filed Date: 7/6/18.

Accession Number: 20180706–5062.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: ER18–1905–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Errata to Tariff Revisions re: GDECs Standard Format Clean-Ups to be effective 9/17/2010.

Filed Date: 7/6/18.

Accession Number: 20180706–5097.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: ER18–1967–000.
Applicants: NRG Wholesale Generation LP.
Description: Tariff Cancellation: Notice of Cancellation to be effective 12/31/9998.
Filed Date: 7/5/18.
Accession Number: 20180705–5085.
Comments Due: 5 p.m. ET 7/26/18.
Docket Numbers: ER18–1968–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to the OATT and OA RE: Long-Term FTR Auctions to be effective 8/31/2018.
Filed Date: 7/5/18.
Accession Number: 20180705–5086.
Comments Due: 5 p.m. ET 7/26/18.
Docket Numbers: ER18–1969–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3388R1 East River Electric/Otter Tail Power/MISO Int Agr to be effective 12/31/9998.
Filed Date: 7/6/18.
Accession Number: 20180706–5006.
Comments Due: 5 p.m. ET 7/27/18.
Docket Numbers: ER18–1970–000.
Applicants: Midcontinent Independent System Operator, Inc., Otter Tail Power Company.
Description: § 205(d) Rate Filing: 2018–07–06_SA 3080 OTP-East River 1st Revised T–T (Blair) to be effective 12/31/9998.
Filed Date: 7/6/18.
Accession Number: 20180706–5024.
Comments Due: 5 p.m. ET 7/27/18.
Docket Numbers: ER18–1971–000.
Applicants: Duke Energy Progress, LLC.
Description: Tariff Cancellation: DEP-Elizabethtown LGIA (SA–204) Cancellation Filing to be effective 9/5/2018.
Filed Date: 7/6/18.
Accession Number: 20180706–5031.
Comments Due: 5 p.m. ET 7/27/18.
Docket Numbers: ER18–1972–000.
Applicants: PJM Interconnection, L.L.C., PJM Settlement, Inc.
Description: Joint Request for Waiver of PJM Interconnection, L.L.C., et al.
Filed Date: 7/6/18.
Accession Number: 20180706–5057.
Comments Due: 5 p.m. ET 7/27/18.
Docket Numbers: ER18–1973–000.
Applicants: Southwestern Public Service Company.
Description: § 205(d) Rate Filing: TCEC Transaction Agreement Amendment 0.2.0 Filing to be effective 9/3/2018.
Filed Date: 7/6/18.
Accession Number: 20180706–5060.
Comments Due: 5 p.m. ET 7/27/18.
Docket Numbers: ER18–1974–000.
Applicants: Otter Tail Power Company.
Description: § 205(d) Rate Filing: Filing of Letter Agreement Between OTP and WAPA re: F.L. Blair Substation to be effective 9/4/2018.
Filed Date: 7/6/18.
Accession Number: 20180706–5085.
Comments Due: 5 p.m. ET 7/27/18.

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: July 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14976 Filed 7–12–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18–63–000.
Applicants: Black Hills Gas Distribution LLC.
Description: Tariff filing per 284.123(b),(e)/: Black Hills Gas Distribution LLC SOC Filing to be effective 6/1/2018.
Filed Date: 7/2/18.
Accession Number: 201807025032.
Comments/Protests Due: 5 p.m. ET 7/23/18.
Docket Number: PR18–38–001.
Applicants: Transfer Fuel, LP.
Description: Tariff filing per 284.123(b),(e)/: Amended Rate Election & SOC of Energy Transfer Fuel, LP Effective March 16, 2018 to be effective 3/16/2018.
Filed Date: 6/27/18.
Accession Number: 201806275096.
Comments/Protests Due: 5 p.m. ET 7/18/18.
Docket Number: CP16–357–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Amendment to Application of Columbia Gas Transmission, LLC.
Filed Date: 7/3/18.
Accession Number: 201807035179.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: RP10–837–000.
Applicants: Dominion Transmission, Inc.
Description: Report Filing: DETI—Operational Gas Sales Report—2018.
Filed Date: 6/29/18.
Accession Number: 20180629–5237.
Comments Due: 5 p.m. ET 7/11/18.
Docket Numbers: RP10–900–000.
Applicants: Dominion Transmission, Inc.
Description: Report Filing: DETI—Informational Fuel Report—2018.
Filed Date: 6/29/18.
Accession Number: 20180629–5236.
Comments Due: 5 p.m. ET 7/11/18.
Docket Numbers: RP18–960–000.
Applicants: Dominion Energy Questar Pipeline, LLC.
Description: § 4(d) Rate Filing: Statement of Negotiated Rates Version 14.0.0 to be effective 8/6/2018.
Filed Date: 7/6/18.
Accession Number: 20180706–5030.
Comments Due: 5 p.m. ET 7/18/18.
Docket Numbers: RP18–961–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCO Spotlight Negotiated Rate Agmt to be effective 7/6/2018.
Filed Date: 7/6/18.
Accession Number: 20180706–5043.
Comments Due: 5 p.m. ET 7/18/18.
Docket Numbers: RP18–962–000.
Applicants: Eastern Shore Natural Gas Company.
Description: § 4(d) Rate Filing: Revision of Cash-Out Rates to be effective 7/1/2018.
Filed Date: 7/6/18.
Accession Number: 20180706–5055.
Comments Due: 5 p.m. ET 7/18/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and

385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14978 Filed 7–12–18; 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: EC18–121–000.

Applicants: WEC Infrastructure LLC, Bishop Hill Energy III LLC, Bishop Hill Interconnection LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Bishop Hill Energy III LLC, et. al.

Filed Date: 7/6/18.

Accession Number: 20180706–5128.

Comments Due: 5 p.m. ET 7/27/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–103–000.

Applicants: Bluebell Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Bluebell Solar, LLC.

Filed Date: 7/6/18.

Accession Number: 20180706–5142.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: EG18–104–000.

Applicants: Casa Mesa Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Casa Mesa Wind, LLC.

Filed Date: 7/6/18.

Accession Number: 20180706–5143.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: EG18–105–000.

Applicants: Titan Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Titan Solar, LLC.

Filed Date: 7/6/18.

Accession Number: 20180706–5144.

Comments Due: 5 p.m. ET 7/27/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–899–001.

Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.

Description: Tariff Amendment: ComEd submits response to the Commission's 4/24/18. Deficiency Letter in ER18–899 to be effective 4/24/2018.

Filed Date: 7/9/18.

Accession Number: 20180709–5043.

Comments Due: 5 p.m. ET 7/30/18.

Docket Numbers: ER18–903–001.

Applicants: Delmarva Power & Light Company, PJM Interconnection, L.L.C.

Description: Tariff Amendment: Delmarva submits response to Commission's 4/24/18. Deficiency Letter in ER18–903 to be effective 4/24/2018.

Filed Date: 7/9/18.

Accession Number: 20180709–5032.

Comments Due: 5 p.m. ET 7/30/18.

Docket Numbers: ER18–904–001.

Applicants: Atlantic City Electric Company, PJM Interconnection, L.L.C.

Description: Tariff Amendment: ACE submits response to the Commission's 4/24/18. Deficiency Letter in ER18–904 to be effective 4/24/2018.

Filed Date: 7/9/18.

Accession Number: 20180709–5042.

Comments Due: 5 p.m. ET 7/30/18.

Docket Numbers: ER18–905–001.

Applicants: Potomac Electric Power Company, PJM Interconnection, L.L.C.

Description: Tariff Amendment: PEPCO submits response to Commission's 4/24/18. Deficiency Letter in ER18–905 to be effective 4/24/2018.

Filed Date: 7/9/18.

Accession Number: 20180709–5037.

Comments Due: 5 p.m. ET 7/30/18.

Docket Numbers: ER18–1968–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Correction to Effective Date RE: Long-Term FTR Auctions Docket No. ER18–1968–000 to be effective 9/3/2018.

Filed Date: 7/9/18.

Accession Number: 20180709–5044.

Comments Due: 5 p.m. ET 7/30/18.

Docket Numbers: ER18–1975–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL Revisions to LCEC Rate Schedule No. 317 to be effective 1/1/2017.

Filed Date: 7/6/18.

Accession Number: 20180706–5114.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: ER18–1976–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL Revisions to FKEC Rate Schedule No. 322 to be effective 1/1/2017.

Filed Date: 7/6/18.

Accession Number: 20180706–5115.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: ER18–1977–000.

Applicants: Brantley Farm Solar, LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 8/18/2018.

Filed Date: 7/6/18.

Accession Number: 20180706–5124.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: ER18–1978–000.

Applicants: Casa Mesa Wind, LLC.

Description: Baseline eTariff Filing: Casa Mesa Wind, LLC Application for Market-Based Rate Authority to be effective 9/1/2018.

Filed Date: 7/6/18.

Accession Number: 20180706–5126.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: ER18–1979–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA SA No. 3390; Queue No. O29 to be effective 8/3/2012.

Filed Date: 7/6/18.

Accession Number: 20180706–5127.

Comments Due: 5 p.m. ET 7/27/18.

Docket Numbers: ER18–1980–000.

Applicants: National Grid Generation LLC.

Description: § 205(d) Rate Filing: Annual Reset of Pension and OPEB Expenses to be effective 1/1/2018.

Filed Date: 7/9/18.

Accession Number: 20180709–5031.

Comments Due: 5 p.m. ET 7/30/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–45–000.

Applicants: Allegheny Generating Company.

Description: Application for Authorization Under Section 204(a) of the Federal Power Act to Issue Debt of Allegheny Generating Company.

Filed Date: 7/6/18.

Accession Number: 20180706–5134.

Comments Due: 5 p.m. ET 7/27/18.

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: July 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14977 Filed 7–12–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–516–000]

Notice of Applications: Maritimes & Northeast Pipeline, LLC

Take notice that on June 29, 2018, Maritimes & Northeast Pipeline, L.L.C. (Maritimes), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application under section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's rules and regulations to abandon by lease 7,214 dekatherms per day of capacity on its jointly-owned pipeline facilities to Portland Natural Gas Transmission System (Portland Natural Gas), all as more fully described in the application which is on file with the Commission and open to public inspection. Specifically, Maritimes states that the lease agreement's primary term begins on the later of November 1, 2019 or the date on which Portland Natural Gas places Phase II of its Portland Natural Gas XPress Project into service and ends on a date not to extend beyond November 1, 2045. The lease will continue from month to month thereafter unless terminated by a party pursuant to the terms of the lease agreement. The filing may also be viewed on the web 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659

Any questions regarding this application should be directed to Lisa A. Connolly, Director, Rates and Certificates, Maritimes & Northeast Management Company, LLC, 5400 Westheimer Court, Houston, Texas 77056–5310, or call (713) 627–4102, or email: *Lisa.connolly@enbridge.com.*

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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.

Comment Date: 5:00 p.m. Eastern Time on July 30, 2018.

Dated: July 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14980 Filed 7–12–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–149–000]

Notice of Institution of Section 206 Proceeding and Refund Effective Date: PSEG Energy Resources & Trade, LLC

On July 9, 2018, the Commission issued an order in Docket No. EL18–149–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether PSEG Energy Resources & Trade, LLC's rates for Reactive Service may be unjust and unreasonable. *PSEG Energy Resources & Trade, LLC,* 164 FERC 61,018 (2018).

The refund effective date in Docket No. EL18–149–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL18–149–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory

Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: July 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14981 Filed 7–12–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project—Rate Order No. WAPA–184

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed extension of formula rates for Parker-Davis Project Firm Electric and Transmission Service.

SUMMARY: Western Area Power Administration (WAPA) proposes to extend the existing formula rates for Parker-Davis Project (P–DP) firm electric and transmission service through September 30, 2023. The existing Rate Schedules PD–F7, PD–FT7, PD–FCT7, and PD–NFT7 expire September 30, 2018.

DATES: A consultation and comment period starts with the publication of this notice and will end on August 13, 2018. WAPA will accept written comments during the consultation and comment period.

ADDRESSES: Send written comments to: Mr. Ronald E. Moulton, Regional Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, or email *dswpwrmrk@wapa.gov.* WAPA will post information about the proposed formula rate extension and written comments received to its website at: *https://www.wapa.gov/regions/DSW/Rates/Pages/Parker-Davis.aspx*

FOR FURTHER INFORMATION CONTACT: Ms. Tina Ramsey, Rates Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2565, or email *ramsey@wapa.gov.*

SUPPLEMENTARY INFORMATION: Rate Schedules PD–F7, PD–FT7, PD–FCT7 and PD–NFT7 for Rate Order No. WAPA–162 [1] were approved by the Federal Energy Regulatory Commission (FERC) for a 5-year period beginning on October 1, 2013, through September 30, 2018. In accordance with 10 CFR 903.23(a), WAPA is proposing to extend the existing formula rates under Rate Schedules PD–F7, PD–FT7, PD–FCT7 and PD–NFT7 for the period beginning on October 1, 2018 through September 30, 2023. Extending these rate schedules through September 30, 2023 will provide WAPA and its customers time to evaluate the potential benefits of combining transmission rates on Federal projects located within WAPA's Desert Southwest Region. Combining rates may lead to more efficient use of the Federal transmission systems, diversify the customers who use those systems, and be financially advantageous. If, after a thorough evaluation, WAPA determines that combining transmission rates will produce material benefits, it would initiate a rate adjustment to combine the rates. The existing rate schedules consist of separate formula rates for firm electric service, firm point-to-point transmission service, firm transmission service of Salt Lake City Area/Integrated Projects power, and non-firm point-to-point transmission service on the P–DP transmission system. The existing formula rates provide sufficient revenue to pay all annual costs, including interest expense, and repay required investment within the allowable period consistent with the cost recovery criteria set forth in DOE Order RA 6120.2.

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to WAPA's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC.

In accordance with 10 CFR 903.23(a)(2), WAPA determined it is not necessary to hold a public information or public comment forum but is initiating a 30-day consultation and comment period. Written comments must be received by the end of the consultation and comment period to be considered by WAPA in its decision process. WAPA will post comments received to its website at: *https://www.wapa.gov/regions/DSW/Rates/Pages/Parker-Davis.aspx.* After considering comments, WAPA will take further action on the proposed formula rate extension consistent with 10 CFR 903.23(a).

Dated: July 3, 2018.

Mark A. Gabriel,

Administrator.

[FR Doc. 2018–15000 Filed 7–12–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Call for 2025 Resource Pool Applications, Sierra Nevada Region

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of extension.

SUMMARY: The Western Area Power Administration (WAPA), a Federal power marketing administration of the Department of Energy (DOE), published the Call for 2025 Resource Pool Applications (Call for 2025 Applications), on March 8, 2018, in the **Federal Register**. In the Call for 2025 Applications, WAPA stated all applications were due by 4:00 p.m., PDT, on May 7, 2018. This notice reopens the period during which DOE will accept applications and deems any application submitted by 4 p.m., PDT, on August 13, 2018 to be timely submitted.

DATES: WAPA must receive applications by 4 p.m., PDT, on August 13, 2018. WAPA will accept applications sent through the U.S. Postal Service, if postmarked at least 3 days before August 13, 2018, and received no later than August 15, 2018. WAPA will not consider applications received after the prescribed date.

FOR FURTHER INFORMATION CONTACT: Ms. Sandee Peebles, Public Utilities Specialist, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630, (916) 353–4454, or by electronic mail at *peebles@wapa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On March 8, 2018, WAPA published the Call for 2025 Applications in the **Federal Register** (83 FR 9851). In that notice, WAPA stated applications were due on May 7, 2018. WAPA received requests to extend the date for submitting applications. By this notice, WAPA reopens the period during which WAPA will accept applications and deems any application submitted by 4 p.m., PDT, on August 13, 2018 to be timely submitted.

This notice only reopens the period to submit applications. Applicants must follow the instructions, provide necessary information and comply with

[1] FERC confirmed and approved Rate Order No. WAPA–162 on September 18, 2014, in Docket No. EF14–4–000. See *Order Confirming and Approving Rate Schedules on a Final Basis,* 148 FERC ¶ 61,193.

all other requirements identified in the Call for 2025 Applications.

WAPA will accept completed applications, which includes signatures, received by the date and time in the **DATES** section. If an entity already submitted a complete application it does not need to resubmit it.

Dated: July 2, 2018.

Mark A. Gabriel,

Administrator.

[FR Doc. 2018–14998 Filed 7–12–18; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9040–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7156 or *https://www2.epa.gov/nepa/*

Weekly receipt of Environmental Impact Statements

Filed 07/02/2018 Through 07/06/2018

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20180153, Draft, USFS, CA, Omya Sentinel & Butterfield Quarries Expansion, Comment Period Ends: 08/28/2018, Contact: Scott Eliason 909–382–2830

EIS No. 20180154, Final, USFWS, TX, Environmental Impact Statement (EIS) for the Barton Springs/Edwards Aquifer Conservation District Habitat Conservation Plan, Review Period Ends: 08/13/2018, Contact: Marty Tuegel 505–248–6651

EIS No. 20180155, Draft, USACE, CO, Adams and Denver Counties Colorado General Investigation Study, Comment Period Ends: 08/28/2018, Contact: Jeffrey Bohlken 402–995–2671

Dated: July 10, 2018.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2018–15017 Filed 7–12–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 7, 2018.

A. *Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Keystone Acquisitions, Inc., Driftwood, Texas;* to become a bank holding company by acquiring voting shares of Ballinger National Bank, Ballinger, Texas.

Board of Governors of the Federal Reserve System, July 10, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–15008 Filed 7–12–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Docket No. ATSDR–2015–0004]

Availability of Draft Toxicological Profile: Perfluoroalkyls; Extension of Comment Period

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability; request for comments; extension of comment period.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR), within the Department of Health and Human Services (HHS) announces the extension of the comment period for the Draft Toxicological Profile for Perfluoroalkyls. ATSDR is seeking public comments and additional information, reports, and studies about the health effects of these substances.

DATES: Comments must be submitted by August 20, 2018.

ADDRESSES: You may submit comments, identified by docket number ATSDR–2015–0004, by any of the following methods:

- *Internet:* Access the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Toxicology and Human Health Sciences, Agency for Toxic Substances and Disease Registry, 1600 Clifton Rd. NE, MS F–57, Atlanta, GA, 30329. Attn: Docket No. ATSDR–2015–0004.

Instructions: All submissions must include the agency name and docket number for this notice. All relevant comments will be posted without change. This means that no confidential business information or other confidential information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences, 1600 Clifton Rd. NE, MS F–57, Atlanta, GA, 30329, *Email:* Susan Ingber, at *sdrtoxprofilefrns@cdc.gov;* Telephone 1–800–232–4636.

SUPPLEMENTARY INFORMATION: There have been two previous Public Comment periods for the Perfluoroalkyls toxicological profile, one in 2009 (74 FR 36492) and 2015 (80 FR 53157). Due to the public comments

received to both notices, as well as new literature, we revised the previous draft profile (including a revised Minimal Risk Level (MRL)); therefore, on June 21, 2018, ATSDR released a revised draft profile for public comment (83 FR 28849). Because the substantive revisions were limited to the MRLs Appendix, and given the public health demand for the updated toxicological profile, we opted for a 30 day comment period. ATSDR has received requests to extend the comment period for this profile. Accordingly, ATSDR is extending the comment period an additional 30 days. Comments must be submitted by August 20, 2018.

Availability

The Draft Toxicological Profiles are available online at *http://www.atsdr.cdc.gov/ToxProfiles* and at *www.regulations.gov,* Docket No. ATSDR–2015–0004.

Pamela I. Protzel Berman,

Director, Office of Policy, Partnerships and Planning, Agency for Toxic Substances and Disease Registry.

[FR Doc. 2018–15002 Filed 7–12–18; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2018–0064]

Proposed Guidance Regarding Operational Control Range Around Optimal Fluoride Concentration in Community Water Systems That Adjust Fluoride

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice; request for comment.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces in this **Federal Register** Notice a proposed operational control range around optimal fluoride concentration in community water systems that adjust fluoride, and monthly adherence to that range. The proposal is based on analysis of available data, provided in the Background document. CDC is opening a docket to obtain comment on the existence of evidence-based concerns about the appropriateness of the proposed operational control range and criteria for adherence based on measurement capacity or feasibility of maintaining a target level. The operational control range specifies upper and lower limits of variation around a target concentration of fluoride. Managers of adjusted water systems at state and local levels need this updated operational control range to ensure the maintenance of consistent monthly averages in fluoride concentration that maximize prevention of tooth decay and minimize the possibility of dental fluorosis. The proposed operational control range is 0.6 mg/L to 1.0 mg/L. CDC bases this guidance on the following considerations: (1) Concentration of fluoride in water shown to prevent tooth decay and (2) Ability of water systems to control variation in fluoride concentration.

DATES: Written comments must be received on or before October 11, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0064 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Oral Health, Centers for Disease Control and Prevention, 4770 Buford Highway, MS S107–8, Atlanta, Georgia 30341. Attn: Docket Number: CDC–2018–0064.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Valerie Robison, D.D.S., M.P.H., Ph.D., Dental Officer, Division of Oral Health, Centers for Disease Control and Prevention, 4770 Buford Highway, MS S107–8, Atlanta, GA 30341. Email: *OPTOL2018@cdc.gov,* telephone: (770) 488–6054.

SUPPLEMENTARY INFORMATION: In 2015, the U.S. Public Health Service (PHS) recommended that community water systems maintain a concentration of 0.7 mg/L to achieve a beneficial fluoride level.[1] This recommendation, which updated and replaced the 1962 Drinking Water Standards related to community water fluoridation, did not include an operational control range associated with the recommended level of 0.7 mg/L.[1 2]

After the 2015 PHS recommendation was issued, several state water fluoridation and drinking water programs contacted the Centers for Disease Control and Prevention (CDC) to request development of revised operational control range guidance around the 0.7 mg/L target level. As part of the range-setting process, these programs requested that CDC consider how consistently water treatment systems can stay within an operational control range on a daily basis. A detailed summary of the information CDC considered in developing a proposed operational control range recommendation is available in the Background document found in the Supplement Material tab of the docket.

Recommended Operational Control Range

Since water systems tend to favor an operating strategy that has a lower feed rate, or the rate at which product is added, CDC recommends an asymmetrical operational control range of 0.6 mg/L to 1.0 mg/L in order for public water systems to consistently meet the recommended concentration of 0.7 mg/L.[3]

The lowest concentration of 0.6 mg/L (−0.1 mg/L below the target level of 0.7 mg/L) will allow public water systems to maintain the oral health benefits of water fluoridation. A lowest concentration of 0.6 mg/L in an operational control range has been in effect since 1962 and water systems have demonstrated experience in meeting it in normal operations.[2 3]

The highest concentration of 1.0 mg/L (+0.3 mg/L above the target level of 0.7 mg/L) will reduce the possibility of dental fluorosis.[4 5]

An operational control range of 0.4 mg/L (−0.1 mg/L to +0.3 mg/L) [actual values (0.6 mg/L to 1.0 mg/l)] will provide operational flexibility. This is based on data demonstrating the ability of water systems to stay successfully within a particular operational control range.[4 6 7] A detailed summary of these findings is available in the Background document.

CDC has received requests for criteria that demonstrate compliance with the operational control range. Published studies have shown that water systems are able to maintain at least 80% of daily measurements during the month within the proposed operational control range.[6 7] Based on these findings, CDC recommends the following operational criteria; the monthly average fluoride level is maintained within the proposed operational control range, and 80% of daily measurements of fluoride are maintained within the proposed operational control range.

In this docket, we are only concerned with the operational control range for water systems that adjust the fluoride level in the water. This request does not apply to water systems that have natural fluoride levels that exceed this

recommended level. Further, the issues of whether or not to adjust fluoride in drinking water, as well as the recommended level to which fluoride should be adjusted, have previously been addressed in the **Federal Register** and are not part of this request.[8]

Note: Public water systems must continue to comply with Environmental Protection Agency (EPA) requirements for a special notice for exceedance of the secondary standard of 2 mg/L (40 CFR 141.208) (*https://www.epa.gov/dwregdev/drinking-water-regulations-and-contaminants*).

CDC is seeking public comment on the following:

1. Are there any evidence-based concerns about the appropriateness of the proposed operational control range and criteria for adherence based on measurement capacity or feasibility of maintaining the target level?

References

1. U.S. Public Health Service Recommendations for Fluoride Concentration in Drinking Water for the Prevention of Dental Caries. *Public Health Reports.* 2015 July–Aug;130(4):318–331.
2. Department of Health, Education and Welfare (US) Public Health Service drinking water standards, revised 1962. Washington: Public Health Service (US); 1962. PHS Publication No. 956.
3. Barker LK, Duchon KK, Lesaja S, et al. Adjusted Fluoride Concentrations in 34 States: 2006–2010 and 2015. Journal AWWA. 2017;109(8):2–17.
4. Engineering and Administrative Recommendations for Water Fluoridation, MMWR Sept 29,1995/44(RR–13:1–40. Fluoride Recommendations Work Group. Recommendations for using fluoride to prevent and control dental caries in the United States. MMWR Recomm Rep. 2001;50(RR–14):1–42.
5. Heller KE, Eklund SA, Burt BA. Dental caries and dental fluorosis at varying water fluoride concentrations. J Public Health Dent. 1997;57:136–43.
6. Brown R, McTigue N, Graf K. Monitoring fluoride: how closely do utilities match target versus actual levels? Opflow, 40;7:10. *https://doi.org/10.5991/OPF.2014.40.0042.*
7. Teefy S. Managing fluoridation within a stringent regulatory framework. Proc 2013 AWWA Water Quality Technology Conference, Oakland, Calif.
8. Public Health Service Recommendation for Fluoride Concentration in Drinking Water for the Prevention of Dental Caries. *Fed Regist.* 2015;80(84):24936–24947. Available at: *https://www.federalregister.gov/documents/2015/05/01/2015-10201/public-health-service-recommendation-for-fluoride-concentration-in-drinking-water-for-prevention-of.* Accessed 5/11/2018.

Dated: July 9, 2018.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2018–14968 Filed 7–12–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10531, CMS–R–43, CMS–10102, CMS–10143, CMS–10261, CMS–10500, and CMS–855I]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 13, 2018.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs

Attention: CMS Desk Officer

Fax Number: (202) 395–5806 *OR*

Email: OIRA_submission@omb.eop.gov

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Transcatheter Mitral Valve Repair (TMVR) National Coverage Decision (NCD); Use: The data collection is required by the Centers for Medicare and Medicaid Services (CMS) National Coverage Determination (NCD) entitled, ''Transcatheter Mitral Valve Repair (TMVR)''. The TMVR device is only covered when specific conditions are met including that the heart team and hospital are submitting data in a prospective, national, audited registry. The data includes patient, practitioner and facility level variables that predict outcomes such as all-cause mortality and quality of life. In order to remove the data collection requirement under this coverage with evidence development (CED) NCD or make any other changes to the existing policy, we

must formally reopen and reconsider the policy. We are continuing to review and analyze the data collected since this NCD was effective in 2014

We find that the Society of Thoracic Surgery/American College of Cardiology Transcatheter Valve Therapy (STS/ACC TVT) Registry, one registry overseen by the National Cardiovascular Data Registry, meets the requirements specified in the NCD on TMVR. The TVT Registry will support a national surveillance system to monitor the safety and efficacy of the TMVR technologies for the treatment of mitral regurgitation (MR).

The data collected and analyzed in the TVT Registry will be used by CMS to determine if the TMVR is reasonable and necessary (*e.g.,* improves health outcomes) for Medicare beneficiaries under section 1862(a)(1)(A) of the Act. The data will also include the variables on the eight item Kansas City Cardiomyopathy Questionnaire (KCCQ–10) to assess heath status, functioning and quality of life. In the KCCQ, an overall summary score can be derived from the physical function, symptoms (frequency and severity), social function and quality of life domains. For each domain, the validity, reproducibility, responsiveness and interpretability have been independently established. Scores are transformed to a range of 0–100, in which higher scores reflect better health status.

The conduct of the STS/ACC TVT Registry and the KCCQ–10 is pursuant to Section 1142 of the Social Security Act (the ACT) that describes the authority of the Agency for Healthcare Research and Quality (AHRQ). Under section 1142, research may be conducted and supported on the outcomes, effectiveness, and appropriateness of health care services and procedures to identify the manner in which disease, disorders, and other health conditions can be prevented, diagnosed, treated, and managed clinically. Section 1862(a)(1)(E) of the Act allows Medicare to cover under coverage with evidence development (CED) certain items or services for which the evidence is not adequate to support coverage under section 1862(a)(1)(A) and where additional data gathered in the context of a clinical setting would further clarify the impact of these items and services on the health of beneficiaries. *Form Number:* CMS–10531 (OMB control number: 0938–1274); *Frequency:* Annually; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 3,897; *Total Annual Responses:* 15,588; *Total Annual Hours:* 5,456. (For policy questions regarding this collection contact Sarah Fulton at 410–786–2749.)

2. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Conditions of Coverage for Portable X-ray Suppliers and Supporting Regulations; *Use:* The requirements contained in this information collection request are classified as conditions of participation or conditions for coverage. Portable X-rays are basic radiology studies (predominately chest and extremity X-rays) performed on patients in skilled nursing facilities, residents of long-term care facilities and homebound patients. The CoPs are based on criteria described in the law, and are designed to ensure that each portable X-ray supplier has properly trained staff and provides the appropriate type and level of care for patients. We use these conditions to certify suppliers of portable X-ray services wishing to participate in the Medicare program. This is standard medical practice and is necessary in order to help to ensure the well-being, safety and quality professional medical treatment accountability for each patient. There is a significant increase in the burden due to burden that was not accounted for in the previous information collection request. *Form Number:* CMS–R–43 (OMB Control number: 0938–0338); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 5,986,509; *Total Annual Responses:* 5,987,018; *Total Annual Hours:* 532,959. (For policy questions regarding this collections contact Sonia Swancy at 410–786–8445.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* National Implementation of the Hospital CAHPS Survey; *Use:* The HCAHPS (Hospital Consumer Assessment of Healthcare Providers and Systems) Survey, also known as the CAHPS® Hospital Survey or Hospital CAHPS®, is a standardized survey instrument and data collection methodology that has been in use since 2006 to measure patients' perspectives of hospital care. While many hospitals collect information on patient satisfaction, HCAHPS created a national standard for the collection and public reporting of information that enables valid comparisons to be made across all hospitals to support consumer choice. *Form Number:* CMS–10102 (OMB control number 0938–0981); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 4,200; *Total Annual Responses:* 3,100,000; *Total Annual Hours:* 413,230. (For policy questions regarding this collection contact William Lehrman at 410–786–1037.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* State Data for the Medicare Modernization Act (MMA); *Use:* The monthly data file is provided to CMS by states on dual eligible beneficiaries. The phase-down process requires a monthly count of all full benefit dual eligible beneficiaries with an active Part D plan enrollment in the month. CMS will make this selection of records using dual eligibility status codes contained in the person-month record to identify all full-benefit dual eligible beneficiaries (codes 02, 04 and 08). In the case where in a given month, multiple records were submitted for the same beneficiary in multiple file submittals, the last record submitted for that beneficiary shall be used to determine the final effect on the phase-down count. *Form Number:* CMS–10143 (OMB Control Number: 0938–0958); *Frequency:* Monthly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 612; *Total Annual Hours:* 4,896. (For policy questions regarding this collection contact Linda King at 410–786–1312.)

5. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Part C Medicare Advantage Reporting Requirements and Supporting Regulations in 42 CFR 422.516(a); *Use:* Medicare Advantage Organizations (MAOs) must have an effective procedure to develop, compile, evaluate, and report to CMS, to its enrollees, and to the general public, at the times and in the manner that CMS requires, and while safeguarding the confidentiality of the doctor-patient relationship, statistics and other information with respect to: The cost of its operations; the patterns of service utilization; the availability, accessibility, and acceptability of its services; to the extent practical, developments in the health status of its enrollees; information demonstrating that the MAO has a fiscally sound operation; and other matters that CMS may require. CMS also has oversight authority over cost plans which includes establishment of reporting requirements. The changes for the 2019 reporting requirements under Organization Determinations and Reconsiderations (ODR) will add 18 new data elements to the reporting section. The new data elements will

allow CMS to obtain more information about who is submitting requests for ODR and whether the service or claim is being provided by a contract or non-contract provider. The timeliness requirement for ODR will also be eliminated to be consistent with Part D reporting. In addition, the number of data reporting elements of grievances is reduced from 23 to 19. The reporting sections for Private Fee For Service (PFFS) Payment Dispute Resolution Process and Mid-Year Network Changes will also be suspended. *Form Number:* CMS–10261 (OMB control number: 0938–1054); *Frequency:* Yearly and semi-annually; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 432; *Total Annual Responses:* 3,024; *Total Annual Hours:* 127,329. (For policy questions regarding this collection contact Maria Sotirelis at 410–786–0552.)

6. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Consumer Assessment of Healthcare Providers and Systems Outpatient and Ambulatory Surgery (OAS CAHPS) Survey; *Use:* The information collected in the national implementation of Outpatient/Ambulatory Surgery Patient Experience of Care Survey (A/ASPECS) will be used to: (1) Provide a source of information from which selected measures can be publicly reported to beneficiaries to help them make informed decisions for outpatient surgery facility selection; (2) aid facilities with their internal quality improvement efforts and external benchmarking with other facilities; and (3) provide us with information for monitoring and public reporting purposes. *Form Number:* CMS–10500 (OMB control number: 0938–1240); *Frequency:* Once; *Affected Public:* Individuals and households; *Number of Respondents:* 633,304; *Total Annual Responses:* 633,304; *Total Annual Hours:* 153,592. (For policy questions regarding this collection contact Memuna Ifedirah at 410–786–6849).

7. *Type of Information Collection Request:* New collection (Request for new OMB control number); *Title of Information Collection:* Medicare Enrollment Application for Physician and Non-Physician Practitioners; *Use:* The application is used by Medicare contractors to collect data to ensure that the applicant has the necessary credentials to provide the health care services for which they intend to bill Medicare, including information that allows the Medicare contractor to correctly price, process and pay the applicant's claims. This application collects information to ensure that only legitimate physicians, non-physician practitioners, and other eligible professionals are enrolled in the Medicare program. It is meant to be the first line defense to protect our beneficiaries from illegitimate providers and to protect the Medicare Trust Fund against fraud. It also gathers information that allows Medicare contractors to ensure that the provider/supplier is not sanctioned from the Medicare and/or Medicaid program(s), or debarred, suspended or excluded from any other Federal agency or program. *Form Number:* CMS–855i (OMB control number: 0938–NEW); *Frequency:* On Occasion; *Affected Public:* State, Local, or Tribal Governments, Private Sector (not-for-profit institutions); *Number of Respondents:* 513,872; *Total Annual Responses:* 1,370,078; *Total Annual Hours:* 1,000,167. For policy questions regarding this collection contact Kimberly McPhillips at (410)-786–5374.

Dated: July 10, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–15038 Filed 7–12–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1156]

Q3D(R1) Elemental Impurities; International Council for Harmonisation; 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 ''Q3D(R1) Elemental Impurities.'' The draft guidance was prepared under the auspices of the International Council for Harmonisation (ICH), formerly the International Conference on Harmonisation. The draft guidance revises the existing ICH guidance for industry ''Q3D Elemental Impurities'' and provides an updated permitted daily exposure (PDE) for the cadmium inhalation route of exposure. The updated PDE of 3 micrograms (µg)/day is based on a modifying factor approach like that used for calculating the PDEs for the cadmium oral and parenteral routes of exposure. The draft guidance is intended to correct a calculation error in the PDE for cadmium by the inhalation route of exposure. Following deliberations within the Q3D Expert Working Group, the revised calculation is based on a modifying factor approach that is consistent with the oral and parenteral PDE calculations.

DATES: Submit either electronic or written comments on the draft guidance by August 13, 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–2013–D–1156 for ''Q3D(R1) Elemental Impurities.'' Received comments will be placed in the docket and, except for

those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this 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 the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), 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. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: *Regarding the guidance:* Tim McGovern, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6300, Silver Spring, MD 20993–0002, 240–402–0477.

Regarding the ICH: Amanda Roache, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1176, Silver Spring, MD 20993–0002, 301–796–4548.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, regulatory authorities and industry associations from around the world have participated in many important initiatives to promote international harmonization of regulatory requirements under the ICH. FDA has participated in several ICH meetings designed to enhance harmonization and FDA is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and reduce differences in technical requirements for drug development among regulatory agencies.

ICH was established to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products for human use among regulators around the world. The six founding members of the ICH are the European Commission; the European Federation of Pharmaceutical Industries Associations; FDA; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; and the Pharmaceutical Research and Manufacturers of America. The Standing Members of the ICH Association include Health Canada and Swissmedic. Any party eligible as a Member in accordance with the ICH Articles of Association can apply for membership in writing to the ICH Secretariat. The ICH Secretariat, which coordinates the preparation of documentation, operates as an international nonprofit organization and is funded by the Members of the ICH Association.

The ICH Assembly is the overarching body of the Association and includes representatives from each of the ICH members and observers. The Assembly is responsible for the endorsement of draft guidelines and adoption of final guidelines. FDA publishes ICH guidelines as FDA guidance.

In May 2018, the ICH Assembly endorsed the draft guideline entitled ''Q3D(R1) Elemental Impurities'' and agreed that the guideline should be made available for public comment. The draft guideline is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group.

The draft guidance revises the existing guidance for industry ''Q3D Elemental Impurities'' and provides an updated permitted daily exposure (PDE) for the cadmium inhalation route of exposure. The revision was initiated following identification of a calculation error in the original text. The updated PDE of 3 μg/day is based on a modifying factor approach that is consistent with the method used for calculating the PDEs for the oral and parenteral routes of exposure.

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 ''Q3D(R1) Elemental Impurities.'' 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. Electronic Access

Persons with access to the internet may obtain the document at *https://www.regulations.gov, https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: July 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14971 Filed 7–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: AIDS and AIDS Related Research.

Date: July 26, 2018.

Time: 1:00 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 (Telephone Conference Call).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Role of HIV on Renal, Urologic, Hematological and Metabolic Dysfunction.

Date: August 1, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW, Washington, DC 20036.

Contact Person: Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, Bethesda, MD 20892, 301–827–7480, *dimitrios.vatakis@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: July 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15041 Filed 7–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Implementation Cooperative Agreement (U01).

Date: August 7, 2018.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Chelsea D. Boyd, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852–9834, 240–669–2081, *chelsea.boyd@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15046 Filed 7–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; 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 Eye Institute Special Emphasis Panel; NEI Audacious Goals Initiative RFA on Translation-Enabling Models (U24).

Date: August 3, 2018.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15045 Filed 7–12–18; 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 Panel: Amyloid Polymorphisms and Glycosylation in Alzheimer's, Disease—Rump.

Date: July 17, 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: Carole L. Jelsema, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: August 2, 2018.

Time: 10:00 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: 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*.

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: July 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15042 Filed 7–12–18; 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 Review: Intervening with Cancer Caregivers to Improve Patient Health Outcomes and Optimize Health Care Utilization.

Date: July 24, 2018.

Time: 3:00 p.m. to 7:00 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: 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*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AIDS and AIDS Related Research.

Date: July 30–31, 2018.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AIDS and Related Research.

Date: July 30, 2018.

Time: 2:00 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: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bacterial Pathogenesis.

Date: July 31, 2018.

Time: 10:30 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: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biobehavioral Regulation Learning and Ethology.

Date: July 31, 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: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6830, *unja.hayes@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AI–17–039: Understanding Immunopathogenesis of Tuberculosis in HIV–1 Infected and Exposed Children.

Date: August 1, 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 (Virtual Meeting).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AIDS and Related Research.

Date: August 2, 2018.

Time: 1:00 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: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@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: July 10, 2018.

Natasha M. Copeland,

Program Analyst, Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15043 Filed 7–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, August 6, 2018, 10:00 a.m. to August 6, 2018, 05:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, 7W102, Rockville, MD 20850 which was published in the **Federal Register** on June 08, 2018, 83 FR 26703.

This meeting notice is amended to change the contact person from Dr. Shakeel Ahmad to Dr. Jun Fang. The meeting date has changed from August 6, 2018 to August 16, 2018. The meeting room has changed from 7W102 to 7W246. The meeting times are the same. The meeting is closed to the public.

Dated: July 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15044 Filed 7–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0137]

Agency Information Collection Activities: Small Vessel Reporting System

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-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 13, 2018) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

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 proposed information collection was previously published in the **Federal Register** (83 FR 13766) on March 30, 2018, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. 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: Small Vessel Reporting System.

OMB Number: 1651–0137.

Abstract: The Small Vessel Reporting System (SVRS) is a pilot program that allows certain participants using small pleasure boats to report their arrival telephonically instead of having to appear in person for inspection by a CBP officer each time they enter the United States. In some cases, a participant may also be asked to report to CBP for an in person inspection upon arrival. Participants may be U.S. citizens, U.S. lawful permanent residents, Canadian citizens, and permanent residents of Canada who are nationals of Visa Waiver Program countries listed in 8 CFR 217.2(a). In addition, participants of one or more Trusted Traveler programs and current Canadian Border Boater Landing Permit (CBP Form I–68) holders may participate in SVRS.

In order to register for the SVRS pilot program, participants enter data via the SVRS website, which collects information such as biographical information and vessel information. Participants will go through the in person CBP inspection process during SVRS registration, and in some cases, upon arrival in the United States.

For each voyage, SVRS participants will be required to submit a float plan about their voyage via the SVRS website in advance of arrival in the United States. The float plan includes vessel information, a listing of all persons on board, estimated dates and times of departure and return, and information on the locations to be visited on the trip. Participants in SVRS can create a float plan for an individual voyage or a template for a float plan that can be used multiple times.

SVRS is in accordance with 8 U.S.C. 1225, 8 CFR 235.1, 19 U.S.C. 1433, and 19 CFR 4.2. The SVRS website is accessible at: *https://svrs.cbp.dhs.gov/.*

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 being collected.

Type of Review: Extension (without change).

Affected Public: Individuals.

SVRS Application

Estimated Number of Respondents: 7,509.

Estimated Number of Total Annual Responses: 7,509.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1,877.

Float Plan

Estimated Number of Respondents: 2,589.

Estimated Number of Total Annual Responses: 2,589.

Estimated Time per Response: 10.6 minutes.

Estimated Total Annual Burden Hours: 457.

Dated: July 10, 2018.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2018–15004 Filed 7–12–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0121]

Agency Information Collection Activities: Trusted Traveler Programs and U.S. APEC Business Travel Card

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-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 13, 2018) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

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 proposed information collection was previously published in the **Federal Register** (83 FR 14876) on April 6, 2018, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. 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: Trusted Traveler Programs and U.S. APEC Business Travel Card.

OMB Number: 1651–0121.

Form Numbers: 823S (SENTRI) and 823F (FAST).

Abstract: This collection of information is for CBP's Trusted Traveler Programs, including the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), which allows expedited entry at specified land border ports of entry along the U.S.-Mexico border; the Free and Secure Trade (FAST) Program, which provides expedited border processing for known, low-risk commercial drivers; and Global Entry, which allows pre-approved, low-risk air travelers expedited clearance upon arrival into the United States.

The purpose of all of these programs is to provide prescreened travelers expedited entry into the United States. The benefit to the traveler is less time spent in line waiting to be processed. These Trusted Traveler Programs are provided for in 8 CFR 235.7, 235.12, and 8 CFR 103.7(b)(1)(ii)(G) and (M).

This information collection also includes the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card (ABTC) Program, which is a voluntary program that allows qualified U.S. business travelers engaged in business in the APEC region, or U.S. Government officials actively engaged in APEC business, the ability to access fast-track immigration lanes at participating airports in the 20 other APEC member countries. This program is authorized by the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011, Public Law 112–54, and provided for by 8 CFR 235.13 and 8 CFR 103.7(b)(1)(ii)(N). Pursuant to these laws and regulations, CBP can issues ABTCs through September 30, 2018. On November 2, 2017, the President signed into law the Asia-Pacific Economic Corporation Business Travel Cards Act of 2017, Public Law 115–79, which makes the ABTC Program permanent. CBP is in the process of updating 8 CFR 235.13 to conform to the new law.

The data is collected on the applications and kiosks for the Trusted Traveler Programs. Applicants may apply to participate in these programs by using the Trusted Traveler Program Systems (TTP Systems) at *https://ttp.cbp.dhs.gov/.* Applicants may also apply for SENTRI and FAST using paper forms (CBP Form 823S for SENTRI and CBP Form 823F for FAST) available at *http://www.cbp.gov* or at Trusted Traveler Enrollment Centers.

After arriving at the Federal Inspection Services area of the airport, participants in Global Entry can undergo a self-service inspection process using a Global Entry kiosk. During the self-service inspection, participants have their photograph and fingerprints taken, submit identifying information, and answer several questions about items they are bringing into the United States. When using the Global Entry kiosks, participants are required to declare all articles being brought into the United States pursuant to 19 CFR 148.11.

Current Actions: This submission is being made to extend the expiration date with no change to the information collected. There is an increase to the burden hours.

Type of Review: Extension (without change).

Affected Public: Individuals and Businesses.

SENTRI (Form 823S)

Estimated Number of Annual Respondents: 126,645.

Estimated Number of Total Annual Responses: 126,645.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 84,852.

FAST (Form 823F)

Estimated Number of Annual Respondents: 12,617.

Estimated Number of Total Annual Responses: 12,617.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 8,453.

Global Entry

Estimated Number of Annual Respondents: 1,414,434.

Estimated Number of Total Annual Responses: 1,414,434.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 947,670.

ABTC

Estimated Number of Annual Respondents: 14,215.

Estimated Number of Total Annual Responses: 14,215.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 2,416.

Global Entry Kiosks

Estimated Number of Annual Respondents: 9,750,212.

Estimated Number of Total Annual Responses: 9,750,212.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 156,003.

Dated: July 10, 2018.

Seth D Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2018–15005 Filed 7–12–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–33]

30-Day Notice of Proposed Information Collection: Manufactured Housing Installation Program Reporting Requirements

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* August 13, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Colette. Pollard@hud.gov,* or telephone 202–402–3400.

This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 27, 2018 at 83 FR 18586.

A. Overview of Information Collection

Title of Information Collection: Manufactured Housing Installation Program Reporting Requirements.

OMB Approved Number: 2502–0578.

Type of Request: Extension of currently approved collection.

Form Number: HUD 305, HUD 306, HUD 307, HUD 308, HUD 309 and HUD 312.

Description of the need for the information and proposed use: The Manufactured Housing Installation Program establishes regulations for the administration of an installation program and establishes a new manufactured housing installation program for states that choose not to implement their own programs. HUD uses the information collected for the enforcement of the Model Installation Standards in each State that does not have an installation program established by State law to ensure that the minimum criteria of an installation program are met.

Respondents: (i.e. affected public): Business or other for-profit.

Estimated Number of Respondents: 3,804.

Estimated Number of Responses: 171,180.

Frequency of Response: 45.

Average Hours per Response: .74.

Total Estimated Burdens: 126,673.20.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 22, 2018.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–15039 Filed 7–12–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–31]

30-Day Notice of Proposed Information Collection: Inspector Candidate Assessment Questionnaire

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* August 13, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to

the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 18, 2018 at 83 FR 17186.

A. Overview of Information Collection

Title of Information Collection: Inspector Candidate Assessment Questionnaire.

OMB Approved Number: 2577–0243.

Type of Request: Revision of currently approved collection.

Form Number: Form HUD 50002A and Form HUD 50002B—HFA

Description of the need for the information and proposed use: To meet the requirements of HUD's Uniform Physical Condition Standards (UPCS), the Physical Condition of Multifamily Properties and the Public Housing Assessment System (PHAS) regulations, the Department conducts physical condition inspections of approximately 14,000 multifamily and public housing properties annually. HUD uses contract inspectors that are trained and certified in the UPCS protocol by HUD to conduct UPCS inspections. Individuals who wish to be trained and certified UPCS by HUD are requested to electronically submit the questionnaire via the internet. The questionnaire provides HUD with basic knowledge of an individual's inspection skills and abilities. As part of aligning REAC UPCS inspections with those conducted by state Housing Finance Agencies, state HFA staff also may fill out a form for information purposes only prior to attending the UPCS training.

Respondents (*i.e.* affected public): Applicants to the UPCS inspector certification program and state HFA staff

Estimated Number of Respondents: 705.

Estimated Number of Responses: 705.

Frequency of Response: 1.

Average Hours per Response: 0.318.

Total Estimated Annual Burden and Cost: 224.19.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 22, 2018.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–15029 Filed 7–12–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6107–D–01]

Order of Succession for the Office of Policy Development and Research

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Deputy Secretary of the Department of Housing and Urban Development designates the Order of Succession for the Office of the Assistant Secretary for Policy Development and Research. This Order of Succession supersedes all prior Orders of Succession for the Office of Policy Development and Research, including the Order of Succession published in the **Federal Register** on October 3, 2016.

DATES: July 9, 2018.

FOR FURTHER INFORMATION CONTACT: Todd M. Richardson, General Deputy Assistant Secretary, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8101, Washington, DC 20410–6000, telephone (202) 402–5706. (This is not a toll-free number.) Persons with hearing- or speech-impairments may access this number through TTY by calling the tollfree Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the duties and functions of the Office of the Assistant Secretary for Policy Development and Research when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Policy Development and Research is not available to exercise the powers or perform the duties of the Office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998 (5 U.S.C. 3345–3349d). This publication supersedes all prior Orders of Succession for the Office of Policy Development and Research, including the Order of Succession published on October 3, 2016 (81 FR 68025).

Accordingly, the Deputy Secretary of HUD designates the following Order of Succession:

Section A. Order of Succession

Subject to the provision of the Federal Vacancies Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Policy Development and Research is not available to exercise the powers or perform the duties of the Office of the Assistant Secretary for Policy Development and Research, the following officials within the Office of Policy Development and Research are hereby designated to exercise the powers and perform the duties of the Office, including the authority to waive regulations:

(1) General Deputy Assistant Secretary;

(2) Deputy Assistant Secretary for Economic Affairs;

(3) Deputy Assistant Secretary for Research, Evaluation, and Monitoring; and

(4) Deputy Assistant Secretary for Policy Development.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his or hers in this order, are unable to act by reason of absence, disability, or vacancy in office. No individual who is serving in an office listed in an acting capacity shall, by virtue of so acting, act as Assistant Secretary for Policy Development and Research pursuant to this Order.

Section B. Authority Superseded

This Order of Succession supersedes any prior Orders of Succession for the Office of Policy Development and Research, including the Order of Succession published on October 3, 2016 (81 FR 68025).

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 9, 2018.

Pamela H. Patenaude,

Deputy Secretary.

[FR Doc. 2018–14959 Filed 7–12–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–34]

30-Day Notice of Proposed Information Collection: Management Reviews of Multifamily Housing Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* August 13, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Inez.C.Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 24, 2018 at 83 FR 17836.

A. Overview of Information Collection

Title of Information Collection: Management Review for Multifamily Housing Projects.

OMB Approved Number: 2502–0178.

Type of Request: Extension of currently approved collection.

Form Number: HUD–9834.

Description of the need for the information and proposed use: This information collection is used by HUD, by Mortgagees and by Contract Administrators (CAs) to evaluate the quality of project management; determine the causes of project problems; devise corrective actions to stabilize projects and prevent defaults; and to ensure that fraud, waste and mismanagement are not problems for the community. The information collected also supports enforcement actions when owners fail to implement corrective actions.

''HUD is currently engaged in rule making that would reduce the frequency of MORs for high-performing properties and consequently reduce the estimated total burden hours for this Collection. Changes to required frequencies for regularly-scheduled MORs are anticipated to be completed with publication of a final rule in 2018.''

Respondents: (*i.e.* affected public): Business or other for-profit.

Estimated Number of Respondents: 27,127.

Estimated Number of Responses: 27,127.

Frequency of Response: 1.

Average Hours per Response: 8.

Total Estimated Burdens: 217,016.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 25, 2018.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–15028 Filed 7–12–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Call for Nominations to the National Geospatial Advisory Committee

AGENCY: U.S. Geological Survey, Interior.

ACTION: Call for nominations.

SUMMARY: The Department of the Interior is seeking nominations to serve on the National Geospatial Advisory Committee (NGAC). The NGAC is a Federal Advisory Committee established under the authority of the Federal Advisory Committee Act (FACA). The NGAC provides advice and recommendations to the Secretary of the Interior through the Federal Geographic Data Committee (FGDC) related to management of Federal geospatial programs, development of the National Spatial Data Infrastructure, and the implementation of Office of Management and Budget Circular A–16 and Executive Order 12906. The NGAC reviews and comments on geospatial policy and management issues and provides a forum for views of non-Federal stakeholders in the geospatial community.

DATES: Nominations to participate on the NGAC must be received by August 27, 2018.

ADDRESSES: Send nominations electronically to *ngacnominations@fgdc.gov,* or by mail to John Mahoney, U.S. Geological Survey, U.S. Department of the Interior, 909 First Avenue, Suite 800, Seattle, WA 98104.

FOR FURTHER INFORMATION CONTACT: John Mahoney, USGS (206–220–4621). Additional information about the NGAC and the nomination process is posted on the NGAC web page at *www.fgdc.gov/ngac*.

SUPPLEMENTARY INFORMATION: The NGAC conducts its operations in accordance with the provisions of FACA. It reports to the Secretary of the Interior through the FGDC and functions solely as an advisory body. The NGAC provides recommendations and advice to the Department and the FGDC on policy and management issues related to the effective operation of Federal geospatial programs.

The NGAC includes up to 30 members, selected to generally achieve a balanced representation of the viewpoints of the various stakeholders involved in national geospatial activities. NGAC members are appointed for staggered terms, and nominations received through this call for nominations may be used to fill vacancies on the NGAC that will become available in 2018 and 2019. Nominations will be reviewed by the FGDC and additional information may be requested from nominees. Final selection and appointment of NGAC members will be made by the Secretary of the Interior. Individuals who are Federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term ''individual capacity'' refers to individuals who are appointed to exercise their own individual best judgment on behalf of the Government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

The NGAC meets approximately 3–4 times per year. NGAC members will serve without compensation, but travel and per diem costs will be provided by the USGS. The USGS will also provide necessary support services to the NGAC. NGAC meetings are open to the public. Notice of NGAC meetings are published in the **Federal Register** at least 15 days before the date of the meeting. The public will have an opportunity to provide input at these meetings.

Nominations may come from employers, associations, professional organizations, or other geospatial organizations. Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the NGAC and permit the Department of the Interior to contact a potential member. Nominees are strongly encouraged to include supporting letters from employers, associations, professional organizations, and/or other organizations that indicate support by a meaningful constituency for the nominee.

Before including your address, phone number, email address, or other personal identifying information in your nomination, you should be aware that your entire nomination—including your personal identifying information—may be made publicly available at any time. While you may ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2018–14951 Filed 7–12–18; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DOI–2018–0003;DS62200000, DWSN00000.000000, DP.62206, 18XD4523WS]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior is issuing a public notice of its intent to modify the Department of the Interior Privacy Act system of records, DOI–12, Donations Program Files, to update section titles, add a purpose section, reorganize the sections of the system notice into the government-wide approved format, add new proposed routine uses, and update content in applicable sections of the notice. Updated sections include, system location, system manager, categories of individuals, categories of records, authorities, routine uses, storage, retrieval, retention and disposal, safeguards, notification procedures, and record access and contesting record procedures sections.

DATES: This modified system will be effective upon publication. New or modified routine uses will be effective August 13, 2018. Submit comments on or before August 13, 2018.

ADDRESSES: You may submit comments, identified by docket number DOI–2018–0003, by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.
- Hand-delivering comments to Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.
- *Email: DOI_Privacy@ios.doi.gov.*

All submissions received must include the agency name and docket number. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Paul Batlan, Financial Analyst, Conservation Partnerships, Office of Financial Management, U.S. Department of the Interior, 1849 C Street NW, Mail Stop 5530 MIB, Washington, DC 20240; email at *Paul_Batlan@ios.doi.gov* or by telephone at 202–208–4826.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior (DOI) Office of Financial Management maintains the DOI–12, Donations Program Files, system of records. This system assists DOI in managing the Donations Program and facilitating the evaluation, acceptance, and solicitation of donations of money, real property, personal property, services, or other gifts by members of the public and organizations to the Department of the Interior and its officials.

DOI is publishing this revised notice to make administrative updates to the following sections: System location; system manager; authorities; categories of individuals; categories of records; storage; retrieval; retention and disposal; safeguards; and the procedures on record access, contesting record and notification. This revised notice is organized to reflect the government-wide format established by the Office of Management and Budget (OMB), which includes new sections on the purpose and history of the system of records. Additionally, DOI is proposing to modify routine use ''A'' to clarify authorized disclosures to the Department of Justice; modify routine

use ''J'' and add new routine use ''K'' to permit sharing of information with appropriate Federal agencies or entities when reasonably necessary to assist in efforts to respond to a breach of personally identifiable information and to prevent, minimize, or remedy the risk of harm to individuals or the Federal Government in accordance with OMB policy; and modify routine use ''N'' to further clarify authorized disclosures to the news media and the public. DOI last published the Donations Program Files system of records notice in the **Federal Register** at 77 FR 66628 (November 6, 2012).

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to records about individuals that are maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations at 43 CFR part 2, subpart K, and following the procedures outlined in the Records Access, Contesting Record, and Notification Procedures sections of this notice.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the existence and character of each system of records that the agency maintains and the routine uses of each system. The revised Donations Program Files system of records notice is published in its entirety below. In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Participation

You should be aware your entire comment including your personal identifying information, such as your address, phone number, email address, or any other personal identifying information in your comment, may be made publicly available at any time. While you may request to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

Teri Barnett,

Departmental Privacy Officer.

SYSTEM NAME AND NUMBER

INTERIOR/DOI–12, Donations Program Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records in this system are maintained by the Office of Financial Management, U.S. Department of the Interior, 1849 C Street NW, Mail Stop 5530 MIB, Washington, DC 20240; and Bureaus and Offices that manage Donations Programs.

SYSTEM MANAGER(S):

Director and Senior Manager for Donations, Office of Financial Management, U.S. Department of the Interior, 1849 C Street NW, Mail Stop 5530 MIB, Washington, DC 20240. A list of bureau and office level senior managers may be obtained by contacting the Office of Financial Management at 202–208–4826.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 43 U.S.C. 1737, Federal Land Policy and Management Act, Implementation provisions; 54 U.S.C. 101101, Authority to accept land, rights-of-way, buildings, other property, and money; 43 U.S.C. 36c, Acceptance of contributions from public and private sources; cooperation with other agencies in prosecution of projects; 16 U.S.C. 742f, Powers of Secretaries of the Interior and Commerce.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to assist the Department of the Interior (DOI) in managing the Donations Program and facilitating the evaluation, acceptance, and solicitation of donations of money, real property, personal property, services, or other gifts by members of the public and organizations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who donate money, real property, personal property, services, or other gifts to the DOI and its officials, prospective donors, and other individuals who contact or correspond with the DOI officials on matters related to the Donations Program. This system may also include information on current and former Federal government employees, contractors, and volunteers who support or are involved in the management of the Donations Program. This system contains records concerning corporations and other business entities, which are not subject to the Privacy Act. However, records pertaining to individuals acting on behalf of corporations and other business entities may reflect personal information that may be maintained in the Donations Program system of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information provided by individuals or organizations who propose to donate money, real property, personal property, services, or other gifts to the DOI or its officials, and may include names; home or work addresses; phone numbers; email addresses; other contact information; financial data such as the amount of the donation and method of remittance; biographical information; descriptions or other information regarding type of donations made; and miscellaneous information about gifts donated in the past. This system also contains background data and affiliations related to eligibility determinations for proposed donations; correspondence or other data related to the acceptance of proposed donations; and correspondence and data related to the management of the Donations Program.

RECORD SOURCE CATEGORIES:

Records in the system are obtained from individual members of the public, organizations, DOI officials, employees, contractors, volunteers, and may be obtained from other Federal officials, state, territorial and local government officials, and non-governmental organizations, in the course of daily business activities and communications related to the management of the Donations Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information maintained in this system may be disclosed to authorized entities outside DOI for purposes determined to be relevant and necessary as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other Federal agency conducting litigation, or in proceedings before any court, adjudicative, or administrative

body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

(1) DOI or any component of DOI;

(2) Any other Federal agency appearing before the Office of Hearings and Appeals;

(3) Any DOI employee or former employee acting in his or her official capacity;

(4) Any DOI employee or former employee acting in his or her individual capacity when DOI or DOJ has agreed to represent that employee or pay for private representation of the employee; or

(5) The United States Government or any agency thereof, when DOJ determines that DOI is likely to be affected by the proceeding.

B. To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

C. To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible with the reason for which the records are collected or maintained.

D. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

E. To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

F. To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

G. To representatives of the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

H. To state, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

I. To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

J. To appropriate agencies, entities, and persons when:

(1) DOI suspects or has confirmed that there has been a breach of the system of records;

(2) DOI has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOI (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities and persons is reasonably necessary to assist in connection with DOI's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

K. To another Federal agency or Federal entity, when DOI determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(1) Responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

L. To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

M. To the Department of the Treasury to recover debts owed to the United States.

N. To the news media and the public, with the approval of the Public Affairs Officer in consultation with counsel and the Senior Agency Official for Privacy, when a matter has become public knowledge; when it is necessary to preserve the confidence in the integrity of DOI or is necessary to demonstrate the accountability of its officers, employees, or individuals covered in the system; or where there exists a legitimate public interest in the disclosure of the information, such as circumstances where providing information supports a legitimate law enforcement or public safety function, or protects the public from imminent threat of life or property; except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

O. To an official of another Federal, state, territorial, local, tribal, or foreign agency to provide information needed in the performance of official duties related to the verification, authorization, or processing of money, real property, personal property, services, or other gift donations by individuals or organizations, or any issue otherwise related to the purpose for which the records were compiled.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in both paper and electronic form. Paper records are maintained in file folders stored in file cabinets. Electronic records are maintained as files in computers, computer databases, email, and on encrypted removable drives and agency servers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information within this system may be retrieved by the DOI office or bureau receiving the donation, the benefitting program or activity, nature of the gift, size of the donation, the identity of the donor by individual or organization name, and may also be retrieved by keyword search.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained under Departmental Records Schedule (DRS)–3.1.0001, Program Monitoring and Policy Development (DAA–0048–2013–0008–0001), which has been approved by the National Archives and Records Administration (NARA). DRS–3.1.0001 is a Department-wide records schedule that covers records involved in the regular monitoring and oversight of Federal programs. The disposition for these records is temporary. These records will be destroyed five years after cut-off, which is at the end of the fiscal year in which the final document is superseded or obsolete, or upon determination that a final document will not be produced. Records not used to support the program are cut off at the end of the fiscal year when the document was created as these records support the creation of permanent policy records that are not authorized for destruction and must be transferred to the National Archives in accordance with other records retention schedules. Paper records are disposed of by shredding or pulping, and records

contained on electronic media are degaussed or erased in accordance with 384 Departmental Manual 1 and NARA guidelines.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security and privacy rules and policies. During normal hours of operation, paper records are maintained in locked file cabinets under the control of authorized personnel. Electronic records are safeguarded by permissions set to ''Authenticated Users'' which require password login. Computer servers on which electronic records are stored are located in secured DOI controlled facilities with physical, technical and administrative levels of security to prevent unauthorized access to the DOI network and information assets. The computer servers in which electronic records are stored are located in DOI facilities that are secured by security guards, alarm systems and off-master key access. Access to servers containing records in this system is limited to DOI personnel and other authorized parties who have a need to know the information for the performance of their official duties. Data exchanged between the servers and the system is encrypted. Backup tapes are encrypted and stored in a locked and controlled room in a secure, off-site location.

Computerized records systems follow the National Institute of Standards and Technology privacy and security standards as developed to comply with the Privacy Act of 1974, 5 U.S.C. 552a; Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521; Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551–3558; and the Federal Information Processing Standards 199: Standards for Security Categorization of Federal Information and Information Systems. Security controls include user identification, passwords, database permissions, encryption, firewalls, audit logs, and network system security monitoring, and software controls. Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each user's access is restricted to only the functions and data necessary to perform that person's job responsibilities. System administrators and authorized users are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training and sign the DOI Rules of Behavior.

RECORD ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the applicable System Manager identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORD PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the applicable System Manager as identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the applicable System Manager as identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

77 FR 66628 (November 6, 2012).

[FR Doc. 2018–15010 Filed 7–12–18; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[18XL1109AF LLUTG02000 L13100000.DO0000]

Notice of Termination of the San Rafael Swell Master Leasing Plan, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of termination.

SUMMARY: The preparation of an Environmental Assessment associated with the San Rafael Swell Master Leasing Plan Amendment is no longer required, and the process is hereby terminated. Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations, the Bureau of Land Management (BLM) announced its intent to prepare an EA. The Notice of Intent (NOI) was published in the **Federal Register** on May 18, 2016. The Plan Amendment would have considered modifying oil and gas leasing decisions on approximately 525,000 acres in portion of the Price and Richfield Field Offices in Emery and Wayne Counties, Utah.

DATES: Termination of the planning process for Rafael Swell Master Leasing Plan Amendment takes effect immediately.

FOR FURTHER INFORMATION CONTACT: Chris Conrad, Price Field Manager, 125 South 600 West, Price, Utah 84501, telephone (435) 636–3600, email *cconrad@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Since the publication of the NOI, the BLM issued Washington Office Instruction Memo 2018–034, which terminates the Master Leasing Process.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Edwin L. Roberson,

State Director.

[FR Doc. 2018–15016 Filed 7–12–18; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000. L51010000.PQ0000. LVRWF09F8730; N–85631; MO#4500119561]

Notice of Intent To Prepare an Environmental Impact Statement and Land Use Plan Amendment, and a Notice of Segregation for the Proposed Gemini Solar Project in Clark County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: As requested by Solar Partners XI, LLC, and in compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the Bureau of Land Management (BLM) Las Vegas Field Office intends to prepare an

Environmental Impact Statement (EIS) and land use plan amendment to the 1998 Resource Management Plan (RMP) for the proposed Gemini Solar Project in Clark County, Nevada. Publication of this Notice initiates the scoping process and opens a 45-day public comment period. Publication of this Notice also segregates the public lands from appropriation under the public land laws, including location under the Mining Law, but not the mineral leasing laws or the Materials Act, subject to valid existing rights.

DATES: Written comments must be received by the BLM no later than August 27, 2018. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media and the BLM website at: *https://go.usa.gov/xntTQ.*

Comments must be received prior to the close of the scoping period or 15 days after the last public meeting, whichever is later, to be included in the Draft EIS. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: blm_nv_sndo_geminisolar@blm.gov.*
- *E-planning: https://go.usa.gov/xntTQ.*
- *Fax:* 702–515–5023, Attention: Herman Pinales.
- *Mail:* BLM, Las Vegas Field Office, Attn: Herman Pinales, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301.

FOR FURTHER INFORMATION CONTACT: For further information, and/or to have your name added to the mailing list, send requests to: Herman Pinales, Energy & Infrastructure Project Manager, at telephone 702–515–5284; address 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301; or email *blm_nv_sndo_geminisolar@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: In 2017, Solar Partners XI, LLC filed an application with the BLM requesting authorization to construct, operate, maintain, and decommission a 690-megawatt-per-year photovoltaic (PV) solar electric generating facility and associated generation tie-line and access road facilities. The expected life of the project is 30 years. The Solar Partners XI, LLC acquired the original 44,000-acre APEX Solar Thermal Power Generation Facility right-of-way application filed in 2008 by BrightSource Energy, LLC.

The proposed Gemini Solar Project would be located approximately 25 miles northeast of Las Vegas and south of the Moapa River Indian Reservation in Clark County, Nevada.

The proposed Gemini Solar Project includes 7,115 acres of federal lands administered by the BLM. The Visual Resource Management (VRM) class in the Application Area is mostly III and some II (due to proximity to Muddy Mountain Wilderness Area and Bitter Springs Back Country Byway), which will require a land use plan amendment to a class IV in order for the project to be consistent with the land use plan. A VRM class 2 allows for activities with a low level of landscape change; a class III allows a moderate level of change that would not dominate the landscape; and a class IV allows a high level of change that would dominate the landscape.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and to guide the process for developing the EIS. At present, the BLM has identified the following preliminary issues: Threatened and endangered species, biological resources, visual resources, cultural resources, tribal interests, recreation, and cumulative impacts. The Congressionally-designated Old Spanish National Historic Trail crosses the area. Habitat for the federally listed desert tortoise is also in this proposed area.

The BLM will consult with Native American tribes on a government-to-government basis in accordance with applicable laws, regulations, Executive Order 13175, and other policies. Tribal concerns will be given due consideration, including impacts on Indian Trust assets. Federal, State, and local agencies, along with other stakeholders that may be interested or affected by the BLM's decision on this project, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate as a cooperating agency.

Segregation of the Public Lands

In 2013, the BLM published a Final Rule, Segregation of Lands—Renewable Energy (78 FR 25204), that amended the regulations found in 43 CFR 2090 and 2800. The provisions of the Final Rule allow the BLM to temporarily segregate public lands within a solar or wind application area from the operation of the public land laws, including the Mining Law, by publication of a **Federal Register** notice. The BLM uses this temporary segregation authority to preserve its ability to approve, approve with modifications, or deny proposed ROWs, and to facilitate the orderly administration of the public lands. This temporary segregation is subject to valid existing mining claims located before this segregation notice. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which would not impact lands identified in this notice may be allowed with the approval of an authorized officer of the BLM during the segregation period. The lands segregated under this notice are legally described as follows:

Mount Diablo Meridian, Clark County, Nevada

T. 17 S., R. 64 E.,
Sec. 10, S½;
Sec. 11, S½;
Secs. 12 and 13;
Sec. 14, N½ and SE¼;
Sec. 15, N½;
Sec. 22, E½;
Secs. 23 thru 26;
Sec. 27, E½;
Sec. 34, E½;
Secs. 35 and 36.
T. 17 S., R. 65 E.
Secs. 7 thru 24;
Secs. 26 thru 35.
T. 17 S., R. 66 E.,
Secs. 7, 18 and 19.
T. 18 S., R. 64 E.,
Secs. 1 and 2;
Sec. 3, lots 5 and 6, S½NE¼, and SE¼;
Sec. 10, E½;
Secs. 11 thru 14;
Sec. 15, E½;
Sec. 22, E½;
Secs. 23 thru 26;
Sec. 27, E½;
Sec. 34, E½;
Secs. 35 and 36.
T. 18 S., R. 65 E.,
Secs. 2 thru 9;
Secs. 16 thru 20;
Sec. 21, N½ and SW¼;
Sec. 30.

The areas described contain 45,165.48 acres, according to the official plats of the surveys and protraction diagrams of the lands on file with the BLM.

As provided in the Final Rule, the segregation of lands in this Notice will not exceed 2 years from the date of publication unless extended for up to 2 additional years through publication of a new notice in the **Federal Register**. Termination of the segregation occurs on the earliest of the following dates: Upon issuance of a decision by the authorized officer granting, granting with modifications, or denying the application for a ROW; automatically at

the end of the segregation; or upon publication of a **Federal Register** notice of termination of the segregation.

Upon termination of segregation of these lands, all lands subject to this segregation would automatically reopen to appropriation under the public land laws.

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.

Authority: 40 CFR 1501.7, 43 CFR 1610.2, 43 CFR 1610.5, 43 CFR 2091.3–1(e), and 43 CFR 2804.25(f)

Gayle Marrs-Smith,

Las Vegas Field Manager.

[FR Doc. 2018–15020 Filed 7–12–18; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[18XL1109AF LLUTC04000 L13200000.EL0000 UTU 081895]

Notice of Availability for the Alton Coal Tract Coal Lease by Application Final Environmental Impact Statement, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), the Federal Land Policy and Management Act of 1976, and the Mineral Leasing Act of 1920 as amended (MLA), the Bureau of Land Management (BLM) prepared a Final Environmental Impact Statement (EIS) for the Alton Coal Tract Lease by Application (LBA), case number UTU–081895.

DATES: The BLM will not issue a final decision on the proposal for a minimum of 30 days after the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**.

ADDRESSES: The public may review the Final EIS at the Kanab Field Office, 669 South Highway 89 A, Kanab, Utah 84741, and the BLM Utah State Office Public Room, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101; during business hours, 8 a.m. to 4:30 p.m. (unless otherwise posted), Monday through Friday, except Federal holidays. The Final EIS is available online at: *https://go.usa.gov/xNmE2.*

FOR FURTHER INFORMATION CONTACT: Keith Rigtrup, Planner, telephone: 1–435–865–3000; email: *krigtrup@blm.gov*.

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: In accordance with 43 CFR 3425, Alton Coal Development, LLC (ACD) submitted an application on November 12, 2004, with the BLM to lease Federal coal near the town of Alton, Utah. The tract identified in the application lies immediately adjacent to an active coal mine operated by ACD on private land.

The BLM provided a 90-day public scoping period at the beginning of the EIS process to identify potential issues and concerns associated with the Proposed Action. The BLM evaluated the scoping comments and used them to develop alternatives to the Proposed Action, to guide the analysis of potential effects from leasing and mining the tract, and to identify potential mitigations for inclusion in the Draft EIS. On November 4, 2011, the BLM published in the **Federal Register** (76 FR 68501–502, November 4, 2011) a Notice of Availability (NOA) of the Draft EIS for public comment. Based on comments received on the Draft EIS, the BLM decided to prepare a Supplemental Draft EIS for public review before preparing and distributing the Final EIS. On June 18, 2015, the BLM published an NOA for the Supplemental Draft EIS in the **Federal Register** (80 FR 34931–932, June 18, 2015). The BLM evaluated and used the comments received on the Draft EIS and the Supplemental Draft EIS to produce this Final EIS.

The Final EIS analyzes and discloses to the public the direct, indirect, and cumulative environmental impacts of issuing a Federal coal lease on the Alton Coal Tract, including mining and transportation of coal to a railhead near Cedar City, Utah, and to the Intermountain Power Plant near Delta, Utah. It includes the BLM's responses to comments received during the extended 90-day public comment period, from June to September 2015, for the Supplemental Draft EIS. It also includes all alternatives considered in the Supplemental Draft EIS, including Alternative K1, the BLM's preferred alternative for this LBA, based on the analysis of the potential impacts of issuing a lease for the Alton Coal Tract.

The Final EIS analyzes three action alternatives: (1) Alternative B: 3,581 acres, 44.9 million short tons (the Proposed Action), (2) Alternative C: 3,178 acres, 39.2 million short tons (wetlands reduction), and (3) Alternative K1: 2,114 acres, 30.8 million short tons. Alternative K1 was developed in response to the pending wetland and sage-grouse issues raised during the public comment period for the Draft EIS. A No Action Alternative is also included in the Final EIS which, if selected, would preclude offering of the lease tract. All action alternatives included a detailed Greater Sage-Grouse Mitigation Plan. The Final EIS also analyzed the No-Action Alternative (Alternative A) that would reject the application to lease Federal coal. Preparation of the Final EIS included Office of Surface Mining Reclamation and Enforcement, National Park Service and Environmental Protection Agency as cooperating agencies.

The Alton Coal Tract includes approximately 44.9 million recoverable tons of in-place bituminous coal underlying the following lands in Kane County, Utah:

Salt Lake Meridian, Utah
T. 39 S., R. 5 W.,
Sec. 7, SE¼SW¼ and S½SE¼;
Sec. 18, lots 3 and 4, E½, E½NW¼, and E½SW¼
Sec. 19, lots 1 thru 4, NE¼, E½NW¼, E½SW¼, N½SE¼, and SE¼SE¼;
Sec. 20, lots 4 and 5, and N½SW¼;
Sec. 30, lots 2 thru 4, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 31, lots 1 thru 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
T. 39 S., R. 6 W.,
Sec. 12, SW¼ and W½SE¼;
Sec. 13, NW¼NE¼, N½NW¼, SE¼NW¼, and SE¼;
Sec. 24, NE¼, N½NW¼, SE¼NW¼, E½SW¼, N½SE¼, and SE¼SE¼;
Sec. 25, E½NE¼, SW¼NE¼, and SE¼.

The area described, including both public and non-public surface lands, aggregate 3,581.27 Federal mineral acres according to the official plats of the surveys on file with the BLM.

Consistent with NEPA and its implementing regulations and the MLA and its implementing regulations, the BLM must prepare an environmental analysis prior to holding a competitive Federal coal lease sale. An EIS has been prepared for this particular sale. All alternatives have been analyzed and could be offered for sale. If an action alternative is selected in the subsequent ROD, that tract would be offered in a competitive lease sale, and a lease for Federal coal would be issued if the bid

met or exceeded the predetermined Fair Market Value.

The alternatives considered in the Final EIS are in conformance with the Kanab Field Office Record of Decision and Approved Resource Management Plan as amended (2015).

Anyone wanting to be added to the mailing list for this project must send their request by mail, facsimile, or electronically to the addresses listed in the **ADDRESSES** section above.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Edwin L. Roberson,

State Director.

[FR Doc. 2018–14917 Filed 7–12–18; 8:45 am]

BILLING CODE 4310–DQ–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1078]

Certain Amorphous Metal and Products Containing Same; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 14), which terminated the investigation on the basis of withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 30, 2017, based on a complaint filed by Metglas, Inc. of Conway, South Carolina and Hitachi Metals, Ltd. of Tokyo, Japan. 82 FR 50156 (Oct. 30, 2017). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of misappropriation of trade secrets. *Id.* As later amended, the investigation named as respondents AT&M International Trading Co., Ltd. (''AT&M''), CISRI International Trading Co., Ltd., and Beijing ZLJG Amorphous Technology Co., Ltd., each of Beijing, China; AT&M–NARI Amorphous Technology Co., Ltd. of Zhouzhou, China; and Qingdao Yunlu Advanced Materials Technology Co., Ltd. of Qingdao, China. 83 FR 24140 (May 24, 2018). The Office of Unfair Import Investigations was also named as a party. 82 FR 50156.

On June 8, 2018, the complainants moved to terminate the investigation based upon withdrawal of the complaint. *See* 19 CFR 210.21(a)(1). The respondents did not oppose the motion, and on June 11, 2018, the Commission investigative attorney responded in support of the motion. On June 14, 2018, the ALJ granted the motion as the subject ID. The ID finds that the motion complies with Commission rules, and that extraordinary circumstances do not exist to prevent termination of the investigation. ID at 2.

No petitions for review of the ID were filed. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 9, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–14953 Filed 7–12–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1053]

Certain Two-Way Radio Equipment and Systems, Related Software and Components Thereof; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a Final Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation of section 337. The ALJ recommended, should the Commission find a violation, that the Commission issue a limited exclusion order directed to two-way radio equipment and systems, related software and components thereof that infringe the asserted patents, and recommended cease and desist orders directed against those respondents found to infringe. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT: Clint A. Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competition conditions in the United States economy, the production of like or directly competitive articles in the United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in its investigations.

Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on July 3, 2018. Comments should address whether issuance of a limited exclusion and/or cease and desist order in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended order are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the recommended orders;

(iv) indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended order would impact consumers in the United States.

Written submissions must be filed by the close of business on August 10, 2018.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to Commission Rule 210.4(f), CFR part 210.4(f). Submissions should refer to the investigation number (''Inv. No. 337–TA–1053'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR part 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 9, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–14955 Filed 7–12–18; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1082]

Certain Gas Spring Nailer Products and Components Thereof; Commission Decision Not To Review an Initial Determination Granting Complainant's Motion To Amend the Notice of Investigation To Add Claim 30 of U.S. Patent 8,267,297

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 15) of the Chief Administrative Law Judge (''CALJ'') granting Complainant's motion to amend the Notice of Investigation (''NOI'') to add claim 30 of U.S. Patent No. 8,267,297 (''the '297 patent'').

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On November 20, 2017, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on an amended and supplemented complaint filed by Complainant Kyocera Senco Brands Inc. (''Kyocera'') of Cincinnati, Ohio. *See* 82 FR 55118–19 (Nov. 20, 2017). The amended complaint, as supplemented, alleges a violation 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 gas spring nailer products and components thereof, by reason of infringement of one or more of U.S. Patent No. 8,011,547; U.S. Patent No. 8,267,296; U.S. Patent No. 8,267,297; U.S. Patent No. 8,387,718; U.S. Patent No. 8,286,722; and U.S. Patent No. 8,602,282. *See id.* The amended complaint named one respondent, namely, Hitachi Koki U.S.A., Limited (''Hitachi'') of Braselton, Georgia. The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

On June 4, 2018, Complainant Kyocera filed a motion (*Motion*) to amend the NOI to add claim 30 of the '297 patent on the basis that it was inadvertently omitted as a result of a clerical error. The ID finds that ''good

[1] All contract personnel will sign appropriate nondisclosure agreements.

cause exists for amending [the NOI]'' under Commission Rule 210.14(b), 19 CFR 210.14(b). *See* ID at 2–3. Specifically, the ID reasons that ''[c]orrecting a clerical error constitutes good cause to amend [the NOI]'' and that ''Complainant did not improperly delay in bringing [the *Motion*].'' *See id.* at 3. The ID also finds that ''amending the [NOI] to add claim 30 will not prejudice Respondent'' because ''[t]he parties proceeded throughout discovery as if claim 30 was within the scope of the Investigation.'' *See id.* at 4.

No petition for review of the subject ID was filed. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 9, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–14954 Filed 7–12–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1122]

Certain Convertible Sofas and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 7, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Sauder Manufacturing Company of Archbold, Ohio. A supplement to the complaint was filed on June 14, 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 convertible sofas and components thereof by reason of infringement of U.S. Design Patent No. 716,576 (''the '576 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 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: Katherine M. Hiner, 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 July 6, 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 products identified in paragraph (2) by reason of infringement of the claim of the '576 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''convertible sofas that include the unitary combination of two upholstered seating areas, each bordered on the lateral end with a vertical armrest, such areas being separated by a flat table member that can be placed substantially level with the seating areas as well as raised above the level of the seating areas to various degrees to provide an open space beneath the table and for the full width of the table. In addition, the sofa includes a full width, integral backrest that can be folded down on top of the seats and table to provide a sleep/rest surface'';

(3) 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: Sauder Manufacturing Company, 930 West Barre Road, Archbold, OH 43502.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Krug, Inc., 111 Ahrens Street, Kitchener, Ontario, Canada N2C 1L5

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge;

(5) 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: July 9, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–14956 Filed 7–12–18; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–033]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 19, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 731–TA–1378 and 1379 (Final) (Low Melt Polyester Staple Fiber from Korea and Taiwan). The Commission is currently scheduled to complete and file its determinations and views of the Commission by August 1, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: July 10, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–15106 Filed 7–11–18; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Compresensive Environmental Response, Compensation, and Liability Act

On July 9, 2018, a proposed Consent Decree in *Emhart Industries, et al.* v. *United States et al.,* Civil Action No. 11–023, was filed with the United States District Court for Rhode Island.

The proposed Consent Decree has been signed by the United States of America, the State of Rhode Island, Emhart Industries, Inc., and Black & Decker Inc. It will resolve the claims between the parties relating to the cleanup of the Centredale Manor Superfund Site in North Providence, Rhode Island under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.* The proposed Consent Decree requires Emhart and Black & Decker to undertake work to clean up the Centredale Site and to pay the United States' and Rhode Islands' costs. It also commits the United States to pay a portion of the cleanup costs on behalf of the Department of Defense.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to: *Emhart Industries et al.* v. *United States et al.,* Civil Action No. 11–023, D.J. Ref. 90–11–3–07101/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $183.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a copy of the consent decree without appendices, send a check for $12.00.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–14973 Filed 7–12–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0065]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change, of a Previously Approved Collection 2013 Private Industry Feedback Survey

AGENCY: Cyber Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Cyber Division (CyD) has submitted the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for an additional days until August 13, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Stacy Stevens, Unit Chief, FBI, Cyber Division, 935 Pennsylvania Ave. NW, Washington, DC 20535 (facsimile: 703–633–5797; email: *slstevens2@fbi.gov*) or Stacey Rubin, Management and Program Analyst, FBI, Cyber Division, 935 Pennsylvania Ave. NW, Washington, DC 20535 (facsimile: 703–633–5797; email: *sjrubin@fbi.gov*). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Room 10235, 725 17th Street NW, 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;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—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 with change of a currently approved collection.

2. *The Title of the Form/Collection:* 2013 Private Industry Feedback Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is not a form number on the survey.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The FBI, Cyber Division, produces reports that provide information related to cyber trends and threats for private sector partners. The reports are referred to as Private Industry Notifications (PINs) and FBI Liaison Alert Systems (FLASHs). In order to improve the PIN/FLASH reports, a ''Feedback'' Section has been added to the reports containing a URL that links to a voluntary online survey. The results of the survey are reviewed by CyD and used to improve future reports to better serve the FBI's private sector partners.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 5,000 respondents will complete the survey. It is estimated that it takes each respondent 3 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 250 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: July 10, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–14991 Filed 7–12–18; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0008]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Claim for Damage, Injury, or Death

AGENCY: Civil Division, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Civil Division, 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.

DATES: Comments are encouraged and will be accepted for 30 days until August 13, 2018.

FOR FURTHER INFORMATION CONTACT: Comments are encouraged and all comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please contact James G. Touhey, Jr., Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20044, Telephone: (202) 616–4400.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, Room 10235, 725 17th Street NW, 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;
—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.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Claim for Damage, Injury, or Death.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CIV SF 95. The applicable component within the Department of Justice is the Civil Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: Businesses or other for-profit, Non-for-profit institutions, and State, Local, or Tribal Governments. Abstract: This form is used by those persons making a claim against the United States Government under the Federal Tort Claims Act.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that there will be 100,000 respondents who will each require 6 hours to respond.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual burden hours to complete the certification form is 600,000 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: July 10, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–15040 Filed 7–12–18; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0064]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension, Without Change, of a Currently Approved Collection—FBI Expungement Form (FD–1114)

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division 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 is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for an additional days until August 13, 2018.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gerry Lynn Brovey, Supervisory Information Liaison Specialist, FBI, CJIS, Resources Management Section, Administrative Unit, Module C–2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306 (facsimile: 304–625–5093) or email *glbrovey@ic.fbi.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted via email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. 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;

—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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* FBI Expungement Form.

(3) *Agency form number:* FD–1114.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: This form is utilized by criminal justice and affiliated judicial agencies to request appropriate removal of criminal history information from an individual's record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 56 respondents are authorized to complete the form which would require approximately 10 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 36,106 total annual burden hours associated with this collection.

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, Suite 3E.405B, Washington, DC 20530.

Dated: July 10, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–14992 Filed 7–12–18; 8:45 am]

BILLING CODE 4410–02–P

OFFICE OF MANAGEMENT AND BUDGET

Maritime Regulatory Reform

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: Extension of comment period.

SUMMARY: The Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget is extending the comment period for its Maritime Deregulatory request for information (RFI), by 45 days until August 30, 2018. Please note, OIRA intends to make all submissions publicly available on *www.regulations.gov.*

DATES: Written comments should be submitted by August 30, 2018. Late comments will be considered to the extent possible.

ADDRESSES: Interested persons are encouraged to submit comments, identified by ''Maritime Regulatory Reform RFI,'' by any of the following methods: Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Email: *OMB.DeregulatoryRFI@OMB.eop.gov.* Include ''Maritime Regulatory Reform RFI'' in the subject line of the message.

SUPPLEMENTARY INFORMATION: This extension of comment period pertains to the RFI published in 83 FR 22993 pertaining to maritime regulatory reform, docket number 2018–10539. For more information, please see *https://www.regulations.gov/docket?D=OMB-2018-0002.*

Neomi Rao,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2018–14958 Filed 7–12–18; 8:45 am]

BILLING CODE 3110–01–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 18–08]

Millennium Challenge Corporation Advisory Council Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Renewal of the MCC Advisory Council and Call for Nominations for 2018–2020 Term.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, MCC has refiled the charter for the MCC Advisory Council (''Advisory Council''), is hereby soliciting representative nominations for the 2018–2020 term. The Council serves MCC in a solely advisory capacity and provides insight regarding innovations in relevant sectors including technology, infrastructure and blended

finance; perceived risks and opportunities in MCC partner countries; and evolving approaches to working in developing country contexts. The Advisory Council provides a platform for systematic engagement with the private sector and contributes to MCC's mission—to reduce poverty through sustainable, economic growth. MCC uses this advice, information and recommendations to inform compact development and implementation, and broaden public and private sector partnerships for more impact and leverage. The MCC Vice President of the Department of Compact Operations affirms that the Advisory Council is necessary and in the public interest.

The Advisory Council is seeking members representing a diverse group of private sector organizations with expertise in infrastructure, business and finance and technology, particularly in the countries and regions where MCC operates. Additional information about MCC and its portfolio can be found at *www.mcc.gov.*

DATES: Nominations for Advisory Council members must be received on or before 5 p.m. EDT on August 10, 2018. Further information about the nomination process is included below. MCC plans to host the first meeting of the 2018–2020 term of the MCC Advisory Council in Fall 2018. The Council will meet at least two times a year in Washington, DC or via video/teleconferencing.

FOR FURTHER INFORMATION CONTACT: All nomination materials or requests for additional information should be emailed to *MCCAdvisoryCouncil@mcc.gov* or mailed to Millennium Challenge Corporation, Attn: Beth Roberts, Designated Federal Officer, MCC Advisory Council, 1099 14th St. NW, Suite 700, Washington, DC 20005.

SUPPLEMENTARY INFORMATION: The Advisory Council shall consist of not more than twenty-five (25) individuals who are recognized thought leaders, business leaders and experts representing US companies, the business community, advocacy organizations, non-profit organizations, foundations, and sectors including infrastructure, information and communications technology (ICT), and finance, as well as the environment and sustainable development. Qualified individuals may self-nominate or be nominated by any individual or organization. To be considered for the Advisory Council, nominators should submit the following information:

- Name, title, organization and relevant contact information (including phone and email address) of the individual under consideration;
- A letter, on organization letterhead, containing a brief description of why the nominee should be considered for membership;
- Short biography of nominee including professional and academic credentials.

Please do not send company, trade association, or organization brochures or any other information. Materials submitted should total two pages or less. Should more information be needed, MCC staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources.

All members of the Advisory Council will be independent of the agency, representing the views and interests of their respective industry or area of expertise, and not as Special Government employees. All Members shall serve without compensation.

Nominees selected for appointment to the Advisory Council will be notified by return email and receive a letter of appointment. A selection team comprised of representatives from several MCC departments will review the nomination packages. The selection team will make recommendations regarding membership to the Vice President for Compact Operations based on criteria including: (1) Professional or academic expertise, experience, and knowledge; (2) stakeholder representation; (3) availability and willingness to serve; and (4) skills working collaboratively on committees and advisory panels. Based upon the selection team's recommendations, the Vice President for Compact Operations will select representatives. In the selection of members for the Advisory Council, MCC will seek to ensure a balanced representation and consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the Advisory Council.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical disability, marital status, or sexual orientation.

Thomas G. Hohenthaner,

VP/General Counsel and Corporate Secretary (Acting), Millennium Challenge Corporation.

[FR Doc. 2018–15053 Filed 7–12–18; 8:45 am]

BILLING CODE 9211–03–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0145]

Proposed Revisions to Branch Technical Position 5–3; Fracture Toughness Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-draft section revision; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on draft NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Section BTP 5–3, ''Fracture Toughness Requirements.'' The NRC seeks comments on the proposed draft section revision of the Standard Review Plan (SRP) concerning guidance for the review of early site permits, combined construction and operating license and operating license applications and amendments for fracture toughness requirements.

DATES: Comments must be filed no later than September 11, 2018. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0145. 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: Mark D. Notich, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–3053; email: *Mark.Notich@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0145 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–2018–0145.
- *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 draft revision and current revision to NUREG–0800, Section BTP 5–3, ''Fracture Toughness Requirements'' is available in ADAMS under Accession No. ML18071A066 and ML070850035. The redline-strikeout version comparing the draft revision 3 and the current version of revision 2 is available in ADAMS under Accession No. ML18130A401.
- *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–2018–0145 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. Further Information

The NRC seeks public comment on the proposed draft section revision of SRP Section BTP 5–3. The changes include incorporation of text describing NRC review of potential non-conservatisms in BTP 5–3, Revision 2, Subsection B1.1; a reference to a memorandum describing the results of the NRC review of the potential non-conservatisms; and numerous textual updates to incorporate pressure-temperature limit reports, 10 CFR 50.61a, 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' clearer citations, and nozzle language.

Following NRC staff evaluation of public comments, the NRC intends to finalize SRP Section BTP 5–3 in ADAMS and post it on the NRC's public website at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/.* The SRP is guidance for the NRC staff. The SRP is not a substitute for the NRC regulations, and compliance with the SRP is not required.

III. Backfitting and Issue Finality

Issuance of this draft SRP section, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. The draft SRP positions, if finalized, would not constitute backfitting, inasmuch as the SRP is internal guidance to NRC staff directed at the NRC staff with respect to their regulatory responsibilities.

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. The NRC staff has no intention to impose the SRP positions on current licensees or already-issued regulatory approvals either now or in the future.

The NRC staff does not intend to impose or apply the positions described in the draft SRP to existing (already issued) licenses and regulatory approvals. Hence, the issuance of a final SRP, even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52, would not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.

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. This is because 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 an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the draft SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRP in a manner which does not provide issue finality as described in the applicable issue finality provisions, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 10th day of July, 2018.

For the Nuclear Regulatory Commission.

Jennivine K. Rankin,

Acting Chief, Licensing Branch 3, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2018–15035 Filed 7–12–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333; NRC–2018–0143]

Exelon Generation Company, LLC; James A. FitzPatrick Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and to petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. DPR–59, issued to Exelon Generation Company, LLC, for operation of the James A. FitzPatrick Nuclear Power Plant (JAFNPP). The proposed amendment would revise Technical Specification (TS), TS 2.1.1, ''Reactor Core SLs [Safety Limits].'' For this amendment request, the NRC proposes to determine that it involves no significant hazards consideration. Because this amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Submit comments by August 13, 2018. Requests for a hearing or petition for leave to intervene must be filed by September 11, 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 July 23, 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–2018–0143. 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: Tanya E. Hood, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1387, email: *Tanya.Hood@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0143 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–2018–0143.
- *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 application for amendment, dated May 17, 2018, is available in ADAMS under Accession No. ML18137A418.
- *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–2018–0143 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. Introduction

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. DPR–59, issued to Exelon Generation Company, LLC, for operation of JAFNPP, located in Oswego, New York.

The proposed amendment would revise TS 2.1.1, ''Reactor Core SLs [Safety Limits]'' to change Cycle 24 Safety Limit Minimum Critical Power Ratio (SLMCPR) numeric values resulting from SLMCPR analyses performed.

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC'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. 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 derivation of the cycle specific Safety Limit Minimum Critical Power Ratios (SLMCPRs) for incorporation into the Technical Specifications (TS), and their use to determine cycle specific thermal limits, has been performed using the methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 26.

The basis of the SLMCPR calculation is to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs preserve the existing margin to transition boiling.

The MCPR safety limit is reevaluated for each reload using NRC-approved methodologies. The analyses for JAFNPP, Cycle 24, have concluded that a tworecirculation loop MCPR safety limit of ≥1.07, based on the application of Global Nuclear Fuel's NRC-approved MCPR safety limit methodology, will ensure that this acceptance criterion is met. For single recirculation loop operation, a MCPR safety limit of ≥ 1.09 also ensures that this acceptance criterion is met. The MCPR operating limits are presented and controlled in accordance with the JAFNPP Core Operating Limits Report (COLR).

The requested TS changes do not involve any plant modifications or operational changes that could affect system reliability or

performance or that could affect the probability of operator error. The requested changes do not affect any postulated accident precursors, do not affect any accident mitigating systems, and do not introduce any new accident initiation mechanisms. Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of 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 SLMCPR is a TS numerical value, calculated to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs are calculated using NRC-approved methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 26. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. The proposed revised MCPR safety limits have been shown to be acceptable for Cycle 24 operation. The core operating limits will continue to be developed using NRC-approved methods. The proposed MCPR safety limits or methods for establishing the core operating limits do not result in the creation of any new precursors to an accident. Therefore, this 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.

There is no significant reduction in the margin of safety previously approved by the NRC as a result of the proposed change to the SLMCPRs. The new SLMCPRs are calculated using methodology discussed in NEDE–24011–P–A, ''General Electric Standard Application for Reactor Fuel,'' Revision 26. The SLMCPRs ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity. Therefore, the proposed TS changes do not involve a significant reduction in the margin of safety previously approved by the NRC.

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 license amendment request involves a no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. 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 notice period if the Commission concludes 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.

III. 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.

IV. 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 this action, see the application for license amendment dated May 17, 2018.

Attorney for licensee: Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

NRC Branch Chief: James G. Danna.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no 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

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

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 10th of July 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; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2018–15009 Filed 7–12–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8584; NRC–2018–0141]

Kennecott Uranium Company; Sweetwater Uranium Project

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a renewed license to Kennecott Uranium Company (KUC) for its Sweetwater Uranium Project (SUP), located in Sweetwater County, Wyoming, for Materials License SUA–1350. The license authorizes KUC to possess uranium source and byproduct material at the SUP. In addition, the license authorizes KUC to operate its facilities as proposed in its license renewal application, as amended, and as prescribed in the license, after a pre-operational inspection has been completed at the SUP and any safety issues resolved. The renewed license expires on November 9, 2024.

DATES: The license referenced in this document is available on July 6, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0141 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0141. Address

[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.

questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: James Webb, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6252; email: *James.Webb@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Discussion

Based upon the application dated July 24, 2014 (ADAMS Package Accession No. ML14251A115), as supplemented on October 31, 2015 (ADAMS Accession No. ML15300A336), June 2, 2016 (ADAMS Accession No. ML16160A410), October 18, 2016 (ADAMS Accession No. ML16298A147), November 14, 2016 (ADAMS Accession No. ML16335A183), September 28, 2017 (ADAMS Accession No. ML17277A074), and January 12, 2018 (ADAMS Accession No. ML18043A034), the NRC has issued a renewed license (ADAMS Accession No. ML18102B175) to KUC, located in Sweetwater County, Wyoming. The renewed license authorizes KUC to possess uranium source and byproduct material at the SUP. In addition, the license authorizes KUC to operate its facilities as proposed in its license renewal application, as amended, and as prescribed in its amended license, after a pre-operational inspection has been completed at the SUP and any safety issues resolved. The renewed license will expire on November 9, 2024.

The licensee's application for a renewed license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. The NRC has made appropriate findings as required by the Act, part 20 of title 10 of the *Code of Federal Regulations* (10 CFR), and 10 CFR part 40, and sets forth those findings in the renewed license. The agency afforded an opportunity for a hearing in the ''Notice of Opportunity for a Hearing'' published in the **Federal Register** on February 10, 2015 (80 FR 7501). The NRC received no request for a hearing or petition for leave to intervene following the notice.

The NRC staff prepared a safety evaluation report (ADAMS Accession No. ML18052B381) for the renewal of the license and concluded, based on that evaluation, that KUC will continue to meet the regulations in the Act, 10 CFR part 20, and 10 CFR part 40. The NRC staff also prepared an environmental assessment (ADAMS Accession No. ML18135A206) and finding of no significant impact for the renewal of this license, which were published in the **Federal Register** on June 8, 2018 (83 FR 26708). The NRC staff concluded that renewal of this license will not have a significant impact on the quality of the human environment. Concurrent with its license renewal review, the NRC also reviewed KUC's revised request to construct an additional tailings impoundment and evaporation ponds for future operations.

II. Availability of Documents

The following table includes the ADAMS accession numbers for the documents referenced in this notice. For additional information on accessing ADAMS, see the **ADDRESSES** section of this document.

Document	ADAMS accession No.
License Renewal Application (LRA) July 24, 2014	ML14251A113
LRA Revision, October 31, 2015	ML15300A336
LRA Revision, June 2, 2016	ML16160A410
LRA Revision, October 18, 2016	ML16298A147
LRA Revision, November 14, 2016	ML16335A183
LRA Revision, September 28, 2017	ML17277A074
LRA Revision, January 12, 2018	ML18043A034
Final Environmental Assessment for the Renewal of the U.S. Nuclear Regulatory Commission License No. SUA–1530 for Kennecott Uranium Company, Sweetwater County, Wyoming, issued June 2018	ML18135A206
NRC Safety Evaluation Report, February 28, 2018	ML18052B381
Source Materials License, Kennecott Uranium Company, June 30, 2018	ML18102B175

Dated at Rockville, Maryland, this 6th day of July 2018.

For the Nuclear Regulatory Commission.

Michele M. Sampson,

Acting Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–14855 Filed 7–12–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Plant Operations and Fire Protection; Notice of Meeting

The ACRS Subcommittee on Plant Operations and Fire Protection will hold a meeting on July 26, 2018 at U.S. Nuclear Regulatory Commission, Region I, 2100 Renaissance Blvd., Suite 100, King of Prussia, PA 19406–2713.

The entire meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Thursday July 26, 2018,—8:15 a.m. until 12:00 p.m.

The Subcommittee will hear presentations by and hold discussions with 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), Kent Howard (Telephone 301–415–2989 or Email: *Kent.Howard@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).

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 Main Entrance, 2100 Renaissance Blvd., Suite 100, King of Prussia, PA 19406–2713. After registering with Security, please contact Ms. Ann De Francisco (Telephone 601–337–5078) to be escorted to the meeting room.

Dated: July 10, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–15003 Filed 7–12–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2018–265]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 16, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2018–265; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* July 6, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 16, 2018.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–14952 Filed 7–12–18; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018–266; MC2018–191 and CP2018–267]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 17, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2018–266; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* July 9, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 17, 2018.

2. *Docket No(s).:* MC2018–191 and CP2018–267; *Filing Title:* USPS Request to Add Priority Mail Contract 453 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 9, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr, *Comments Due:* July 17, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–14987 Filed 7–12–18; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 13, 2018.

FOR FURTHER INFORMATION CONTACT: Maria W. Votsch, 202–268–6525.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 9, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 453 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–191, CP2018–267.

Maria W. Votsch,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–14969 Filed 7–12–18; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83456; File No. SR–LCH SA–2018–003]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Liquidity Risk Management

June 18, 2018.

Correction

In notice document 2018–13378 beginning on page 29146 in the issue of Friday, June 22, 2018, make the following change:

On page 29148, in the second column, in line 43, ''July 12, 2018'' should read ''July 13, 2018''.

[FR Doc. C1–2018–13378 Filed 7–12–18; 8:45 am]

BILLING CODE 1301–00–D

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33152; File No. 812–14925]

AB Private Credit Investors Corp., *et al.*

July 9, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit business development companies (''BDCs'') to co-invest in portfolio companies with each other and with certain affiliated investment funds and accounts.[1]

APPLICANTS: AB Private Credit Investors Corporation (''AB BDC I''); AB Private Credit Investors Middle Market Direct Lending Fund, L.P. (''AB PCI Fund I''); AB Energy Opportunity Fund, L.P. (''AB Energy Fund,'' and together with AB PCI Fund I, the ''Existing Affiliated Funds''); AB Private Credit Investors, LLC (''AB–PCI'') on behalf of itself and

[1] The requested order (''Order'') would supersede an exemptive order issued by the Commission on October 11, 2016 (*In the Matter of AB Private Credit Investors Corporation, et al.,* Investment Company Act Release Nos. 32261 (Sept. 13, 2016) (notice) and 32310 (Oct. 11, 2016) (order) (the ''Prior Order''), with the result that no person will continue to rely on the Prior Order if the Order is granted.

its successors; [2] and AXA Equitable Life Insurance Company (''AXA Equitable'').

FILING DATES: The application was filed on June 28, 2018. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 3, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549–1090. Applicants: J. Brent Humphries, AB Private Credit Investors LLC, 1345 Avenue of the Americas, New York, NY 10105.

FOR FURTHER INFORMATION CONTACT: Stephan N. Packs, Senior Counsel, at (202) 551–6853 or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. AB BDC I, a Maryland corporation, is organized as a closed-end management investment company that has elected to be regulated as a BDC under section 54(a) of the Act.[3] AB BDC I's Objectives and Strategies [4] are to principally generate current income through direct investments in private loans and notes and, to a lesser extent, long-term capital appreciation through private equity investments.

2. The board of directors of AB BDC I is comprised of five directors. The AB BDC I Board and any board of directors of a Future Regulated Fund (each a ''Board'') will be comprised of directors, a majority of whom will not be ''interested persons'' within the meaning of Section 2(a)(19) of the Act (the ''Non-Interested Directors''), of AB BDC I or any Future Regulated Fund, as applicable.

3. AB PCI Fund I is a Delaware limited partnership that is exempt from registration pursuant to section 3(c)(7) of the Act. AB PCI Fund I's investment objective and strategies are to generate both current income and long-term capital appreciation through debt and equity investments.

4. AB Energy Fund is a Delaware limited partnership that is exempt from registration pursuant to section 3(c)(7) of the Act. AB Energy Fund's investment objective and strategies are to generate attractive risk-adjusted returns, through current income and capital gains, by capitalizing on private and public debt and equity investment opportunities in North American oil and gas producers.

5. AB–PCI, a Delaware limited liability company, is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). AB–PCI is a wholly-owned subsidiary of AllianceBernstein L.P., a New York based global asset management firm. AB–PCI is the investment adviser to each of AB BDC I and the Existing Affiliated Funds. AB–PCI also advises certain Affiliated Managed Accounts that may participate in the Co-Investment Program, including the Existing Affiliated Managed Accounts.[5]

6. AXA Equitable is a stock life insurance corporation organized under the laws of New York, and is the indirect parent company of AB–PCI.[6] AXA Equitable has established an Existing Affiliated Managed Account, and may from time to time establish Future Affiliated Managed Accounts, advised by an AB–PCI Adviser.[7]

7. Applicants seek an order (''Order'') to permit a Regulated Fund [8] and one or more Regulated Funds and/or one or more Affiliated Funds [9] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an AB–PCI Adviser negotiates terms in addition to price, and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments'').

8. The Order would amend the Prior Order to extend the relief granted under the Prior Order to certain Existing Affiliated Managed Accounts and Future Affiliated Managed Accounts whose investment adviser is an AB–PCI Adviser.

9. For purposes of the requested Order, ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) participated together with one or more

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[2] The term ''successor,'' as applied to any AB–PCI Adviser (defined below), means an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

[3] Section 2(a)(48) defines a business development company (BDC) to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[4] ''Objectives and Strategies'' means a Regulated Fund's (defined below) investment objectives and strategies, as described in the Regulated Fund's registration statement on Form N–2 or Form 10–12G, as applicable, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''Securities Act''), or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[5] ''Existing Affiliated Managed Accounts'' means one or more investment accounts that have been established by AXA Equitable, and that are advised by: (i) AB–PCI; and (ii) any future investment adviser that is controlled by AB–PCI and is registered as an investment adviser under the Advisers Act (''AB–PCI Adviser'').

''Affiliated Managed Account'' means: (i) The Existing Affiliated Managed Accounts; and (ii) any Future Affiliated Managed Account. ''Future Affiliated Managed Account'' means an account: (i) For which an AB–PCI Adviser is acting as investment adviser or sub-adviser; (b) of a person who is a Section 57(b) affiliate of a Regulated Fund and who would not be able to rely on Section 3(c)(1) or 3(c)(7) of the Act; and (c) that intends to participate in the Co-Investment Program.

[6] Although AXA Equitable is an indirect parent company of AB–PCI, AB–PCI has a separate management team from AXA Equitable and operates as a separate and distinct business and legal entity.

[7] AXA Equitable is excluded from the definition of investment company by Section 3(c)(3) of the Act.

[8] ''Regulated Fund'' means AB BDC I and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company other than AB BDC I: (i) That is registered under the Act or has elected to be regulated as a BDC; (ii) whose investment adviser is an AB–PCI Adviser; and (iii) that intends to participate in the Co-Investment Program.

[9] ''Affiliated Fund'' means: (i) The Existing Affiliated Funds; (ii) any Future Affiliated Fund; and (iii) any Affiliated Managed Account. ''Future Affiliated Fund'' means any entity: (i) Whose investment adviser or sub-adviser is an AB–PCI Adviser; (b) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the 1940 Act; and (c) that intends to participate in the Co-Investment Program.

other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.

10. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.[10] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or Regulated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the requested Order, as though the parent Regulated Fund were participating directly. The Regulated Fund's Board would make all relevant determinations under the Conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

11. When considering Potential Co-Investment Transactions for any Regulated Fund, the AB–PCI Adviser will consider only the Objectives and Strategies, Board-Established Criteria,[11] investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Regulated Fund.

12. Other than pro rata dispositions and Follow-On Investments as provided in Conditions 7 and 8, and after making the determinations required in Conditions 1 and 2(a), the Advisers will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'')[12] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

13. AXA Equitable may decline the opportunity for its Affiliated Managed Accounts to participate in whole or in part in a Potential Co-Investment Transaction pursuant to AXA Equitable's arrangement with AB–PCI with respect to its Affiliated Managed Accounts. AXA Equitable does not have the ability to cause AB–PCI to change the allocations of any Potential Co-Investment Transaction.

14. With respect to the pro rata dispositions and Follow-On Investments provided in Conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

15. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than through share ownership in one of the Regulated Funds.

Applicants' Legal Analysis:

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. In addition, section 57(b) applies to any investment adviser to a Regulated Fund that is a BDC and to any section 2(a)(3)(C) affiliates of the investment adviser, including AXA Equitable and the Affiliated Managed Accounts. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the

[10] The term ''Wholly-Owned Investment Sub'' means an entity: (i) That is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the Conditions of the Application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

[11] ''Board-Established Criteria'' means criteria that the Board of a Regulated Fund may establish from time to time to describe the characteristics of Potential Co-Investment Transactions regarding which the AB–PCI Adviser to the Regulated Fund should be notified under Condition 1.

[12] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o).

purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

4. Applicants also represent that if the AB–PCI Adviser or its principals, or any person controlling, controlled by, or under common control with an AB–PCI Adviser or its principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25 percent of the outstanding voting securities of a Regulated Fund (''Shares''), then the Holders will vote such Shares as required under Condition 14. Applicants believe that this Condition will ensure that the Non-Interested Directors will act independently in evaluating the Co-Investment Program, because the ability of an AB–PCI Adviser or its principals to influence the Non-Interested Directors by a suggestion, explicit or implied, that the Non-Interested Directors can be removed will be limited significantly. Applicants represent that the Non-Interested Directors will evaluate and approve any such independent party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Conditions:

Applicants agree that the Order will be subject to the following Conditions:

1. Each time an AB–PCI Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies and Board-Established Criteria, the Regulated Fund's AB–PCI Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the AB–PCI Adviser deems the Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the AB–PCI Adviser will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable AB–PCI Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among the Regulated Funds and Affiliated Funds pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable AB–PCI Adviser to a Regulated Fund will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in Conditions 1 and 2(a), the AB–PCI Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Funds' and Affiliated Funds' participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the Regulated Fund's shareholders; and

(B) the Regulated Fund's then-current Objectives and Strategies and Board-Established Criteria;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of any other Regulated Fund or Affiliated Fund; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this Condition 2(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable AB–PCI Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the AB–PCI Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by Condition 13, (B) to the extent permitted by sections 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in Condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable AB–PCI Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies and Board-Established Criteria that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this Condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be

subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with Condition 8,[13] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or an Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this Condition 6, if Conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired by one or more Regulated Funds and/or Affiliated Funds in a Co-Investment Transaction, the applicable AB–PCI Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by the Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and any other Regulated Fund.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this Condition. In all other cases, the AB–PCI Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired by the Regulated Fund and the Affiliated Fund in a Co-Investment Transaction, the applicable AB–PCI Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the AB–PCI Adviser will provide its written recommendation as to such Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that the Required Majority determines that it is in such Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the AB–PCI Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the other participating Regulated Funds and the Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this Condition will be considered a Co-Investment Transaction for all purposes and subject to the other Conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that a Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the Conditions of the Order. In addition, the Non-Interested Directors will consider at least annually: (i) The continued appropriateness for such Regulated Fund of participating in new and existing Co-Investment Transactions; and (ii) the continued appropriateness of any Board-Established Criteria.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these Conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act), of any Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the AB–PCI Advisers under their respective investment advisory agreements with the Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be

[13] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

acquired or disposed of, as the case may be.

13. Any transaction fee [14] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an AB–PCI Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such AB–PCI Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the AB–PCI Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in Condition 2(c)(iii)(C); and (b) in the case of an AB–PCI Adviser, investment advisory fees paid in accordance with the agreement between the AB–PCI Adviser and the Regulated Fund or Affiliated Fund).

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on: (1) The election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2018–14963 Filed 7–12–18; 8:45 am]

BILLING CODE 8011–01–P

[14] Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83609; File No. SR–IEX–2018–14]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 16.160 To Remove Form 19b–4(e) Filing Requirement

July 9, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 26, 2018, the Investors Exchange LLC (''IEX'' 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 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

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend IEX Rule 16.160 related to derivative securities traded under unlisted trading privileges (''UTP'') to remove the requirement in Rule 16.160(a)(1) for the Exchange to file with the Commission a Form 19b–4(e) for each ''new derivative securities product'' as defined in Rule 19b–4(e) under the Act [6] (a ''Derivative Security'') traded under UTP and renumber the remaining provisions of Rule 16.160(a) to maintain an organized rule structure. The Exchange has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act [7] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[8] The text of the proposed rule change is available at the Exchange's website at *www.iextrading.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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement [sic] may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 16.160 related to derivative securities traded under UTP by removing the requirement in Rule 16.160(a)(1) for the Exchange to file with the Commission a Form 19b–4(e) for each Derivative Security, and renumbering the remaining rules of Rule 16.160(a) to maintain an organized rule structure, as described below.

Rule 16.160(a)(1) sets forth the requirement for IEX to file with the Commission a Form 19b–4(e) with respect to each Derivative Security that is traded under UTP. However, IEX believes that it should not be necessary to file a Form 19b–4(e) with the Commission if it begins trading a Derivative Security on a UTP basis, because Rule 19b–4(e)(1) under the Act refers to the ''listing and trading'' of a ''new derivative securities product.'' The Exchange believes that the requirements of that rule refers [sic] to when an exchange lists and trades a Derivative Security, and not when an exchange seeks only to trade such product on a UTP basis pursuant to Rule 12f–2 under the Act.[9] Therefore, IEX proposes to delete the requirement in current Rule 16.160(a)(1) for IEX to file a Form 19b–4(e) with the Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CRF [sic] 240.19b–4.

[6] 17 CRF [sic] 240.19b–4(e).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(e) [sic].

[9] 17 CFR 240.12f–2.

with respect to each Derivative Security it begins trading on a UTP basis. In addition, as a result of the deletion of current Rule 16.160(a)(1) IEX proposes to renumber current Rules 16.160(a)(2)–(6), as Rules 16.160(a)(1)–(5) respectively.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [10] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act [11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, eliminating the requirement to file a Form 19b–4(e) for each Derivative Security the Exchange begins trading on a UTP basis removes an unnecessary regulatory requirement thereby providing for a more efficient process for adding Derivative Securities to trading on the Exchange on a UTP basis.

In addition, the Exchange notes that a substantially identical proposed rule change by NYSE National, Inc. (''NYSE National'') was recently approved by the Commission.[12] In particular, the Commission noted in the approval order that it ''believes that the filing of a Form 19b–4(e) is not required when an Exchange is trading a new derivative securities product on a UTP basis only'' [13] and also found that the NYSE National's proposed rule change is ''consistent with the requirements of Section 6(b)(5) of the Act.'' [14]

With respect to the renumbering of current Rules 16.160(a)(2)–(6) as Rule 11.160(a)(1)–(5), the Exchange believes that these changes are consistent with the Act because they will allow the Exchange to maintain a clear and organized rule structure, thus preventing investor confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, removing the requirement to file a Form 19b–4(e) will serve to enhance competition by providing for the efficient addition of Derivative Securities for trading under UTP on IEX. To the extent that a competitor marketplace believes that the proposed rule change places it at a competitive disadvantage, it may file with the Commission a proposed rule change to adopt the same or similar rule.

In addition, the proposal to renumber the current Rules 16.160(a)(2)–(6) as Rules 16.160(a)(1)–(5) does not impact competition in any respect since it merely maintains a clear and organized rule structure.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [15] of the Act and Rule 19b–4(f)(6) [16] thereunder. 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 and Rule 19b–4(f)(6) thereunder.[17]

The Exchange has requested a waiver of the 30-day operative delay so that the Exchange can begin trading Derivative Securities on a UTP basis without filing a Form 19b–4(e) with the Commission prior to the end of the 30-day operative delay. Because the proposed rule change is based on a rule change previously approved by the Commission [18] and does not present any novel issues, the Commission believes that waiving the 30-day operative delay period is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative upon filing.[19]

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 under Section 19(b)(2)(B) [20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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–IEX–2018–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–IEX–2018–14. 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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (Order Approving File No. SR–NYSENAT–2018–02).

[13] *See supra* note 12 at page 23975.

[14] *See supra* note 12 at page 23976.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[18] *See supra* note 12.

[19] 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).

[20] 15 U.S.C. 78s(b)(2)(B).

Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–IEX–2018–14 and should be submitted on or before August 3, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2018–14962 Filed 7–12–18; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with such requirements.

DATES: Submit comments on or before September 11, 2018.

ADDRESSES: Send all comments to Stephen Morris, Director, Office of Strategic Alliances, Small Business Administration, 409 3rd Street, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Stephen Morris, 202–205–7422, *Stephen.morris@sba.gov,* or Curtis B. Rich, SBA PRA Officer, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This form is a three-page questionnaire, principally in checklist form, designed to give SBA feedback from those who attend events which SBA cosponsors with other organizations. The form does not ask respondents to identify themselves except by NAICS Code. The form asks whether the event provided practical information which allowed them to manage their businesses more effectively and efficiently and gave them a good working knowledge of the subject. It asks whether the program was sufficient. It asks whether each speaker was well-organized, interesting, presented information at the appropriate level, and communicated well. It asks for suggestions for improvement, and for ideas for new topics.

The form asks some demographic information so that SBA can better understand the community which these events serve. Where the event relates to government contracting, it asks whether the respondent has taken advantage of various government contracting programs which SBA offers.

SBA may also use this form to help evaluate programs which it conducts by itself. Responding to the questionnaire is entirely voluntary.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: Outreach Event Survey.

Description of Respondents: Those who attend events which SBA cosponsors with other organizations.

Form Number: 20.

Total Estimated Annual Responses: 90,600.

Total Estimated Annual Hour Burden: 3,020.

Curtis Rich,

Management Analyst.

[FR Doc. 2018–15022 Filed 7–12–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10462]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Delacroix'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Delacroix,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about September 17, 2018, until on or about January 6, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 236–10 of July 6, 2018.

Jennifer Z. Galt,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–15025 Filed 7–12–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10461]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Keir Collection of Art of the Islamic World'' Exhibitions

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that two objects to be included in exhibitions of the Keir Collection of Art of the Islamic World, re-imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are re-imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the first object at the Dallas Museum of Art, in Dallas, Texas, and at possible additional

[21] 17 CFR 200.30–3(a)(12).

exhibitions or venues yet to be determined, from on or about July 12, 2018, until on or about December 31, 2019, is in the national interest. I also determine that the exhibition or display of the second object at the Dallas Museum of Art, and at possible additional exhibitions or venues yet to be determined, from on or about July 12, 2018, until on or about May 16, 2021, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 236–10 of July 6, 2018.

Jennifer Z. Galt,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–14988 Filed 7–12–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitations on claims for judicial review of actions by FHWA, and other federal agencies.

SUMMARY: This notice announces action taken by the FHWA and other Federal agencies that are final. This final agency action relates to a proposed highway project, improvements to I–440 (Raleigh Beltline), from Walnut Street in Cary to Wade Avenue in Raleigh, Wake County, State of North Carolina. The FHWA's Finding of No Significant Impact (FONSI) provides details on the Selected Alternative for the proposed improvements.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 10, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Clarence W. Coleman, P. E., Director of Preconstruction and Environment, Federal Highway Administration, North Carolina Division, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina, 27601–1418; Telephone: (919) 747–7014; email: *clarence.coleman@dot.gov.* FHWA North Carolina Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). For the North Carolina Department of Transportation (NCDOT): Christopher M. Werner, P. E., Director of Technical Services, North Carolina Department of Transportation (NCDOT), 1 South Wilmington Street (Delivery), 1548 Mail Service Center, Raleigh, North Carolina 27699–1548; Telephone (919) 707–2540, *cmwerner@ncdot.gov,* NCDOT Technical Services Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken a final agency action by issuing a Finding of No Significant Impact (FONSI) for the following highway project in the State of North Carolina: Improvements to I–440 (Raleigh Beltline), from Walnut Street in the Town of Cary to Wade Avenue in the City of Raleigh, Wake County. The length of the project is approximately 6.0 miles.

The project proposes to widen I–440/US 1–64 from four lanes to six lanes, reconstruct interchanges, replace structures, and repair pavement conditions. The project is included in NCDOT's adopted 2018–2027 State Transportation Improvement Plan (STIP) as project number U–2719 and is scheduled for right of way acquisition and construction to begin in fiscal year 2019, being let as a design-build contract. The project is also included in the Capital Area Metropolitan Planning Organization Organization's (CAMPO) *2040 Metropolitan Transportation Plan* (MTP) (April 2013) and *2045 MTP* (February 19, 2018).

The FHWA's action, related actions by other Federal agencies and the laws under which such actions were taken, are described in the Environmental Assessment (EA) approved on June 23, 2017, and the Finding of No Significant Impact (FONSI) approved on May 24, 2018, and other documents in the project file. The EA and FONSI are available for review by contacting FHWA or NCDOT at the addresses provided above. In addition, these documents can be viewed and downloaded from the project website at *https://www.ncdot.gov/projects/i-440improvements/.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, Section 319)[33 U.S.C. 1251–1377]; Coastal Barrier Resources Act [16 U.S.C. 3501–3510]; Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(M,

133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Issued on: July 3, 2018.

Clarence W. Coleman,

Preconstruction and Environment Director, Raleigh, North Carolina.

[FR Doc. 2018–14805 Filed 7–12–18; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0029; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2014 BMW X3 Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2014 BMW X3 multipurpose passenger vehicles (MPVs) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2014 BMW X3 MPV) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is August 13, 2018.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

I. History: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

II. Summary of Petition: Wallace Environmental Testing Laboratories Inc. (WETL) of Houston, Texas (Registered Importer R–90–005) has petitioned NHTSA to decide whether nonconforming 2014 BMW X3 MPVs are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are MY 2014 BMW X3 MPVs sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S.-certified MY 2014 BMW X3 MPVs to their U.S.-certified

counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S.-certified MY 2014 BMW X3 MPVs, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non U.S.-certified MY 2014 BMW X3 MPVs, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof panel Systems,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems for Light Vehicles,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 201 *Occupant Protection in Interior Impact,* 202a *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S.-certified vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Replacement of the speedometer and brake warning indicator with the U.S.-model components as described in the petition.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the headlamps, taillamps, and front and rear side markers with U.S.-model components.

Standard No. 110 *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles With a GVWR of 4,536 Kilograms (10,000 Pounds) or Less:* Installation of the required tire information placard.

Standard No. 111 *Rear Visibility:* Inscription of the required warning statement on the face of the passenger mirror.

Standard No. 114 *Theft Protection:* Installation of a supplemental key warning buzzer, or activation of the U.S.-version software to meet the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* Replacement of the front and rear upper seatbelt assemblies, front driver and passenger air bag modules, front knee pad air bag module, front passenger adapter cable, and front passenger classification sensor. Removal of the passenger air bag deactivation switch and reprogramming of the Advanced Crash Safety Module (ACSM) with U.S.-version software.

Standard No. 209 *Seat Belt Assemblies:* Replacement of seat belt assemblies with U.S.-certified components as previously stated under FMVSS No. 208.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line to meet the requirements of this standard.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield pillar to meet the requirements of 49 CFR part 565.

III. Comments: All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Michael A. Cole,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2018–15026 Filed 7–12–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2018–0068]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petitions.

SUMMARY: This document announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards or because they have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

DATES: These decisions became effective on the dates specified in Annex A.

FOR FURTHER INFORMATION CONTACT: Mr. George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and/or sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR part 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then notifies the petitioner of its decision by letter and publishes public notification of the decision in the **Federal Register**.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this

notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions.

Comments: No substantive comments were received in response to the petitions identified in Annex A.

NHTSA Decision: Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable FMVSS, is either substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable FMVSS or has safety features that comply with, or are capable of being altered to comply with, all applicable Federal Motor Vehicle Safety Standards.

Vehicle Eligibility Number for Subject Vehicles: When importing a vehicle admissible under any final decision a registered importer, or a person who has a contract with a registered importer to bring the vehicle into compliance with all applicable FMVSS following importation must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B) and (b)(1); 49 CFR 593.7; delegations of authority at 49 CFR 1.95 and 501.8.

Michael A. Cole,

Acting Director, Office of Vehicle Safety Compliance.

ANNEX A

Nonconforming Motor Vehicles Decided To Be Eligible for Importation

1. Docket No. NHTSA–2016–0061

Nonconforming Vehicles: 2010 Jeep Wrangler Multipurpose Passenger Vehicles manufactured for the Mexican domestic market.

Substantially Similar U.S. Certified Vehicles: 2010 Jeep Wrangler Multipurpose Passenger Vehicles.

Notice of Petition Published at: 82 FR 17514 (April 11, 2017).

Vehicle Eligibility Number: VSP–593 (effective date September 13, 2017).

2. Docket No. NHTSA–2017–0056

Nonconforming Vehicles: 2007 Jeep Wrangler Multipurpose Passenger Vehicles manufactured before September 1, 2007 for the Mexican and other foreign Markets.

Substantially Similar U.S. Certified Vehicles: 2007 Jeep Wrangler Multipurpose Passenger Vehicles.

Notice of Petition Published at: 83 FR 9083 (March 2, 2018).

Vehicle Eligibility Number: VSP–596 (effective date May 10, 2018).

3. Docket No. NHTSA–2017–0102

Nonconforming Vehicles: 2006 Penman Lightweight GS Cargo Trailers.

Because there is no substantially similar U.S.-certified version, the petitioner sought import eligibility under 49 U.S.C. 30141(a)(1)(B).

Notice of Petition Published at: 83 FR 5827 (February 9, 2018).

Vehicle Eligibility Number: VCP–64 (effective date March 30, 2018).

4. Docket No. NHTSA–2018–0006

Nonconforming Vehicles: 2017 Ukang FT–200 Trailers.

Because there is no substantially similar U.S.-certified version, the petitioner sought import eligibility under 49 U.S.C. 30141(a)(1)(B).

Notice of Petition Published at: 83 FR 5826 (February 9, 2018).

Vehicle Eligibility Number: VCP–65 (effective date March 30, 2018).

5. Docket No. NHTSA–2018–0012

Nonconforming Vehicles: 2013–2014 Victory Hammer 8–Ball Motorcycles.

Substantially Similar U.S. Certified Vehicles: 2013–2014 Victory Hammer 8–Ball Motorcycles.

Notice of Petition Published at: 83 FR 12460 (March 21, 2018).

Vehicle Eligibility Number: VSP–597 (effective date May 11, 2018).

[FR Doc. 2018–15027 Filed 7–12–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[PHMSA–2018–0072]

Pipeline Safety: Information Collection Activities, Revision of the Hazardous Liquid Annual Report

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Pipeline and Hazardous Materials Safety Administration (PHMSA) invites comments on its intent to request from the Office of Management and Budget (OMB) a revision to form PHMSA F 7000–1.1—Annual Report for Hazardous Liquid Pipeline Systems, which is currently collected under OMB Control number 2137–0614.

DATES: Interested parties are invited to submit comments on or before September 11, 2018.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov website: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2018–0072, at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all 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.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2018–0072.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington,

DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: The following information is provided for each information collection:

(1) Abstract for the affected annual report form; (2) Title of the information collection; (3) OMB control number; (4) Affected annual report form; (5) Description of affected public; (6) Estimate of total annual reporting and recordkeeping burden; and (7) Frequency of collection. PHMSA will request a three-year term of approval for each information collection activity and, when approved by OMB, publish notice of the approval in the **Federal Register**.

PHMSA Form F 7000–1.1 is used to report both hazardous liquid and carbon dioxide pipeline systems. PHMSA proposes adding ''carbon dioxide'' to the form name.

In Part J, PHMSA proposes removing the column for ''Rural Low-Stress Pipeline Segments Subject ONLY to Subpart B of 49 CFR 195'' because this type of pipeline does not exist.

PHMSA requests comments on the following information collection:

Title: Reporting Requirements for Hazardous Liquid Pipeline Operators: Hazardous Liquid Annual Report.

OMB Control Number: 2137–0614.

Current Expiration Date: 10/31/2018.

Type of Request: Revision.

Abstract: Each operator must annually complete and submit the Form PHMSA F 7000–1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year, as required by 49 CFR 195.49. This Annual Report for Hazardous Liquid Pipeline Systems is required to be filed by June 15 of each year for the preceding calendar year. On the Annual Report form, PHMSA collects data concerning the number of miles of pipeline each operator has and other characteristics of each pipeline system. PHMSA also collects information on the number of anomalies identified and repaired using various types of pipe inspection and assessment methods.

Affected Public: Hazardous liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 447.

Total Annual Burden Hours: 8,457.

Frequency of collection: Annually.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC on July 9, 2018, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2018–15001 Filed 7–12–18; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried-out by TxDOT and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT. The actions relate to various proposed highway projects in the State of Texas. Those actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the highway project will be barred unless the claim is filed on or before December 10, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Carlos Swonke, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2734; email: *carlos.swonke@txdot.gov*. TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE) or Environmental Assessment (EA) issued in connection with the projects and in other key project documents. The CE or EA, and other key documents for the listed projects are available by contacting TxDOT at the address provided above.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, 42 U.S.C. 7401–7671(q).

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401–406; Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The projects subject to this notice are:

1. I–610 West Loop Dedicated Bus Lane from I–10 (Northwest Transit Center) to Post Oak Boulevard, Harris County. The project will consist of a two-lane structure over the southbound frontage road of I–610, ultimately crossing to the center of I–610. The total project length is approximately 1.5 miles with typical 12-foot lanes and 4-foot shoulders. The project will not require any additional right of way or displacements. The purpose of the project is to remove bus traffic from the I–610 West Loop and allow buses to move more efficiently and predictably between the Northwest Transit Center and the planned Bellaire/Uptown Transit Center. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE) Determination approved on October 12, 2017, and other documents in the TxDOT project file. The CE Determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas, 77007, (713) 802–5000.

2. Airport Boulevard, from Hiram Clarke Road to FM 521 (Almeda Road), Harris County. This project will construct a roadway facility approximately 2.5 miles in length which will connect existing fragmented segments of Airport Boulevard through undeveloped/new location areas to complete a four-lane divided boulevard between Hiram Clarke Road and FM 521. A four-lane divided roadway with a raised center median will be constructed to match the first existing boulevard section of Airport Boulevard from Hiram Clarke Road to Harris County Flood Control District (HCFCD) Channel No. C146–00–00. Airport Boulevard will be constructed on new location from HCFCD Channel No. C146–00–00 through to the intersection with Buffalo Speedway and then to the intersection with Townwood Drive. The second existing segment of Airport Boulevard will be widened from a two-lane roadway to a four-lane boulevard from Townwood Drive to the Waterloo Drive intersection. East of the Waterloo Drive intersection, Airport Boulevard will traverse the following residential streets in a northwest-southeast direction: Woodkerr Street, Lightstar Drive and Ambrose Street. East of Ambrose Street, Airport Boulevard sill continue to the southeast, on new location, crossing HCFCD Channel No. C161–00–00 and a wooded undeveloped area, curve to the northeast through a grassy area between two existing ponds, and extend through to the intersection with Clover Lane. From Clover Lane, Airport Boulevard will curve eastward and continue through an undeveloped wooded area and end at FM 521 (eastern project terminus). There are also two detention areas proposed for this project. The purpose of the Airport Boulevard roadway improvement project is to connect the existing fragmented sections of Airport Boulevard through undeveloped/new location areas to complete a four-lane divided boulevard between Hiram Clarke Road and FM 521. The proposed Airport Boulevard project will offer the traveling public a west-east alternative to the limited existing west-east travel corridors in southwest Houston. The area of southwest Houston between US 90A, Beltway 8 and SH 288 lacks roadway connectivity; the proposed Airport Boulevard will improve traffic movement and safety in this area of southwest Houston.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on July 11, 2017, the Finding of No Significant Impact (FONSI) issued on July 11, 2017, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas, 77007, (713) 802–5000.

3. FM 521, from Beltway 8 to FM 2234 (McHard Road), Fort Bend and Harris Counties. The project widens FM 521 to a typical four-lane divided curb and gutter section with a 16-foot raised median from Riley Road to FM 2234 and ties to the existing seven-lane section north of Riley Road, a distance of roughly 0.9 mile. Improvements to the intersection at FM 521 and FM 2234 provide for a ''jug-handle'' option that creates two offset ''T'' intersections (one along FM 521 and one along FM 2234). This eliminates both at-grade railroad crossings with railroad overpasses on FM 521 and FM 2234 and eliminates the four-legged intersection at FM 521 and FM 2234. The distance of the improvements on FM 2234, including the grade separation, extend approximately 0.8 mile. Improvements also include a mix of 15-foot outside lanes, six-foot shoulders, and five to six-foot sidewalks to accommodate bicyclists and pedestrians. The purpose of the project is to expand capacity to enhance mobility, improve safety, improve railroad/local traffic crossings, and accommodate population and economic growth, while minimizing impacts to the natural and social environment.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on March 22, 2017, the Finding of No Significant Impact (FONSI) issued on March 22, 2017, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas, 77007, (713) 802–5000.

4. FM 1960, from BF 1960–A to Atascocita Shores Drive, Harris County. Although the eastern logical terminus of the project is Atascocita Shores Drive, the project extends approximately 0.10 mile further and ties into the western end of the Lake Houston Bridge. The improved roadway from BF 1960–A to Atascocita Road and from Pinehurst Trail to Lake Houston will consist of six travel lanes (two 12-foot lanes, and one 15-foot shared lane in each direction) with one-foot curb offsets. An 18-foot raised median and two 5-foot sidewalks are also included. The improved roadway from Woodland Hills Drive to Atascocita Road will consist of a grade

separation with a total of ten lanes (four through lanes on the grade separation and six local access lanes). Eastbound local access lanes will consist of one 15-foot shared lane, and two 12-foot through lanes with one-foot curb offsets. Westbound local access lanes will consist of one 15-foot shared lane, and two 12-foot through lanes, with one-foot curb offsets. The grade-separated through lanes will consist of four 12-foot lanes (two in each direction) and four-foot curb offsets. A six-foot raised median will separate the through lanes on the grade separation. The grade separation will span Atascocita Road, West Lake Houston Parkway, and Farmington Road. Two five-foot sidewalks will be constructed outside the local access lanes on the eastbound and westbound side. The project length is approximately 6.4 miles. The purpose of the project is to alleviate traffic congestion, accommodate future traffic associated with the growth of Harris County, Atascocita, and the City of Humble, and improve mobility and safety. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on September 29, 2017, the Finding of No Significant Impact (FONSI) issued on September 29, 2017, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas, 77007, (713) 802–5000.

5. FM 2100, from FM 1960 to South Diamondhead Boulevard, Harris County. The project will widen the existing two-lane, undivided facility to a four-lane, divided facility. North of Hare Cook Road, the improved roadway will have 12-foot travel lanes, two in each direction, separated by an 18-foot-wide median, and 12-foot outside shoulders. Five-foot sidewalks will be constructed on both sides of the roadway. South of Hare Cook Road, the roadway will also have two travel lanes in each direction; the outer lane will be a 15-foot shared use lane, along with a 12-foot-wide inner lane. This section of the roadway will also have a raised median and five-foot sidewalks.

Detention ponds will also be constructed as part of the project. The project is approximately eight miles long. The purpose of the project is to facilitate multi-modal mobility in eastern Harris County by adding additional capacity to FM 2100, as well as sidewalks and bicycle accommodations. The proposed project will also improve safety for the travelling public by constructing a raised median.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on January 20, 2017, the Finding of No Significant Impact (FONSI) issued on January 20, 2017, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas, 77007, (713) 802–5000.

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 26, 2018.

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2018–14162 Filed 7–12–18; 8:45 am]

BILLING CODE 4910–22–P

FEDERAL REGISTER

Vol. 83 Friday,
No. 135 July 13, 2018

Part II

Department of Veterans Affairs

38 CFR Parts 3 and 13
Fiduciary Activities; Final Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 13

RIN 2900–AO53

Fiduciary Activities

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its fiduciary program regulations, which govern the oversight of beneficiaries, who because of injury, disease, or age, are unable to manage their VA benefits, and the appointment and oversight of fiduciaries for these vulnerable beneficiaries. The amendments will update and reorganize regulations consistent with current law, VA policies and procedures, and VA's reorganization of its fiduciary activities. They will also clarify the rights of beneficiaries in the program, and the roles of VA and fiduciaries in ensuring that VA benefits are managed in the best interest of beneficiaries and their dependents. The amendments to this rulemaking are mostly mandatory to comply with the law. They are also in line with the law's goals to streamline and modernize the fiduciary program and process. These amendments by Congress, reduce unnecessary regulations, streamline and modernize processes, and improve services for Veterans. Furthermore, VA is unable to alter proposed amendments that directly implement mandatory statutory provisions.

DATES: *Effective Date:* The final rule is effective August 13, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Savitri Persaud, Analyst, Pension and Fiduciary Service, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420; (202) 632–8863 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on January 3, 2014, (79 FR 430), VA proposed to amend, via a comprehensive rewrite and reorganization, its fiduciary program regulations, which govern the oversight of beneficiaries who, because of injury, disease, or age, are unable to manage their VA benefits, and the appointment and oversight of fiduciaries for these vulnerable beneficiaries. The 60-day public comment period ended on March 4, 2014. VA received 26 comments from interested individuals and organizations. The comments are discussed below under the appropriate section headings. VA made a number of revisions based on the comments received. Those revisions, which are primarily technical, are discussed in the final rule. Based on the rationale described in this document and in the notice of proposed rulemaking (NPRM), VA adopts the proposed rule, as revised in this document, as a final rule.

Section 13.10—Purpose and Applicability of Other Regulations

This regulation will provide general notice regarding the statutory authority for and purpose of VA's fiduciary program. It will also distinguish fiduciary matters from benefit claims and clarify that the VA regulations in 38 CFR part 3 are not for application in fiduciary matters, unless VA has prescribed applicability in its part 13 fiduciary regulations. We did not receive any comments on this section, but in order to clarify the scope of these regulations and the fact that they pertain to the oversight of VA-derived monetary benefits by persons who previously have been adjudicated incompetent to manage their VA-derived funds, we have revised the text of the regulation by adding the word ''monetary'' between the words ''VA'' and ''benefits'' in the first sentence of § 13.10(b).

Section 13.20—Definitions

We received one comment regarding the definitions in proposed § 13.20. The commenter recommended that VA recognize all legal marriages, domestic partnerships and civil unions for the purposes of fiduciary activities, thereby adding a definition of ''domestic partner'' to proposed § 13.20. The commenter noted that the broad authority granted by Congress in 38 U.S.C. 5502 allows VA to add classes of appropriate fiduciaries, to include legally married partners and domestic partners to serve as fiduciaries. The commenter noted that a place-of-celebration rule would be consistent with other definitions adopted by other agencies following the Supreme Court's decision in *United States* v. *Windsor,* 133 S. Ct. 2675 (2013).

On June 26, 2015, the U.S. Supreme Court held that the Fourteenth Amendment of the U.S. Constitution requires a state to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state. See *Obergefell* v. *Hodges,* 135 S. Ct. 2584 (2015). As a result of this decision, VA now recognizes the same-sex marriage of any veteran, where the veteran or the veteran's spouse resided anywhere in the United States or its territories at the time of the marriage or at the time of application for benefits. VA has always determined a marriage to be valid, for the purposes of all laws administered by VA, according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to the benefits accrued. See 38 U.S.C. 103(c). Consistent with the Supreme Court decisions in *Obergefell* and *Windsor,* VA recognizes the validity of same-sex marriages. Accordingly, this rule defines the term ''spouse'' in § 13.20 to mean a husband or wife of any marriage, including common law marriages and same-sex marriages, that meets the requirements of 38 U.S.C. 103(c).

The separate question of how to address domestic partnerships and civil unions (which are not considered legal marriages), within the scope of VA's fiduciary program, is a policy matter that was not considered during the development of the proposed regulation. As a result, expanding the definition of spouse, for purposes of VA's fiduciary program, to include domestic partners and/or civil union partners or defining those terms in this final rule would be premature. VA is sensitive to this issue and plans to consider whether to expand the ''beneficiary's spouse'' class of fiduciaries listed in § 13.20(e)(2) to explicitly include domestic partners and civil union partners. If VA decides to make changes, VA will promulgate a separate rulemaking to addresss this issue.

We made non-substantive changes to the proposed definitions for ''Hub Manager'' and ''spouse'' and added a definition for ''written notice,'' which we discuss below.

Section 13.30—Beneficiary Rights

We received two comments regarding proposed § 13.30, ''Beneficiary rights.'' The first commenter stated that the proposed rule imposed ''unnecessary restrictions'' on the rights of beneficiaries. The commenter stated, ''We see no reason or legal requirement that beneficiaries under this program should have fewer rights or protections than any other VA beneficiary.'' The commenter questions whether ''the fundamental right to control one's own property'' should be based on the view of a single examiner and makes other general assertions that VA's procedures are insufficient.

We do not agree that we proposed ''unnecessary restrictions'' on the rights of beneficiaries, or that these procedures violate a beneficiary's rights. Our intention in drafting the NPRM was to ensure that VA benefits are managed in

the best interest of beneficiaries and their dependents. In that regard, we proposed to update and reorganize our regulations consistent with current laws and VA policies and procedures, and clarify the rights of beneficiaries in the fiduciary program. The suggestion that our proposed rules unnecessarily limit the rights of beneficiaries is incorrect. Further, assertions that determinations made in VA's fiduciary program are based solely on the views of ''one examiner'' mischaracterize the efforts expended by VA fiduciary program staff. While a field examiner may conduct visits with a beneficiary and make a recommendation, fiduciary-related decisions are not based solely on the views of one individual. A field examiner's recommendation is reviewed by a VA supervisor and action is taken based on a comprehensive view of which steps are in the best interest of the beneficiary.

In drafting the rules on beneficiary rights, we focused on our general policy that a beneficiary in the fiduciary program has the same rights as any other VA beneficiary. We specifically stated in proposed § 13.30, ''The rights of beneficiaries in the fiduciary program include, but are not limited to'' those listed in the regulation text. Thus, we did not propose to prescribe all of the rights of beneficiaries in the fiduciary program. We prescribed that a beneficiary has the right to written notice of appealable fiduciary decisions. However, in responding to the foregoing comment, we discovered that, although we prescribed that a beneficiary is entitled to written notice on such matters, we did not prescribe rules for the Hub Manager as to what such notice should include. As such, we revised § 13.20 to include a definition of written notice.

We prescribed the right to be informed of a fiduciary's name, telephone number, mailing address, and email address. We prescribed the right to obtain from the fiduciary a copy of the fiduciary's VA-approved annual accounting, and other rights that we believe are basic to a fiduciary-beneficiary relationship and are necessary to define a fiduciary's role in such a relationship. See 79 FR 432. We prescribed rights to clarify that VA is not the beneficiary's fiduciary and that VA's role is limited to oversight. See 79 FR 432. In that regard, in § 13.140(a), our core requirement for fiduciaries is to ensure that a beneficiary's benefits are managed in that beneficiary's interest. We do not agree that our proposed regulations limit the rights of beneficiaries and make no changes based upon the comment.

The commenter also stated that the proposed regulation on beneficiary rights is incomplete and it should prescribe a statement regarding the reasons and bases for determining that the appointment of a fiduciary is in the beneficiary's interest. We did not intend that we would make a decision on a fiduciary matter without providing adequate notice to a beneficiary regarding the reasons and bases for such a decision. However, as stated above, we revised the proposed rule to include a definition of ''written notice'' and to specifically prescribe such notice for certain decisions.

We proposed that every beneficiary in the fiduciary program has the right to notice regarding VA's appointment of a fiduciary or any other decision on a fiduciary matter that affects VA's provision of benefits to the beneficiary. We explained that VA would provide written notice of such decisions to the beneficiary or the beneficiary's legal guardian, and the beneficiary's accredited veterans service organization representative, attorney, or claims agent. See 79 FR 432. We explained that this notice is essential because beneficiaries would have the right to appeal these determinations. See 79 FR 432. Furthermore, we specifically proposed that a beneficiary in the fiduciary program has the right to appeal to the Board of Veterans' Appeals (Board) a VA decision on a fiduciary matter that affects VA's provision of benefits to the beneficiary, such as VA's appointment of a fiduciary and its determination regarding its own negligence in misuse and reissuance of benefits matters. To assist the beneficiary in making a decision related to appealing a decision, and to facilitate review by the Board in the event of an appeal, any decision that affects the provision of benefits must be supported by reasons for our decision, as required under the new definition for ''written notice.'' We revised proposed § 13.30(b)(2) to clarify that every beneficiary in the fiduciary program has the right to ''written notice'' regarding VA's appointment of a fiduciary or any other decision on a fiduciary matter that affects VA's provision of benefits to the beneficiary.

In responding to the foregoing comment, we noticed that a provision in proposed § 13.30 needed clarification. Specifically in proposed § 13.30(b)(10)(i)(B), we prescribed that a beneficiary has the right to be removed from the fiduciary program if a court of jurisdiction determines the beneficiary is able to manage his or her financial affairs. There are beneficiaries in the fiduciary program who are determined to be unable to manage their financial affairs by a court and without any rating decision by VA. It is our intent that these beneficiaries will have the right to be removed from the fiduciary program if the court makes a determination that the beneficiary is able to manage his or her financial affairs. Accordingly, we have revised proposed § 13.30(b)(10)(i)(B) to clarify that a beneficiary who is in the fiduciary program based upon a court determination that he or she cannot manage financial affairs may be removed from the fiduciary program if the court later determines that the beneficiary can manage his or her financial affairs. Other beneficiaries, who are in the fiduciary program as a result of a VA rating decision, may also submit evidence from a court regarding their ability to manage VA benefits. However, such evidence will be forwarded to a VA rating authority for a decision regarding whether the beneficiary is able to manage his or her VA benefits, as the rating authority has sole responsibility for making such determinations. See 38 CFR 3.353.

The same commenter also stated, ''The Secretary's position that the VA fiduciary program regulations pre-empt state laws in this area deserves specific rebuttal,'' adding that ''the NPRM failed to establish an adequate legal basis for the disruption of a traditional area of state authority.'' The commenter then went on to urge that VA recognize state fiduciary laws, which ''offer a broad array of [ ] rules establishing fiduciary responsibilities.'' In the proposed rule, we stated that, ''in creating the fiduciary program, Congress intended to preempt State law regarding guardianships and other matters to the extent necessary to ensure a national standard of practice for payment of benefits to or on behalf of VA beneficiaries who cannot manage their benefits.'' See 79 FR 430. We stand by that interpretation and make no changes based on this comment.

While state law provides some guidance concerning fiduciary matters, those laws vary significantly from state to state and do not pertain to VA's fiduciary program. Further, VA does rely on state laws in cases where a state court has appointed a fiduciary for oversight of the veteran's assets and where there is no conflict between state and Federal law, and/or when the court-appointed fiduciary is the same as the VA-appointed fiduciary. State laws often provide helpful guidance; however, under the Supremacy Clause of the Constitution, Federal law is controlling. See U.S. Const. art. VI, cl 2; *Crosby* v. *Nat'l Foreign Trade Council,* 530 U.S. 363, 372–73 (2000). To the extent that a dispute arises between

Federal and state law, Federal law establishing and governing VA's fiduciary program as codified in parts 55 and 61 of title 38 of the United States Code, as well as in regulations implementing those statutes, controls. See VAOPGC 3–86 (10–28–85) (citing the Supremacy Clause and holding that a state court lacks jurisdiction to override VA's authority in making determinations affecting payment of an incompetent veteran's VA benefits to a VA-appointed fiduciary).

The second commenter favorably mentioned the beneficiary rights section described in the proposed rule, stating: ''Overall, we believe that VA's proposed fiduciary program regulations reflect an acknowledgement of the rights of veterans and other beneficiaries who are under the jurisdiction of the program. For example, § 13.30 enumerates the rights and benefits of veterans and other beneficiaries in the program.'' We make no changes based upon the comment.

Section 13.40—Representation of Beneficiaries in the Fiduciary Program

We received two comments from the same commenter regarding § 13.40. First, the commenter quoted from the NPRM, which distinguished fiduciary matters from decisions on claims for benefits and noted that, at the time of a fiduciary appointment, ''VA has already awarded benefits to the beneficiary, and any representation provided by an accredited attorney or claims agent would relate only to the fiduciary appointment decision or decision to pay benefits directly with VA supervision.'' See 79 FR 432–33. This distinction will be the same for all fiduciary matters. Nonetheless, the commenter read this portion of the preamble to mean that VA had proposed to limit attorney fees to appointment decisions.

We intended that the portion of the preamble quoted immediately above would explain applicability of the proposed fee provisions in the context of a fiduciary appointment. We did not intend that commenters would read the preamble as a general limitation on fees, such that beneficiaries could not pay attorneys for assistance in other fiduciary matters. In fact, the introductory text to proposed § 13.40 was clear that the proposed fee provisions were applicable to representation of beneficiaries before VA ''in fiduciary matters governed by [38 CFR part 13].'' Proposed paragraph (c) was also clear that a VA-accredited attorney or claims agent could charge a reasonable fixed or hourly fee for representation of a beneficiary ''in a fiduciary matter,'' provided that the fee meets the requirements of 38 CFR 14.636. We intended that beneficiaries would have the choice of hiring an attorney or claims agent and paying the attorney or claims agent a reasonable fixed or hourly fee for assistance with any fiduciary matter. As proposed, § 13.40(c) reflected this intent and addressed the commenter's concerns. We will not make any changes based upon the comment.

Second, the commenter suggested that VA should allow contingent fees on recouped past-due benefits, to include funds recovered from a prior fiduciary or placed under control of a successor fiduciary. However, as we explained in the preamble to the proposed rule, ''the provisions of 38 CFR 14.636 that reference past-due benefits, use the amount of past-due benefits to calculate a permissible fee, or authorize the direct payment of fees by VA out of withheld past-due benefits are not applicable in fiduciary matters.'' See 79 FR 432. We based this statement on the fact that fiduciary matters do not concern the award of past-due benefits. At the time of a fiduciary appointment and all other fiduciary program matters, VA has already awarded benefits to the beneficiary, and any representation provided by an accredited attorney or claims agent could relate only to the fiduciary matter. Even in the case of a retroactive benefit payment, see § 13.100(c), VA has already awarded the benefit pursuant to a decision on a benefit claim and withheld it for payment to a qualified fiduciary on behalf of the beneficiary. An attorney representing a beneficiary in the fiduciary appointment could not claim that his or her legal services resulted in VA's prior award of the retroactive benefit.

The commenter also appears to assert that, independent of any payment of past-due benefits, a contingent fee could be calculated based upon the amount of funds being placed under the control of a fiduciary who is ''acceptable to the client,'' and that ''this methodology has been submitted for review to fiduciary program managers and was found to be compliant with regulations.'' The method proposed by the commenter would require a finding on the amount of the funds placed under the control of the successor fiduciary and a conclusion that the successor fiduciary was ''acceptable to the client.'' As mentioned above, the amount of VA benefits due to the beneficiary would not change. The commenter's suggested revision would add unnecessary complexity to fee determinations in fiduciary cases, and would risk creating a conflict of interest for the representative by increasing the chances that fees charged based upon representation on benefit claims are duplicated by fees charged for representation on fiduciary matters. As a result, we have concluded that it would not be a prudent revision and make no change based on this comment.

Section 13.50—Suspension of Benefits

We received one comment regarding proposed § 13.50. The commenter read the proposed provisions to mean that a Hub Manager may suspend and ''hold'' payment of benefits, and generally commented that VA must ensure that beneficiaries have access to their benefits when VA implements a suspension for the reasons prescribed in the proposed rule in which we agree.

VA occasionally encounters situations in which it must suspend payment of benefits to a fiduciary and take appropriate action to ensure continuity of benefits. In the rare case where VA suspends benefits under proposed § 13.50, the VA Regional Office Director who has jurisdiction over the fiduciary hub would have authority to ensure that the beneficiary's needs are being met through the appropriate coordination with the beneficiary and disbursement of the beneficiary's funds. We emphasized that proposed § 13.50 would be reserved for those rare cases in which VA has no option but to take appropriate, temporary steps to suspend and separately manage disbursement of benefits on behalf of a beneficiary. To further limit any adverse impact that might result from such a suspension, we proposed to limit the Hub Manager's discretion to cases where the beneficiary or the beneficiary's representative withholds cooperation in any fiduciary matter or where VA must immediately remove the fiduciary for cause and is unable to appoint a successor fiduciary before the beneficiary has an immediate need for disbursement of funds. Under these two situations only, VA will be forced to take appropriate action and disburse funds in the beneficiary's and the beneficiary's dependents' interests so that the beneficiary has access to the funds while VA takes steps to remediate the problem. We will not make any changes based upon the comment because we believe that controls prescribed in § 13.50 address the commenter's concerns.

Section 13.100—Fiduciary Appointments

We received several comments regarding proposed § 13.100. One commenter suggested that VA establish a maximum time period for appointing a fiduciary once a beneficiary has been rated as being unable to manage his or

her VA benefits. The commenter stated that VA makes long-delayed appointments without reconsidering whether a beneficiary is able to manage his or her VA benefits. The commenter noted that delays in fiduciary appointments are disruptive because they could replace ''well-functioning caregiving structures with adversarial relationships.'' Along the same lines, another commenter suggested we develop timelines for the completion of the investigation process to ensure expeditious appointment of fiduciaries.

VA makes every effort to appoint fiduciaries in accordance with internal performance goals. Furthermore, VA's appointment process ensures that the appointment reflects the beneficiary's current capacity to manage his or her funds. In our experience in administering the fiduciary program, each fiduciary appointment is unique. The time it takes to appoint a fiduciary varies depending upon the facts of individual cases, workload, program growth, and available resources. Because of the foregoing factors, we cannot create a bright-line rule for the completion of the investigation process or the appointment of a fiduciary that would be enforceable. While we will not change § 13.100 to establish a timeliness rule, VA takes seriously its responsibility to protect beneficiaries who are unable to manage their benefits and will make every effort to improve the timeliness of fiduciary appointments.

Regarding concerns that long delays in appointments should require reconsideration of medical evidence as to the beneficiary's ability to manage his or her VA benefits, we agree that medical evidence plays an important role in the determination of one's ability to manage his or her VA benefits and a beneficiary should have an opportunity to present such evidence. According to 38 CFR 3.353(c), ''[u]nless the medical evidence is clear, convincing and leaves no doubt as to the person's incompetency, the rating agency will make no determination of incompetency without a definite expression regarding the question by the responsible medical authorities.'' At the time a fiduciary is appointed, a field examiner performs a face-to-face interview with the beneficiary for the purpose of assessing the beneficiary's ability to manage his or her VA benefits and to afford the beneficiary the opportunity to submit evidence regarding his or her ability to manage VA benefits. Any information gathered at that face-to-face interview is forwarded to the rating agency for consideration as to whether the beneficiary has the ability to manage his or her VA benefits. This is consistent with a pertinent regulation that provides that if evidence is developed that a person is capable of managing his or her VA funds, that evidence is forwarded to the rating agency for a determination as to whether any prior decision of incompetency should remain in effect. See 38 CFR 3.353(b)(3). Therefore, if a beneficiary believes he or she is able to manage his or her VA benefits, including at the time of a fiduciary appointment, the beneficiary may request a review of his or her incompetency rating.

Regarding the commenter's concern that delayed fiduciary appointments could replace ''well-functioning caregiving structures with adversarial relationships,'' we did not intend to disturb well-functioning relationships with those that are adversarial. In fact, we did not propose to appoint a particular fiduciary if we believed such an appointment would create an adversarial relationship. Instead, we proposed to make every effort to appoint a fiduciary that would best serve the interest of a beneficiary, provided that the proposed fiduciary is qualified and willing to serve. In § 13.100(e), we proposed to establish an order of preference for the appointment of fiduciaries. We proposed to first appoint the beneficiary's preference if the beneficiary has the capacity to state such a preference. In these cases, a beneficiary could request appointment of a person with whom he or she has a well-functioning relationship. We then proposed to appoint the beneficiary's spouse or other individuals or entities as set forth in proposed § 13.100(e) that we believed would result in an effective beneficiary-fiduciary relationship. Furthermore, pursuant to § 13.600, a beneficiary may appeal VA's appointment of a fiduciary if the beneficiary believes that the appointment is not in his or her best interest. When VA receives such an appeal, it will try to resolve the disagreement by again requesting the beneficiary's preference. For the foregoing reasons, we make no change based on this comment.

The same commenter stated that VA should revise proposed § 13.100 to require a credit and criminal history check at each reappointment of a fiduciary and conduct periodic, routine credit and criminal history checks on fiduciaries thereafter. The commenter noted that such requirement would be cost-effective and identify suspicious financial activities.

In § 13.100, we proposed to implement 38 U.S.C. 5507 regarding the investigation VA must conduct of a prospective fiduciary. We proposed to perform a face-to-face interview, when practicable, and obtain and review a credit report on the proposed fiduciary that was issued by a credit reporting agency no more than 30 days prior to the date of the proposed appointment. We also proposed to conduct a criminal background check for the purposes of determining whether a proposed fiduciary was convicted of any offense that would be a bar to serving as a fiduciary under proposed § 13.130 or that we could consider and weigh under the totality of the circumstances regarding the proposed fiduciary's qualifications.

Regarding this investigation, we agree with the commenter and revised § 13.100(f) to add paragraph (3), which requires the Hub Manager to conduct the investigation, specifically the requirements of paragraph (f)(1)(i) through (iii), for every subsequent appointment of the fiduciary for a beneficiary. These requirements must be met without regard to the proposed fiduciary's service to any other beneficiary. Regarding the commenter's suggestion that we conduct periodic, routine credit and criminal history checks of fiduciaries, in proposed § 13.100(f)(2), we prescribed that, at any time after the initial appointment of the fiduciary, the Hub Manager may repeat all or part of the investigation to ensure that a fiduciary continues to meet the qualifications for service. Although we understand the commenter's concern, our program administration experience suggests that periodic, routine checks in all fiduciary appointments would not be an efficient use of program resources. Instead, we have determined that the matter should be left to the Hub Manager's discretion on a case-by-case basis. In addition, we have other controls in place that will alert us regarding the need for a review of a fiduciary's qualifications or to remove him or her from service as fiduciary. For example, if a fiduciary is not meeting his or her accounting requirements under § 13.280, or any of his financial responsibilities under § 13.140, based on the circumstances, we will conduct a review of his or her qualifications or remove him or her from service as a fiduciary. Although we currently do not have information to support prescribing mandatory periodic, routine credit and criminal history checks of VA-appointed fiduciaries, we will continue to monitor the activities of fiduciaries and may address the matter in a future rulemaking. To this end, we added the phrase ''or reappointment'' after initial appointment in § 13.100(f)(2) to clarify

that Hub Managers may repeat all or part of an investigation of a fiduciary when the fiduciary is appointed to another VA beneficiary. At this time, we do not believe any additional changes are needed based on this comment.

In a separate comment on proposed § 13.100, the same commenter stated that face-to-face beneficiary interviews should be limited to situations where the information sought cannot be obtained by other means. The commenter was not aware of any statutory requirement for this type of beneficiary interview. The commenter suggested that beneficiary interviews do not provide new information and VA could substitute information obtained from caregivers, medical providers or other third parties. The commenter believed that beneficiary interviews are for the purpose of establishing the ''financial needs of the beneficiary and set[ting] the budget for the fiduciary to implement.'' Thus, the commenter suggested we revise proposed § 13.100 to limit beneficiary interviews to situations where the beneficiary is the only source for the information we are seeking.

Under current law, ''[w]here it appears to the Secretary that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Secretary [of Veterans Affairs] may be made directly to the beneficiary or to a relative or some other fiduciary for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary.'' See 38 U.S.C. 5502(a)(1). Our longstanding interpretation of this broad authority is that VA may establish a fiduciary program, under which it oversees beneficiaries who cannot manage their own VA benefits. Congress generally deferred to VA to determine the appropriate program requirements. With respect to specific statutory requirements for fiduciary appointments, VA must conduct the investigation prescribed in 38 U.S.C. 5507 and then conduct sufficient oversight to determine whether fiduciaries are properly providing services for beneficiaries. While Congress specifically mandated the foregoing provisions, Congress did not address how VA should conduct the various activities required for proper administration of the fiduciary program, to include aspects of oversight to ensure that a beneficiary's benefits are used for the ''benefit of the beneficiary.'' However, in 38 U.S.C. 5711(a)(5), Congress authorized VA to, among other things, ''make investigations and examine witnesses upon any matter within the jurisdiction of the Department.'' Under the authority in sections 5502 and 5711, we conduct face-to-face visits with beneficiaries to assess their well-being and oversee the fiduciaries we appoint to ensure they are meeting the beneficiaries' needs.

Contrary to the commenter's reading of our proposed rule, VA conducts face-to-face beneficiary visits for a much broader purpose. It is VA's statutory obligation to ensure that the fiduciaries it appoints on behalf of beneficiaries are fulfilling their core requirement of monitoring the well-being of the beneficiaries they serve and are disbursing funds according to the beneficiaries' needs. Speaking with the beneficiary and viewing that beneficiary's environment allows VA to confirm that the fiduciary is monitoring the beneficiary and fulfilling his or her responsibilities under § 13.140 as the beneficiary's fiduciary. In addition, VA assesses the beneficiary's ability to manage his or her VA funds during the face-to-face visit. Thus, speaking to a beneficiary is crucial for obtaining information about the welfare and financial abilities of the beneficiary and adequacy of the fiduciary's services. For these reasons, we will not revise § 13.100 to limit face-to-face visits with beneficiaries.

One commenter noted 38 U.S.C. 5507(d), which states that temporary fiduciary appointments may not exceed 120 days in cases where a beneficiary is appealing an incompetency rating decision, and inquired about our policy regarding appeals of incompetency rating decisions that may take more than 120 days.

Regarding the commenter's concern that a beneficiary may be without a fiduciary at the end of the 120-day period, we note that VA does not appoint a temporary fiduciary in lieu of a permanent fiduciary when the beneficiary is appealing an incompetency rating. Under section 5507(d), ''[w]hen in the opinion of [VA], a temporary fiduciary is needed in order to protect the assets of the beneficiary while a determination of incompetency is being made or appealed. . . , [VA] may appoint one or more temporary fiduciaries for a period not to exceed 120 days.'' We interpret this statute to mean that VA does not have to appoint a temporary fiduciary in these cases, but if it does, the appointment(s) cannot exceed a total of 120 days. Under VA's current administration of the program, when a beneficiary is appealing an incompetency decision, the beneficiary is already rated as being unable to manage his or her VA benefits and is in the fiduciary program. The decision is based on medical evidence or a legal determination of incompetency. As a general rule, VA makes permanent fiduciary appointments pending a decision on the appeal of the incompetency decision, which may take one or more years. We have found that this policy best protects beneficiaries and is the least disruptive procedure for them. In fact, we intended that our proposed rules on temporary fiduciary appointments would be reserved for situations where VA has removed a fiduciary for the reasons prescribed in proposed § 13.500, cannot expedite a successor fiduciary appointment, and the beneficiary has an immediate need for fiduciary services. We revised proposed § 13.100 by removing paragraph (h)(1)(i) requiring appointment of a temporary fiduciary when a beneficiary is appealing an incompetency decision.

In § 13.100(h)(2), we proposed to limit appointment of temporary fiduciaries to individuals and entities that already meet the qualification criteria for appointment and are performing satisfactorily as a fiduciary for at least one other VA beneficiary for whom the fiduciary has submitted an annual accounting that VA has audited and approved. A commenter disagreed with the proposed limitation on temporary appointments and suggested that our proposed rule would exclude family members, including spouses and other caregivers, from serving as temporary fiduciaries. The commenter stated that we did not provide a sufficient basis for not considering the usual order of preference, as proposed in our regulations, in temporary fiduciary appointments.

In prescribing the rules on temporary fiduciary appointments, our intention is to expeditiously appoint a qualified, well-performing fiduciary, who can temporarily meet the beneficiary's immediate needs in rare circumstances. In that regard, we intend to ensure that the entity or individual we appoint as temporary fiduciary not only meets the qualification requirements under section 5507, but is also performing satisfactorily as a fiduciary for at least one other VA beneficiary for whom the fiduciary has submitted an annual accounting that VA has approved. Both requirements are crucial in our decision to appoint a temporary fiduciary.

VA needs to appoint temporary fiduciaries promptly in rare cases where VA has removed a fiduciary for the reasons prescribed in proposed § 13.500, VA cannot expedite the appointment of a successor fiduciary, or the beneficiary has an immediate need for fiduciary services, and in other cases in which VA determines that it is necessary to protect

a beneficiary. Because of the urgency in ensuring that a fiduciary is immediately appointed in such cases, we might not be able to complete the qualification process prescribed by Congress in 38 U.S.C. 5507. As the commenter suggested, it might sometimes be ideal to appoint a family member as temporary fiduciary in these rare cases. While we implemented section 5507(c) to exempt spouses from face-to-face interviews, criminal background checks, and credit checks, to ensure adequate protection for beneficiaries, we still have an obligation to explain the responsibilities and requirements of service to an individual who has never served as a fiduciary. This would require scheduling and conducting an interview, and ensuring compliance of the spouse or family member. This would not be the case if VA appoints an individual or entity successfully serving as fiduciary. While these types of appointments are rare, they are generally time sensitive. The delay associated with addressing fiduciary responsibilities and ensuring agreement from a spouse or family member is unnecessary when we have a fiduciary who can serve in an emergent but temporary situation. A temporary fiduciary allows VA to immediately deliver benefits while we consider the appointment of a fiduciary in accordance with the priority of appointment prescribed in § 13.100(a). For the foregoing reasons we limit our temporary fiduciary appointments as prescribed in § 13.100(h) and make no change based on this comment.

Under proposed § 13.100(c), ''[t]he Hub Manager will withhold any retroactive, one-time, or other lump-sum benefit payment awarded to a beneficiary . . . until the Hub Manager has appointed a fiduciary for the beneficiary and, if applicable, the fiduciary has obtained a surety bond under § 13.230.'' A commenter stated that VA should not withhold a beneficiary's entire retroactive benefit but should consider the size of the award before we make a decision to withhold. The commenter believed that VA should release any amount that is not larger than a beneficiary's monthly recurring benefits and a percentage of larger retroactive benefits, or provide a method for a beneficiary to access his or her retroactive benefits in order to ensure that his or her needs are being met.

Our policy for withholding a beneficiary's retroactive benefits is to protect benefits that the beneficiary may need for future care and services and that VA would not be able to reissue under 38 U.S.C. 6107 if they were paid directly to the beneficiary prior to a fiduciary appointment. Under sections 6107(a) through (c), VA has authority to reissue misused benefits when VA is negligent in administering aspects of the fiduciary program or, without regard to negligence, when the fiduciary is an entity that provides fiduciary services for one or more beneficiaries or an individual who provides fiduciary services for 10 or more beneficiaries. VA has determined that it is not prudent to release retroactive benefits to a beneficiary prior to a fiduciary appointment because, at that point in the process, VA has already determined that the beneficiary cannot manage his or her VA benefits. Moreover, VA's authority to reissue benefits is limited to cases of fiduciary misuse. If VA released a beneficiary's retroactive award prior to a fiduciary appointment and a family member, care provider, or other person assisting the beneficiary misappropriated the funds, VA would be unable to reissue benefits to the beneficiary because there would not have been misuse by an appointed fiduciary. For this reason, we proposed § 13.100(c) with the intent of preserving vulnerable beneficiaries' VA benefits for their future needs.

Regarding the commenter's suggestion that we release smaller amounts of retroactive benefits and portions of larger retroactive benefits to the beneficiary prior to a fiduciary appointment, or add provisions to ensure the beneficiary's needs are being met, we have determined that current fiduciary program policy, under which VA initiates and continues payment of monthly benefits to the beneficiary while a fiduciary appointment is pending, strikes the proper balance between ensuring that beneficiaries' current needs are met with protection of lump-sum benefit payments for future needs. For the foregoing reasons we will not make any changes based on this comment.

One commenter, a corporate fiduciary, suggested that proposed paragraph (d)(3) would not adequately restrict a Hub Manager's discretion in fiduciary appointments. In proposed § 13.100(d) regarding initial fiduciary appointments, we did not propose to prescribe a specific limit on the number of beneficiaries a single fiduciary could serve. We had no data to support proposing a bright-line rule for discontinuing further appointments to a fiduciary and determined that each Hub Manager should have discretion to determine whether it is in a beneficiary's interest to appoint a particular fiduciary. However, to avoid default appointments to certain paid fiduciaries in lieu of the best interest determination required by 38 U.S.C. 5507(a)(2), we did not propose to give the Hub Managers unfettered discretion in such matters. First, under proposed paragraph (d)(3), a Hub Manager would consider whether the fiduciary could handle an additional appointment without degrading the service that the fiduciary provides to any other beneficiary who has funds under management with the fiduciary. Second, under proposed paragraph (e), we would establish an order of preference for appointing fiduciaries, with the result being that beneficiaries generally have a one-on-one relationship with a volunteer family member, friend, or caregiver fiduciary. In our view this placed an adequate check on the Hub Manager's discretion in these situations. On a case-by-case basis, a Hub Manager may consider appointment of a single fiduciary with multiple appointments if it is in the best interest of the beneficiary.

This commenter clarified that it was not seeking a higher order of preference in the appointment process or a bright-line rule for the maximum number of beneficiaries that a fiduciary may serve, and understood that VA might have a valid business reason to restrict further appointments of a fiduciary in some cases. However, the commenter expressed concern that certain paid fiduciaries would not have an equal opportunity to compete for appointments in those cases where VA cannot appoint a qualified volunteer fiduciary. Although we considered the commenter's concerns, we believe VA's primary obligation is to act in the best interest of its beneficiaries and will allow Hub Manager discretion in the appointment process in the event a paid fiduciary is required. Accordingly, other than a technical change to § 13.100(e), we are not making any changes to § 13.100 based upon the commenter's suggestion.

Finally, one commenter suggested that VA's fiduciary regulations accommodate durable power of attorneys (POAs). We interpret this to mean that VA should give appointment preference to the person who holds the beneficiary's POA.

Based upon VA's experience, it would not be good policy to give a person holding a beneficiary's POA priority based only upon the existence of a POA. Veterans and other beneficiaries in the fiduciary program can be extremely vulnerable and easily coerced into signing documents. Additionally, a POA can be executed and revoked by the beneficiary at any time. If an individual is holding a POA, VA would have no

way of determining whether the POA is still in effect or if the beneficiary had the capacity to execute a legally enforceable POA under state law at the time of execution. Implementing policies and procedures related to the adjudication of POAs would needlessly complicate and delay the fiduciary appointment process. Also, under current law, VA has a duty to appoint, based upon a field examination and consideration of the totality of the circumstances, the individual or entity that is in the beneficiary's best interest. While such a determination might conclude that appointment of an individual who holds the beneficiary's POA is in the beneficiary's interest, VA has determined that it cannot give undue preference and weight to the existence of a POA. Accordingly, we will not make any changes to § 13.100 based upon the commenter's suggestion.

Section 13.120—Field Examinations

In § 13.120(b), we proposed to prescribe the scope of field examinations, which could include, but would not be limited to, ''[a]ssessing a beneficiary's and the beneficiary's dependents' welfare and physical and mental well-being, environmental and social conditions, and overall financial situation, based upon visiting the beneficiary's current residence and conducting a face-to-face interview of the beneficiary and the beneficiary's dependents, when practicable.'' We also proposed that, among other things, VA would conduct a field examination for the purpose of making appropriate referrals in cases of actual or suspected physical or mental abuse, neglect, or other harm to a beneficiary, as well as when investigating allegations that a fiduciary has misused funds or failed to comply with the responsibilities of a fiduciary under § 13.140.

We received two comments regarding this proposed regulation. One commenter shared his story of his mother leaving her home to care for him after he was injured in combat. The commenter's mother participates in the VA caregiver support program administered by the Veterans Health Administration (VHA). The commenter recommended that VA exempt beneficiaries who have VHA-approved caregivers from the home visit component of a field examination because VHA is already monitoring the well-being of these beneficiaries. Another commenter had the same concerns. We agree that beneficiaries whose family members are actively participating in the VA caregiver support program, and who remain eligible to participate in this program, should generally be exempted from the home visit component of the fiduciary field examination because VHA is already assessing their physical well-being.

In 2010, the President signed into law the Caregivers and Veterans Omnibus Health Services Act of 2010. Section 101(a)(1) of that law added a new 38 U.S.C. 1720G to title 38, U.S.C., which required VA to establish a program of comprehensive assistance for family caregivers of eligible veterans and a program of support services for caregivers of covered veterans, which are collectively referred to as the Caregiver Support Program. Congress mandated, among other things, that as part of the program of comprehensive assistance for family caregivers, ''[t]he Secretary shall monitor the well-being of each eligible veteran receiving personal care services under the program [and] . . . ensure appropriate follow-up regarding findings [by] . . . [v]isiting an eligible veteran in the eligible veteran's home to review directly the quality of personal care services provided to the eligible veteran.'' See 38 U.S.C. 1720G(a)(9)(A), (C). The statute further prescribes that VHA may take corrective action, including providing additional training or suspending or revoking the caregiver's approval or designation. See 38 U.S.C. 1720G(a)(9)(C)(ii). The implementing regulations provide: ''The primary care team will maintain the eligible veteran's treatment plan and collaborate with clinical staff making home visits to monitor the eligible veteran's well-being, adequacy of care and supervision being provided. This monitoring will occur no less often than every 90 days, unless otherwise clinically indicated, and will include an evaluation of the overall health and well-being of the eligible veteran.'' See 38 CFR 71.40(b)(2).

Based on the foregoing oversight mandated by Congress and provided by VHA, we have decided to generally exempt beneficiaries who have a VHA-approved and monitored family caregiver from the home visit component of field examinations because VHA already assesses their physical well-being and environment. In these cases, VHA's oversight overlaps with the fiduciary program's oversight that we proposed. We do not intend to intrude on these beneficiaries, as we believe VHA provides ample oversight. In fact, we respect the relationship of veterans and their family members, and appreciate the ability to revise our rules to limit any unnecessary or duplicative oversight. In that regard, we will revise § 13.120 to reflect that VA will generally exempt beneficiaries who have a family member participating in the VA caregiver support program from face-to-face visits in the home to assess their physical well-being and environment. Specifically, we revise § 13.120 to add paragraph (b)(1)(i) and prescribe that the Hub Manager will waive the requirements of paragraph (b)(1) of this section if the beneficiary has a VHA-approved family caregiver and VHA reports that the veteran is in an excellent situation. However, we prescribe an exception in new paragraph (b)(1)(ii), which states that the provisions of paragraph (b)(1)(i) do not apply in cases where the Hub Manager has information concerning the beneficiary's unmet needs or welfare or information that the fiduciary has violated his or her responsibilities under § 13.140. This exception allows VA to ensure that a fiduciary is meeting his or her obligations to the beneficiary based upon current information that the Hub Manager obtains in the course of overseeing fiduciary services. In the event there is an allegation of misuse of a veteran's VA funds under management or an allegation that a fiduciary is neglecting a beneficiary or there is insufficient evidence to determine the veteran's well-being, this exception will allow the Hub Manager to provide appropriate oversight.

However, VA will still conduct a face-to-face visit, any necessary investigations, or other inquiries to confirm the qualifications of a family caregiver seeking to provide fiduciary services for a veteran prior to appointment. VA must conduct the investigation prescribed by Congress in 38 U.S.C. 5507, which includes conducting a face-to-face interview with the proposed fiduciary to the extent practicable, before appointing a person as fiduciary.

Section 13.130—Bars to Serving as a Fiduciary

We received two comments regarding § 13.130. One commenter stated that his comment is specifically geared towards VA's need to coordinate with state courts with jurisdiction over adult guardianship and conservatorship. The commenter cited two U.S. Government Accountability Office reports—''Guardianships: Collaboration Needed to Protect Incapacitated Elderly People'' (2004) and ''Incapacitated Adult: Oversight of Federal Fiduciaries and Court-Appointed Guardians Needs Improvement'' (2011). Both reports discussed the lack of coordination in sharing information between the state courts handling guardianships, the VA fiduciary program, and the Social

Security Administrative (SSA) payee program. The commenter relied on these reports to propose that this lack of coordination could result in vital information regarding a beneficiary's welfare or the mismanagement of his or her VA benefits not being shared. The commenter singled out court information in particular, by concluding that bars to serving as a fiduciary should be expanded to include previous court sanctions or removals as a guardian or conservator and failure to file timely reports with the court.

The topic of coordinating with guardianship courts and other governmental agencies is beyond the scope of this rulemaking. However, it is our current practice to coordinate with courts and other agencies and share information when it is appropriate or necessary. We will continue to work on any necessary protocols for coordinating and information sharing between courts, VA and other agencies. Nonetheless, we agree with the commenter's suggestion that VA revise § 13.130 to bar a fiduciary from service if he or she has been removed as legal guardian by a court for misconduct. At this time, we decline to bar service as a fiduciary based solely upon a court sanction or other discipline short of removal. We anticipate situations where it is in the best interest of a particular beneficiary for VA to appoint a guardian, such as a family member or care provider, who has been disciplined by a court but not removed from service as a beneficiary's guardian.

There are various reasons a court-appointed guardian may be sanctioned by a court and his or her appointment may not pose a risk to the beneficiary or still be in best interest of the beneficiary. We believe it is best to retain the ability to assess these situations on a case-by-case basis. We intend to weigh the totality of the circumstances regarding the proposed fiduciary's qualifications and other factors, including any court discipline while serving as a guardian, in determining whether the appointment is in the beneficiary's best interest.

Also, to mitigate the risk of appointing as fiduciary a legal guardian who has been disciplined by a court, we proposed under § 13.140(d)(1) that a fiduciary who is also appointed by a court must annually provide to VA a certified copy of the accounting provided to the court or facilitate VA's receipt of such an accounting. In addition, in § 13.500(a)(2)(ii), we proposed to remove a fiduciary if he or she fails to maintain his or her qualifications or does not adequately perform the responsibilities of a fiduciary prescribed in § 13.140. Thus, a fiduciary will be removed if the continuation of his or her appointment poses a risk to the beneficiary.

Accordingly, we will revise this section to add paragraph (b)(6) regarding a bar to service as a fiduciary if a guardian has been removed from service by a court for misconduct but do not make any additional changes based on these two comments.

Another commenter recommended that VA expand the 10-year period in proposed § 13.130(a)(2)(i) to 20 years following the conviction of a felony as a bar to appointment or continuation of service as fiduciary. The commenter submitted two papers in support of the recommendation and claimed that both support the conclusion that a person who is crime free for 20 years is ''less likely'' to commit a crime than a person who has been crime free for 10 years. However, the research presented does not support the recommendation that there is value in waiting an additional 10 years, *i.e.,* the longer a person goes without committing a crime the less he or she is likely to commit a crime. In our view, a person who has been previously convicted of a felony, but has been crime free for 10 years, should not be barred from serving as a fiduciary.

One of the papers submitted by the commenter cites to a 1994 Bureau of Justice Statistics (BJS) study, ''Recidivism of Prisoners Released in 1994'' (June 2002), which tracked 272,111 former inmates for 3 years after their release from prison in 1994. The study found that 30 percent of the 272,111 were rearrested for a new crime within the first 6 months of their release; 44 percent were rearrested within the first year; 59 percent were rearrested within the first 2 years; 68 percent were rearrested within 3 years.

The BJS collects criminal history data from the Federal Bureau of Investigation and state record repositories to study the recidivism patterns of various offenders, including persons on probation or discharged from prison. Its latest study, ''Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010'' (April 2014), tracked the recidivism patterns of about 400,000 persons released from state prisons in 2005. The study found that 28 percent of the 400,000 were rearrested for a new crime within the first 6 months of their release; 44 percent were rearrested within the first year; 60 percent were rearrested within 2 years; 68 percent were rearrested within 3 years; and 77 percent were rearrested within 5 years. See *https://www.bjs.gov/content/pub/pdf/rpr94.pdf.* The report concluded that the longer released prisoners went without being arrested, the less likely they were to be arrested at all during the 5-year period. See *https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf.*

Another report, ''State of Recidivism—The Revolving Door of America's Prisons'' (April 2011), prepared by the Pew Center on the States (Pew) in collaboration with the Association of State Correctional Administrators was based on a survey of state corrections departments. This report noted that 41 states provided recidivism data on prisoners released in 2004, and 33 states provided data on prisoners released in 1999. The responding states represented 87 percent of all releases from state prisons in 1999 and 91 percent of all releases in 2004. ''In the first ever state-by-state survey of recidivism rates, state corrections data show that nearly 43 percent of prisoners released in 2004, and 45 percent of those released in 1999, were reincarcerated within three years, either for committing a new crime or violating the terms of their supervised release.'' See *http://www.pewtrusts.org/en/about/news-room/press-releases/0001/01/01/pew-finds-four-in-10-offenders-return-to-prison-within-three-years.* Studies by BJS and Pew do not examine post-release recidivism for someone who has been crime free for 10 years or more.

In further consideration of the comment to expand the 10-year period to 20 years, we looked at industry standards for guidance. There are no bright-line rules used by states or SSA for the appointment of convicted felons. Although all fifty states and the District of Columbia have enacted guardianship statutes, there is a lack of statutory consistency among the states regarding the appointment of a guardian who was convicted of a felony, and how long after a conviction one should be barred from serving. Research revealed three distinct categories of state laws concerning the eligibility of guardianship candidates with past felony convictions. Some states' statutes prescribed a complete disqualification of a past felon as guardian. See, *e.g.,* Fla. Stat. Ann. § 744.309(3) (LexisNexis 2017); Wash. Rev. Code Ann. § 11.88.020(1)(c) (LexisNexis 2017). Some states require the disclosure of the prior felony with consideration given to the ward's best interest and no bright-line rule regarding the numbers of years after the conviction of a felony before appointment. See, *e.g.,* Ariz. Rev. Stat. § 14–5106(A)(1) (LexisNexis 2017); N.H. Rev. Stat. Ann. § 464–A:4(V)(b) (LexisNexis 2017). Other states' statutes do not address the issue. See, *e.g.,* Ala.

Code § 26–2A–104 (LexisNexis 2017); Conn. Gen. Stat. § 45a–676(f) (LexisNexis 2017).

SSA obtains information on whether a prospective representative payee was convicted of any offense under Federal or state law and sentenced to a period of imprisonment for more than 1 year before appointment. As a general rule, SSA will not appoint a convicted felon as a representative payee unless it cannot identify a suitable payee, there is no risk to the beneficiary, and the appointment is in the best interest of the beneficiary. Thus, although SSA considers certain crimes an absolute bar to service as a representative payee, it may still appoint a convicted felon if it determines that the appointment is in the best interest of the beneficiary. See 20 CFR 416.622, 416.624.

We proposed a general rule that a felony conviction is a bar to appointment or continuation of service as a fiduciary for the 10-year period following the conviction, provided that the conviction is not for fraud, financial crimes, or the abuse or neglect of another person, all of which would be a permanent bar to serving as a fiduciary. See 79 FR 437. The commenter's suggestion that we should revise the rule by lengthening the look-back period ''to a period longer than ten years'' because a research study on the usefulness of criminal background checks stated that a violent offender is ''less likely'' to commit a crime if he or she has been crime free for 20 years does not mean that it would be good policy to wait longer than 10 years to appoint a person VA finds appropriate to act as fiduciary for the beneficiary, particularly when the person is the beneficiary's choice, it is the least restrictive option, and in most cases is the beneficiary's family member.

We proposed that we could appoint a convicted felon after 10 years only if we determine that there is no other person or entity willing and qualified to serve, there is no risk to the beneficiary, and such appointment is in the beneficiary's interest. See 79 FR 437. We intend with the foregoing criteria in place, we will not appoint a person that may pose a risk to the beneficiary. In addition, in § 13.500, we proposed to promptly remove a fiduciary if he or she poses a risk to a beneficiary after appointment. We believe that the measures we have in place will allow us to carefully consider a prospective fiduciary, who was convicted of a felony more than 10 years prior to consideration for appointment, to determine whether it is in the beneficiary's best interest to have such person serve as fiduciary. Therefore, we make no change based on this comment.

In § 13.130, we proposed that an individual or entity may not serve as a fiduciary for a VA beneficiary if the individual or entity was convicted of a financial crime, *e.g.,* fraud, theft, bribery, embezzlement, identity theft, money laundering, or forgery, or for the abuse of or neglect of another person. These offenses are permanent bars to serving as fiduciary. One commenter stated that our proposed list of disqualifying offenses does not include crimes related to dishonesty and deception, which are offenses that could place a beneficiary at risk for victimization. However, the commenter did not specifically identify the additional crimes that the commenter would like to see as bars to service as a fiduciary.

The nature of specific offenses included within the phrase dishonesty and deception as expressed in Federal regulations and state rules varies. For example, banking regulations define dishonesty as the following: ''[D]irectly or indirectly to cheat or defraud, to cheat or defraud for monetary gain or its equivalent, or to wrongfully take property belonging to another in violation of any criminal statute. Dishonesty includes acts involving a want of integrity, lack of probity, or a disposition to distort, cheat, or act deceitfully or fraudulently, and may include crimes which federal, state or local laws define as dishonest.'' See 12 CFR 585.40. Department of Labor regulations define ''fraud or dishonesty'' as encompassing ''all those risks of loss that might arise through dishonest or fraudulent acts in handling of funds'' and note that, under state law, ''the term 'fraud or dishonesty' encompasses such matters as larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wrongful conversion, willful misapplication or any other fraudulent or dishonest acts resulting in financial loss.'' See 29 CFR 453.12.

Furthermore, crimes of dishonesty and deception can be either a felony or misdemeanor offense, depending on the jurisdiction and crime. In addition, sentences for such crimes may differ widely. As a result, not all crimes of dishonesty and deception will be a bar to service as fiduciary. For purposes of our proposed regulations, we defined a felony offense to mean a criminal offense for which the minimum period of imprisonment is 1 year or more, regardless of the actual sentence imposed or the actual time served. We further explained that such a conviction is not a bar to serving as a fiduciary if the conviction occurred more than 10 years preceding the proposed date of appointment and the crime is not one of the crimes listed in proposed § 13.130(a)(2)(ii). We believe our proposed rules on bars to service provide the correct level of detail to effectively consider a potential fiduciary's criminal background and the best interests of beneficiaries. Therefore, we will monitor the implementation of this rule to ensure that it adequately protects beneficiaries but will not make any changes at this time based on this comment.

Section 13.140—Responsibilities of Fiduciaries

We received several comments regarding proposed § 13.140. In paragraph (c) we proposed that a fiduciary's non-financial responsibilities, among other things, will include contacting social workers or mental health professionals regarding the beneficiary, when necessary. One commenter recommended we include as a part of this responsibility that a fiduciary also contact a court-appointed guardian or conservator regarding the beneficiary when necessary. We agree. Without such contact, a fiduciary might not be able to determine whether a beneficiary's needs are being met by the fiduciary's disbursement of funds. In proposing paragraph (c), we intended that fiduciary responsibilities would include an obligation to monitor the beneficiary's well-being and report any concerns to appropriate authorities, or anyone legally tasked with ensuring the beneficiary's well-being. Amending this rule to include contact with a legal guardian or conservator is consistent with our intent. We therefore revise paragraph (c)(1) to state, ''The fiduciary's primary non-financial responsibilities include, but are not limited to . . . Contacting social workers, mental health professionals, or the beneficiary's legal guardian regarding the beneficiary, when necessary.''

One commenter, citing 38 U.S.C. 5507, noted that our ''principal responsibility in appointing a fiduciary is to determine [his or her] fitness to serve as a fiduciary.'' The commenter noted that we nonetheless tasked a fiduciary with financial and non-financial responsibilities, that proposed § 13.140(a) calls for a fiduciary to monitor the beneficiary's well-being, and that proposed § 13.140(c) states that a fiduciary has non-financial responsibilities that ''include but are not limited to[,]'' seven specific enumerated responsibilities. The commenter stated that the proposed ''not limited to'' language is vague, particularly when the

non-performance of such responsibilities can subject a fiduciary to removal under proposed § 13.500.

The commenter is correct that under section 5507 VA has authority to ensure that a person or entity appointed as fiduciary for a beneficiary is fit to serve. However, under 38 U.S.C. 5502(a)(1) Congress also authorized VA to make benefit payments to a fiduciary on behalf of a beneficiary if it appears to VA that such payment will serve the interest of the beneficiary. Under this authority, it is VA's obligation to oversee the fiduciaries it appoints to manage VA benefits on behalf of beneficiaries, and this oversight includes prescribing fiduciary responsibilities. While we may appoint a fiduciary pursuant to the requirements in section 5507, and remove them pursuant to our oversight authority under section 5502(a)(1) and (b), prior to this rulemaking, we provided no binding notice to beneficiaries and fiduciaries regarding the responsibilities of fiduciaries in VA's program. For this reason, we proposed to prescribe the core requirements for all fiduciaries, which are to monitor the well-being of the beneficiaries they are appointed to serve and to disburse funds according to beneficiary needs. Prescribing these requirements is consistent with Congress' intent when it authorized VA to create the fiduciary program. As we explained in the proposed rule, our intention is to change the culture in the fiduciary program to ensure that the fiduciary we appoint determines the beneficiary's needs and disburses funds to address those needs in the beneficiary's interest. See 79 FR 438. We explained that VA is not the fiduciary for the beneficiary and must defer to the fiduciary consistent with VA regulations. See 79 FR 438.

We also proposed to prescribe fiduciaries' specific non-financial responsibilities. These responsibilities generally concern a fiduciary's obligation to monitor the beneficiary's well-being and report any concerns to appropriate authorities, including any legal guardian for the beneficiary. These responsibilities, among other things, reinforce VA's view that a fiduciary must maintain regular contact with a beneficiary and be responsive to beneficiary requests.

Furthermore, we used the ''include, but are not limited to'' language in paragraph (c) to clarify that the relationship between the beneficiary and fiduciary must be defined by each beneficiary's needs. This rulemaking provides the minimum expectations for the fiduciaries whom VA appoints but recognizes that fiduciaries may have additional responsibilities to particular beneficiaries depending upon the fiduciary-beneficiary relationship and the beneficiary's individual needs.

Regarding the commenter's concern that a fiduciary could be removed for any unknown reasons as a result of the ''include, but are not limited to'' language, the alternative is to list all possible non-financial responsibilities of a fiduciary, which is impossible because of all the unique circumstances specific to individual beneficiaries. Rather, consistent with VA's intent to emphasize the fiduciary's responsibility for not only managing the beneficiary's VA funds, but also monitoring the beneficiary's general well-being, we believe § 13.140 provides sufficient guidance regarding our expectations for a fiduciary. Moreover, a fiduciary may always consult with a Fiduciary Hub regarding the scope of his or her duties and responsibilities relating to a particular beneficiary. Prior to initiating removal action, VA will thoroughly investigate any alleged misconduct or failure to satisfy responsibilities by a fiduciary and assess whether to pursue removal action. Furthermore, we explained in the preamble to proposed § 13.600 that, although the Court of Appeals for Veterans Claims' holding in *Freeman* v. *Shinseki,* 24 Vet. App. 404 (2011), was limited to fiduciary appointments under section 5502, it would be consistent to interpret the court's opinion to mean that there is a right to appeal any VA fiduciary decision that is made under a law that affects the provision of benefits to a VA beneficiary. See 79 FR 449. We therefore proposed in § 13.600 that a beneficiary could appeal the removal of a fiduciary. Under § 13.500, VA will provide a beneficiary clear notice of any decision to remove a fiduciary and the beneficiary's right to appeal the removal. If the basis for removal does not involve a deficiency falling within the seven enumerated non-financial responsibilities, again, VA will, consistent with VA's general fiduciary oversight authority in 38 U.S.C. 5502(a) and (b), thoroughly investigate any alleged misconduct or failure to satisfy responsibilities by a fiduciary and assess whether to pursue removal action prior to initiating removal action. For the foregoing reasons, we make no change to this proposed rule.

One commenter cited to the preamble of the proposed rule on accountings, which stated that ''[c]urrent policy also recognizes, based upon VA's experience in administering the program, that the burden of preparing, submitting, and auditing accountings outweighs any oversight benefit for many beneficiaries and VA.'' See 79 FR 444. The commenter interpreted this statement as VA's acknowledgement that certain fiduciary responsibilities are burdensome. The commenter suggested that a fiduciary's financial responsibilities are burdensome and technical, and complained that VA would require family member fiduciaries to be fiscal managers, prudent investors and financial planners. The commenter suggested that VA instead promulgate rules regarding VA's responsibilities to fiduciaries, to include providing family member fiduciaries with technical support and software to carry out their financial responsibilities and protection of private information.

VA's fiduciary program policies have long recognized that service as a fiduciary for a beneficiary includes financial and other obligations that may at times be burdensome, particularly for fiduciaries that are family members. For this reason, VA's policies attempt to strike the appropriate balance between oversight and fiduciary burden. VA must protect beneficiaries from fiduciary misuse of their benefits, while also promoting service by family members and other volunteers. We do not agree with the commenter's assertion that the proposed responsibilities of a fiduciary in § 13.140 impose an unwarranted burden on family members. In our proposed rules on accountings we explained that we would continue to require accountings only when the amount of VA benefit funds under management by the fiduciary exceeds $10,000, the fiduciary receives a fee deducted from the beneficiary's account under proposed § 13.220, or the beneficiary is being paid monthly benefits in an amount equal to or greater than the rate for service-connected disability rated totally disabling. See 79 FR 444. As a general rule, no other fiduciaries will be required to submit an annual accounting. Regarding this rule, we stated, ''[c]urrent policy also recognizes, based upon VA's experience in administering the program, that the burden of preparing, submitting, and auditing accountings outweighs any oversight benefit for many beneficiaries and VA.'' See 79 FR 444. Thus, contrary to the commenter's interpretation, we did not intend the quoted portion of the preamble to mean that our proposed rules of fiduciary responsibilities are burdensome.

Furthermore, we did publish proposed rules that impose obligations comparable to financial management and planning. In fact, we proposed separate rules for fiduciary accounts

(§ 13.200), fiduciary investments (§ 13.210), and accountings (§ 13.280) for the express purpose of clearly notifying fiduciaries regarding their basic financial management and reporting obligations. These rules require maintenance of a separate fiduciary account, establish policy regarding conservation of beneficiary funds, limit investments to United States savings bonds or Federally-insured interest or dividend-paying accounts, exempt spouses and chief officers of institutions from the investment limitations, and, as described above, exempt most fiduciaries from the submission of annual audits. We do not agree that the responsibilities prescribed in § 13.140 or more specifically in § 13.200, § 13.210, or § 13.280 are unduly burdensome for family member fiduciaries. Rather, it is our intent that these rules will strike the appropriate balance between oversight and encouraging volunteer fiduciary service, with the emphasis being on allowing the fiduciary to determine the beneficiary's needs and disburse funds to address those.

We also explained our intent to change the culture of the program to ensure that fiduciaries do not unnecessarily conserve beneficiary funds. We explained, ''[w]e are concerned that some elderly beneficiaries are dying with a large amount of funds under management by a fiduciary that could have been used during the beneficiary's life to improve his or her standard of living.'' See 79 FR 438. We intend that fiduciaries will conserve or invest funds under management that the beneficiary or the beneficiary's dependents do not immediately need for maintenance, reasonably foreseeable expenses, or reasonable improvements in the beneficiary's and the beneficiary's dependents' standard of living. In our view, these basic responsibilities are consistent with industry standards and the fiduciary-beneficiary relationship, protect beneficiaries while limiting the burden on family member and other volunteer fiduciaries, and promote policies intended to improve beneficiaries' standard of living.

Regarding the responsibility of protecting a beneficiary's financial information, we prescribed the basic precautions, which if not taken, might put the beneficiary at risk of identity theft, misappropriation of funds, or other harm. In that regard, we prescribed the minimum requirements for protection of beneficiaries' private information. We intend that fiduciaries will take the reasonable precautions that every person should take when maintaining his or her private information in paper or electronic records to prevent identity theft and unauthorized access. In proposing these requirements, we did not intend to supersede state law or other professional industry standards, under which a fiduciary may have additional requirements that exceed the minimum standard proposed by VA. We therefore make no change based on this comment.

Section 13.140(a)(2)(iv) requires a fiduciary to maintain financial records for a minimum of 2 years from the date VA removes the fiduciary under § 13.500, and § 13.500(a)(1)(iv) provides that VA may remove a fiduciary if ''[t]he beneficiary dies.'' Therefore, we note that § 13.140(a)(2)(iv) includes the requirement that a fiduciary must maintain financial records for a minimum of 2 years after a fiduciary is removed following a beneficiary's death. This requirement facilitates any inquiry into the fiduciary program and allows VA to address questions regarding the fiduciary's past services to the beneficiary. We also made a few nonsubstantive changes to § 13.140.

Section 13.210—Fiduciary Investments

We made a minor revision to § 13.210 by substituting ''Fiduciaries should not conserve VA benefit funds under management for a beneficiary based primarily upon the interests of the beneficiary's heirs or according to the fiduciary's own values, preferences, and interests'' for ''Fiduciaries will not conserve VA benefit funds under management for a beneficiary based upon the interests of the beneficiary's heirs or according to the fiduciary's own beliefs, values, preferences, and interests.'' This change is necessary to provide fiduciaries with some flexibility and to avoid the perception that belief systems are an element of VA's oversight.

Section 13.220—Fiduciary Fees

We received three comments regarding proposed § 13.220. One commenter agreed with our proposal to bar fiduciary fees on retroactive benefits payments, but suggested we explicitly preempt state laws that allow a higher than 4 percent fee for fiduciary services. The commenter stated that while we proposed that our regulations would preempt state laws, we failed to invoke this preemption for fiduciary fees. The commenter read our proposed rules on fiduciary fees to mean that a fiduciary can receive a higher than 4 percent fee for his or her services, if state laws allow such higher fees.

The commenter may have overlooked our explicit language to preempt state law in fiduciary matters. We specifically stated that we interpret 38 U.S.C. 5502(a)(1) to mean, ''in creating the fiduciary program, Congress intended to preempt State law regarding guardianships and other matters to the extent necessary to ensure a national standard of practice for payment of benefits to or on behalf of VA beneficiaries who cannot manage their benefits.'' See 79 FR 430. We further explained that we intended to apply this approach to all fiduciary matters on the effective date of the final rule. See 79 FR 430. We did not propose to authorize a higher than 4 percent fee for services performed by a fiduciary even if a state authorizes a higher fee. In the preamble to proposed § 13.220, we made it clear that when we determine that a fee is necessary to obtain a fiduciary in the best interests of a beneficiary, Congress authorized a reasonable fee to be paid from the beneficiary's VA funds, but such fee for any year may not exceed 4 percent of the beneficiary's monetary VA benefits paid to the fiduciary during any month in which the fiduciary serves. See 79 FR 440. We will not make any changes based on this comment because § 13.220 clearly prescribes that a fiduciary fee cannot exceed 4 percent of a beneficiary's monetary VA benefits paid to the beneficiary during any month in which the fiduciary serves.

Another commenter cited to proposed § 13.140(d)(1), where we prescribed that ''[i]f the fiduciary is also appointed by a court, [the fiduciary must] annually provide to [VA] a certified copy of the accounting provided to the court or facilitate [VA's] receipt of such an accounting,'' and proposed § 13.30(a), which prescribed the circumstances in which we would appoint a fiduciary on behalf of a beneficiary, to include when ''a court with jurisdiction might determine that a beneficiary is unable to manage his or her financial affairs.'' The commenter appears to have read our references to ''court'' in these sections to mean that VA would continue to recognize court-appointed guardians as fiduciaries, which would grant them certain exemptions from our proposed rules.

It is our intent to continue to appoint a beneficiary's court-appointed guardian to serve as VA fiduciary if we determine that no other appropriate person or entity is willing to serve without a fee and such an appointment will be in the beneficiary's interest. For existing court-appointed guardians who are serving satisfactorily as fiduciaries, we will continue their appointments as fiduciaries. However, in such appointments, only VA's regulations will prescribe the fiduciary's

responsibilities, as well as the fees they are authorized to receive. Accordingly, fees in excess of 4 percent of a beneficiary's monthly benefit payment are not authorized. Our proposed rules were clear that they would apply to existing court-appointed guardians who are also fiduciaries. We proposed to discontinue the distinction between ''Federal'' fiduciaries and ''court-appointed'' fiduciaries, and instead refer only to ''fiduciary'' or ''fiduciaries'' in our regulations. We explained that it is VA's long-standing interpretation of current law to appoint and conduct oversight regarding all individuals and entities that provide fiduciary services for beneficiaries. See 79 FR 430. We intend to issue uniform rules for all VA-appointed fiduciaries, such as allowable fees, surety bond requirements and appropriate investments, to include fiduciaries who also serve as court-appointed guardians for beneficiaries. However, for fiduciary investments that already exist, we do not intend to disturb these investments, as we recognize the risks that may be involved in any liquidation or changes. Therefore, we intend to apply our proposed regulations on fiduciary investment only to those investments acquired after the effective date of the final rule.

In proposed § 13.140(d)(1), we prescribed that a court-appointed guardian who is also a VA fiduciary should annually provide us with a certified copy of the accounting he or she provides to the court. We did not propose that this will be in lieu of submitting an accounting to VA pursuant to proposed § 13.280. Fiduciaries who are also court-appointed guardians are required to provide VA with an annual accounting as prescribed in § 13.280. Pursuant to our oversight authority, we must ensure consistency in reporting to the court and VA, and ensure that funds are used in the interest of beneficiaries.

Furthermore, proposed § 13.30(a) stated that our authority to appoint a fiduciary on behalf of a beneficiary includes cases in which ''a court with jurisdiction . . . determine[s] that a beneficiary is unable to manage his or her financial affairs.'' This language does not mean that VA will continue to recognize court-appointed guardians without subjecting them to our rules. If VA appoints or continues the appointment of a court-appointed guardian as fiduciary, that fiduciary will be subject to VA rules only for purposes of managing the beneficiary's VA benefits. For the foregoing reasons, we do not make any changes to § 13.220 based upon the commenter's inquiry.

In proposed § 13.220(b)(4), we prescribed that VA will not authorize fiduciary fees for any month a court with jurisdiction or VA determines that a fiduciary misused or misappropriated benefits. A commenter suggested that VA would need to coordinate with courts to obtain information on misuse. The commenter further stated that there is also a need for coordination regarding fiduciary fees, as a fiduciary could receive fees from both the court and VA.

We agree with the commenter that coordination with courts is important to curtail misuse. It is our current practice to coordinate with courts and other agencies and share information when it is appropriate or necessary. We will continue to work on any necessary protocols for coordinating and information sharing between courts, VA and other agencies. However, the topic of coordinating with guardianship courts and other governmental agencies is beyond the scope of this rulemaking. With regard to fees, we clarify that a fiduciary, who is also acting as a state-appointed guardian for the beneficiary, may receive a fee not to exceed 4 percent of the monthly VA benefit for the fiduciary responsibilities but may additionally receive a fee for his or her responsibilities as a state-appointed guardian.

Section 13.230—Protection of Beneficiary Funds

We received three comments regarding proposed § 13.230. A commenter suggested that we not only exempt spouses from the surety bond requirements, but also exempt all family members who are fiduciaries. The commenter stated that requiring family members to obtain surety bonds to protect beneficiaries' funds is a waste of the beneficiary's VA funds.

Under current law, ''[a]ny certification of a person for payment of benefits of a beneficiary to that person as such beneficiary's fiduciary . . . shall be made on the basis of,'' among other things, ''the furnishing of any bond that may be required by [VA].'' See 38 U.S.C. 5507(a)(3). We interpret this requirement to mean that, where VA has imposed a bond requirement, the certification of any person as a fiduciary must be based in part upon the proposed fiduciary's ability to qualify for and purchase such bond. As such, this requirement is a screening tool for VA to use in confirming qualification for appointment before releasing any large retroactive payment to a fiduciary. If a fiduciary cannot obtain a bond because the bonding company considers the risk of fund exploitation too high, VA will not appoint the prospective fiduciary and appoint an individual or entity who can obtain the necessary fund protection. In addition, requiring a prospective fiduciary to secure a surety bond is consistent with our oversight obligations, which among other things, include deterring fiduciary misuse of benefits. VA's surety bond requirements put a fiduciary on notice that he or she is liable to a third party for any payment on the bond, and in the event a fiduciary misuses a beneficiary's VA benefits, the bonding requirements protect the beneficiary's funds.

For the foregoing reasons, we proposed that all fiduciaries with the general exception of spouses must, within 60 days of appointment, furnish to the fiduciary hub of jurisdiction a surety bond conditioned upon faithful discharge of all of the responsibilities of a fiduciary if the VA benefit funds that are due and to be paid will exceed $25,000. We also proposed to apply this rule to a fiduciary who is not initially required to obtain a bond but later over time accumulates funds on behalf of a beneficiary that exceed the $25,000 threshold. Based on our experience in administering the program, the risks of not requiring all fiduciaries, with the exception of spouses, to furnish a surety bond significantly outweigh any burden on a prospective fiduciary.

We have exempted spouses who are fiduciaries from the surety bond requirements consistent with our long-standing policy of requiring less intrusive oversight of spouse fiduciaries. It has always been our policy to minimize the Government's intrusion into the marital relationship and to avoid dictating requirements for property that is jointly owned by a beneficiary and his or her spouse. We therefore make no changes based on this comment.

One commenter suggested that VA should require a court-appointed guardian who was previously sanctioned, disciplined, or removed by a court to furnish a surety bond as an additional screening tool, if VA is considering the appointment of that guardian as a fiduciary. In 38 U.S.C. 5502, Congress authorized VA to appoint a fiduciary for a beneficiary only if it appears to VA that it would serve the beneficiary's interest. Depending on the sanction, discipline or removal a guardian received from a court, VA may appoint or continue the appointment of that fiduciary only if VA determines that there is no other person or entity willing and qualified to serve, there is no risk to the beneficiary, and the appointment is in the beneficiary's interest. VA will consider the totality of the circumstances before the

appointment or continuation of the appointment. Should VA decide to appoint or continue the appointment of a guardian as fiduciary, who was sanctioned, disciplined or removed by a court, we agree with the commenter that requiring a surety bond in such appointments may serve as an additional screening tool. Accordingly, we prescribed in § 13.230(c)(2), that ''the Hub Manager may, at any time, require the fiduciary to obtain a bond described in [§ 13.230(a)] and meeting the requirements of [§ 13.230(d)], without regard to the amount of VA benefit funds under management by the fiduciary for the beneficiary, if special circumstances indicate that obtaining a bond would be in the beneficiary's interest.'' Such special circumstances may include cases where a fiduciary was sanctioned, disciplined or removed by the court. We therefore make no changes based on this comment.

One commenter stated that family caregivers who are also fiduciaries should be exempted from the surety bond requirements. Another commenter generally stated that family caregivers who are fiduciaries should also be exempted from the surety bond requirements because they are approved and monitored by VHA.

We note that VHA does not monitor caregivers' management of veterans' VA benefits. Under 38 U.S.C. 1720G(a)(1)(A), VA ''establish[ed] a program of comprehensive assistance for family caregivers of eligible veterans.'' As part of this program, VA has authority to provide family caregivers with ''instruction, preparation and training'' appropriate to provide services as caregivers, and to monitor the well-being of each eligible veteran receiving personal care services under the program. See 38 U.S.C. 1720G(a)(3)(A)(i)(I), (a)(9)(A).

VHA's monitoring consists of maintaining a ''veteran's treatment plan and collaborat[ing] with clinical staff making home visits to monitor the eligible veteran's well-being, adequacy of care and supervision being provided.'' See 38 CFR 71.40(b)(2). Thus, while VHA provides monitoring of the adequacy of care as it pertains to the veteran's health and well-being, it does not provide any training or oversight as it pertains to the ability of a family caregiver to manage the veteran's VA benefits. See 38 U.S.C. 1720G(a)(9)(C); 38 CFR 71.15, 71.25(c) and (d). The fiduciary program appoints fiduciaries on behalf of beneficiaries who are unable to manage their VA benefits and provides oversight to these fiduciaries. VA-appointed fiduciaries are tasked with, among other things, managing a beneficiary's monetary VA benefits, while family caregivers are tasked with supporting the veteran's health and well-being. We note further that requirements for caregivers are distinguishable in many ways from the requirements of fiduciaries. In this regard, the fact that someone may qualify as a family caregiver does not mean that they also would be able to serve as a fiduciary and/or obtain a surety bond.

Under 38 U.S.C. 5507, VA must conduct an investigation regarding a proposed fiduciary before appointing the individual to serve as a fiduciary. This investigation must include an inquiry regarding the proposed fiduciary's criminal and credit history.

See 38 U.S.C. 5507(a)(1)(C) and (b). Furthermore, under 38 U.S.C. 5507(a), ''[a]ny certification of a person for payment of benefits of a beneficiary to that person as such beneficiary's fiduciary . . . shall be made on the basis of,'' among other things, ''the furnishing of any bond that may be required by [VA].'' In order to meet our oversight responsibilities and ensure that only the most qualified individuals are appointed as fiduciary to serve our vulnerable beneficiaries, we require prospective fiduciaries to furnish a surety bond consistent with proposed § 13.230. We cannot exempt a family caregiver from the surety bond requirements because the VHA caregiver program does not provide oversight as it pertains to a beneficiary's VA benefits. We therefore do not make any changes based on this comment.

One commenter did not agree with VA's proposal to generally eliminate the use of restricted withdrawal agreements. The commenter believes the process of converting restricted withdrawal agreements into surety bonds would result in a cost to VA by generating more work for VA's field fiduciary employees, to include scheduling new field examinations to replace fiduciaries who cannot obtain surety bonds.

It has been VA's practice to occasionally allow a fiduciary, generally a family member or other close acquaintance of the beneficiary, to enter into a restricted withdrawal agreement with the beneficiary and VA regarding management of accumulated funds under management in lieu of obtaining a surety bond. We proposed to eliminate the use of withdrawal agreements in proposed § 13.230, except for fiduciaries residing in the Commonwealth of Puerto Rico, Guam, or another territory of the United States, or in the Republic of the Philippines, where surety bonds may not be available. We have determined that withdrawal agreements are generally inconsistent with VA policy regarding the role of VA and fiduciaries in the fiduciary program. See 79 FR 441.

One of the overall goals of our rewrite of VA's fiduciary regulations was to change the program's culture to ensure that it is the fiduciary, and not VA, that determines the beneficiary's needs and disburses funds to address those needs in the beneficiary's interest. In our view, it is the fiduciary's obligation to make best-interest determinations regarding beneficiary funds under management. The use of a restricted withdrawal agreement may improperly insert VA into matters reserved for fiduciaries. In that regard, we proposed the core requirements for all fiduciaries, which are to monitor the well-being of the beneficiaries they serve and to disburse funds according to beneficiary needs. VA is not the fiduciary for the beneficiary and must defer to the fiduciary consistent with VA regulations.

We do not anticipate a change in workload or any budget increases with the implementation of this rule. Currently, less than 1/8th of 1 percent of our fiduciaries have withdrawal agreements. This is a result of our current policy to require surety bonds in lieu of withdrawal agreements. For the few fiduciaries that still have withdrawal agreements, effective with our final rule, we will require them to obtain surety bonds. It will be incumbent upon the fiduciary to obtain a surety bond and provide VA with proof of the surety bond. If a fiduciary cannot obtain a surety bond because the bonding company considers the risk of fund exploitation too high, VA will not continue the appointment of the fiduciary and will instead appoint an individual or entity that can obtain the necessary fund protection. To the extent this will require additional field examinations, we expect any additional costs for this activity to be marginal. Consistent with Congress' intent, VA makes every effort to ensure that only qualified individuals and entities provide fiduciary services for beneficiaries. As such, this requirement is a screening tool for VA to use in confirming an appointment decision before releasing any large retroactive payment to a fiduciary. We make no change based on this comment.

Section 13.250—Funds of Deceased Beneficiaries

We did not receive any comments on this regulation; however, we made a technical change consistent with governing authority. Under 38 U.S.C. 5502(e), when a beneficiary who has a fiduciary dies without leaving a valid

will and without heirs, all VA benefits under management by the fiduciary for the deceased beneficiary must be returned to VA if such funds will ''escheat'' to the state, less any deductions of expenses to determine that escheat is in order. In our proposed rules, we used the plain language term ''forfeited'' instead of ''escheat.'' However, to be more precise and consistent with the governing authority, we replaced the term ''forfeited'' with ''escheat.''

Section 13.260—Personal Funds of Patients

We did not receive any comments on this rule; however, we made a couple of nonsubstantive changes to § 13.260.

Section 13.280—Accountings

In proposed § 13.280(b), we defined ''accounting'' to mean ''the fiduciary's written report regarding the income and funds under management by the fiduciary for the beneficiary during the accounting period prescribed by the Hub Manager.'' The proposed rule further states that, ''[t]he accounting prescribed by this section pertains to all activity in the beneficiary's accounts, regardless of the source of funds maintained in those accounts.'' One commenter questioned VA's authority to require accountings regarding non-VA funds that are under management by a VA-appointed fiduciary. The commenter also believed that it is VA policy to require fiduciaries to disburse non-VA funds before VA funds, and again questioned our authority for such actions.

Under 38 U.S.C. 5509(a), VA has authority to require fiduciaries to file accountings regarding funds under management. Pursuant to 38 U.S.C. 5502(b), such accountings may include disclosure of ''any additional financial information concerning the beneficiary (except for information that is not available to the fiduciary).'' For accounting purposes, VA has authority to request information regarding all activity in a beneficiary's account. It would be very difficult to detect misuse of benefits if VA were required to limit its audit to activity related only to income and expenditures actually derived from VA benefits. Therefore, we prescribed, consistent with our statutory authority, that an accounting pertains to all activity in the beneficiary's accounts, regardless of the source of income.

It is not VA's policy to require fiduciaries to disburse a beneficiary's non-VA funds before his or her VA funds. In fact, it is our policy as clarified in this rulemaking that it is the fiduciary who determines the beneficiary's needs and disburses funds to address those needs in the beneficiary's interest. In that regard, we specifically prescribed in§ 13.140(a) that a fiduciary must disburse or otherwise manage funds, which would include all non-VA funds of the beneficiary under the fiduciary's control, according to the best interests of the beneficiary and the beneficiary's dependents and ''in light of the beneficiary's unique circumstances, needs, desires, beliefs, and values.'' We did not propose to require fiduciaries to disburse funds under management in any specific order. Accordingly, we make no change based upon these comments.

In § 13.280, we proposed that a fiduciary would be required to provide VA an annual accounting regarding funds under management for a beneficiary when the amount of VA benefit funds under management by the fiduciary exceeds $10,000, the fiduciary receives a fee deducted from the beneficiary's account under proposed § 13.220, or the beneficiary is being paid monthly benefits in an amount equal to or greater than the rate for a service-connected disability rated totally disabling. We received several comments that generally suggested that we should exempt fiduciaries who are VHA-approved family caregivers from our accounting requirements because they receive ample oversight from the VA Caregiver Support Program. One commenter specifically stated that the VA Caregiver Handbook states that joint checking, investment, and other accounts are allowed between veterans and their caregivers.

Congress granted VA the authority to ''establish a program of comprehensive assistance for family caregivers of eligible veterans,'' as well as a program of general support services for caregivers of ''veterans who are enrolled in the health care system established under [38 U.S.C. 1705(a)] (including caregivers who do not reside with such veterans).'' See 38 U.S.C. 1720G(a), (b). VHA has since established a Caregiver Support Program, which provides certain medical, travel, training, and financial benefits to caregivers of certain veterans and service members who were seriously injured in the line of duty on or after September 11, 2001. As discussed above, neither the statute and implementing regulations nor the VA Caregiver Support Program provides for any oversight as it pertains to a veteran's VA benefits.

For fiduciaries in the fiduciary program, VA must conduct the investigation prescribed in 38 U.S.C. 5507, and thereafter conduct sufficient oversight for the purpose of, among other things, monitoring a fiduciary regarding misappropriation or misuse of benefits and reissuance of benefits under 38 U.S.C. chapter 61. Under 38 U.S.C. 5509(a), VA has authority to require fiduciaries to file accountings regarding funds under management, and it is the responsibility of the fiduciary program to oversee the actions of fiduciaries as it relates to the use of VA benefits. Accordingly, we propose to continue to require accountings only when the amount of VA benefit funds under management by the fiduciary exceeds $10,000, the fiduciary receives a fee deducted from the beneficiary's account, or the beneficiary is being paid monthly benefits in an amount equal to or greater than the rate for service-connected disability rated totally disabling. At this time, we will not exempt VHA-approved caregivers from the fiduciary accounting requirement because the caregiver program does not include alternative oversight of the caregiver's fiduciary obligations.

While a commenter cited page 157 of the ''VA Caregiver Handbook'' and stated that the Caregiver Support Program allows joint accounts between veterans and family caregivers, a review of both the VA Caregiver Support Program Guidebook, which is no longer in use following the issuance of VHA Directive 1152, Caregiver Support Program (June 14, 2017), and the National Caregiver Training Program Caregiver Workbook did not confirm the commenter's assertion. In the ''Resources'' module of the National Caregiver Training Program Caregiver Workbook, pages 153 through 168, VA outlines the resources that are available to family caregivers and mentions joint accounts, but it does not state that caregivers can open joint accounts with veterans. Because the VA Caregiver Support Program does not provide oversight of a caregiver-fiduciary's management of a veteran's VA benefits, we make no change based on these comments.

Two commenters suggested that we should require accountings from all fiduciaries, to include spouses. The commenters generally stated that some family members exploit the beneficiaries they are appointed to serve, and requiring accountings would serve as an additional deterrent to the misuse of benefits. Another commenter stated that a spouse caregiver who is also a fiduciary should be exempted from the accounting requirement. As stated previously, VA proposed only to require accountings when the amount of VA benefit funds under management by the fiduciary exceeds $10,000, the fiduciary receives a fee deducted from

the beneficiary's account, or the beneficiary is being paid monthly benefits in an amount equal to or greater than the rate for a service-connected disability rated totally disabling. It is our general policy that every fiduciary that meets the foregoing criteria must submit an annual accounting to VA.

We prescribed exceptions to the general accounting rules. First, no spouse will be required to submit an annual accounting. As we explained above, it is VA's long-standing policy to avoid undue intrusion into the relationship between a beneficiary and the beneficiary's spouse. It is our policy to minimize the Government's intrusion into the marital relationship and avoid dictating requirements for property that is jointly owned by a beneficiary and his or her spouse. Second, we will not require the chief officer of a Federal institution to submit an annual accounting because such officers generally do not disburse funds, disburse only small fund amounts for the beneficiary's personal use, or disburse funds according to the discretion delegated to the Secretary of Veterans Affairs by law. Third, we will not require an annual accounting from the chief officer of a non-VA facility receiving benefits for a beneficiary institutionalized in the facility when the cost of the monthly care and maintenance and personal cost expenses of the beneficiary in the institution equals or exceeds the beneficiary's monthly benefit and the beneficiary's funds under management by the fiduciary do not exceed $10,000. However, VA will continue to require accountings from all family members who serve as fiduciaries with the exceptions noted above. We make no change based on these comments but will continue to monitor the accounting requirements to ensure that we have the proper balance between oversight and fiduciary burden. We have, however, added new language in paragraph (a)(4) stating that accounting is required if the Hub Manager determines that it is necessary to ensure the fiduciary has properly managed the beneficiary's funds. This will allow the Hub Manager, on a case-by-case basis, to determine when an annual accounting is required to protect the beneficiary.

Section 13.400—Misuse of Benefits

We received three comments regarding proposed § 13.400. One commenter suggested our definition of misuse should include the failure of a fiduciary to distribute funds to fulfill a beneficiary's needs. However, VA cannot conclude, without a clear evidentiary basis, that a fiduciary is misusing a beneficiary's VA benefits if that fiduciary is not distributing funds to fulfill a beneficiary's needs. A fiduciary, for example, could be conserving a beneficiary's funds instead of distributing funds to fulfill the beneficiary's needs, or be unable to perform his or her duties as fiduciary for a number of reasons, which would not equate to misuse but might justify removing the fiduciary. Our definition of misuse restates the statutory definition, and consistent with current VA policy, will facilitate VA's identification of possible misuse. Nonetheless, in the event a fiduciary is not distributing funds to fulfill a beneficiary's needs in accordance with proposed § 13.140, which would prescribe that a fiduciary must monitor the well-being of the beneficiary the fiduciary serves and disburse funds according to beneficiary's needs, the fiduciary will be removed under § 13.500. We therefore make no changes based on the comment.

Another commenter suggested that when we make a misuse determination on reconsideration, the decision should identify whether a fiduciary is a court-appointed guardian or conservator. We agree. We have amended paragraph (d)(4) to reflect that we would identify in our final misuse determination whether the fiduciary is a court-appointed guardian or conservator.

The same commenter also suggested that VA develop protocols and notify the court, in addition to the beneficiary and legal guardian, of our misuse determinations when the fiduciary is also a court-appointed guardian. We agree. In cases where a fiduciary, who is also the beneficiary's legal guardian, misappropriates or misuses a beneficiary's VA benefits and there is a bond in place payable to the court, VA will contact the court to make it aware of the situation and facilitate recovery of any misappropriated or misused funds from the surety company. In addition, VA will put the court on notice that the continuation of the appointment of the legal guardian may no longer be in the beneficiary's interest. Accordingly, in response to this comment, we have revised § 13.400(c) and (e)(1) by requiring the Director of the VA Regional Office of jurisdiction to also report misuse cases to ''the court of jurisdiction if the fiduciary is also the beneficiary's court-appointed legal guardian and/or conservator.''

We have amended proposed § 13.400(b) to clarify the discretionary authority of the Hub Manager to investigate or not investigate an allegation of misuse. The Hub Manager's decision is discretionary because it involves the complicated balancing of a number of factors, including whether the misuse allegation is likely to lead to a finding of misuse and whether to expend limited funds and staffing resources in an investigation and issuance of a formal decision in response to such allegation. The revised language provides that ''[u]pon receipt of information from any source regarding possible misuse of VA benefits by a fiduciary, the Hub Manager may, upon his or her discretion, investigate the matter and issue a misuse determination in writing.''

Section 13.410—Reissuance and Recoupment of Misused Benefits

Section 6107(a)(2) provides that VA negligence causes misuse when the Hub Manager fails to properly investigate or monitor the fiduciary, such as when the Hub Manager fails to timely review the fiduciary's accounting or receives notice of an allegation of misuse but fails to act within 60 days of the date of notification of the alleged misuse to terminate the fiduciary. We made a technical change to proposed § 13.410(b)(1) through (b)(3) to more accurately reflect 38 U.S.C. 6107(a)(2).

In reviewing proposed § 13.410, we noticed that we failed to list one criterion in section 6107(a) for the reissuance of benefits based upon a determination that VA negligence resulted in misuse of benefits. As such, we are adding a new paragraph (b)(1)(iii) to make clear that negligence includes situations where VA received an allegation of misuse, decided to investigate after exercising its discretion, and found misuse, but failed to initiate action within 60 days of receipt of the misuse allegation to terminate the fiduciary. We are also clarifying paragraph (b)(1)(ii) to state, ''The Hub Manager did not decide whether to investigate an allegation of misuse within 60 days of receipt of the allegation,'' which more accurately reflects the responsibility of the Hub Manager to exercise his or her discretionary authority to investigate a misuse allegation in a timely manner.

Section 13.600—Appeals

In proposed § 13.600, we proposed to close the evidentiary record on an appealable fiduciary matter once we reviewed the evidence relating to the fiduciary matter and made a decision. See 79 FR 449. We explained that our intent was to expeditiously process appeals in fiduciary matters to avoid delaying VA's effort to resolve the beneficiary's disagreement with a decision or issuing a statement of the case or certifying an appeal to the

Board. See 79 FR 449. We further explained that closing the record would not limit the Board's authority to remand a matter to the Hub Manager, Regional Office Director, or Director of the Pension and Fiduciary Service under 38 CFR 19.9 for any action necessary for an appellate decision or the issuance of a supplemental statement of the case under 38 CFR 19.31(b)(2), (b)(3), or (c). See 79 FR 449.

We received several comments regarding proposed § 13.600 as it pertains to closing the record. One commenter is concerned that closing the record on the date our decision is made to remove a fiduciary would prevent a beneficiary from submitting new information about ''the continuation of misfeasance or malfeasance by the fiduciary.'' The commenter is concerned that if a fiduciary retaliates against the beneficiary during the appeals process, VA could be negligent for not having such information, as the record would be closed. The commenter further believes that the closing of the record would prevent a beneficiary from submitting additional evidence for reconsideration or additional misuse.

Another commenter stated that closing the evidentiary record will obstruct compliance with the duty-to-assist statute, which provides that VA has an affirmative duty to assist a claimant in obtaining evidence to substantiate the claimant's claim for VA benefits, which may include obtaining relevant private or Government records or providing a medical examination or obtaining a medical opinion when necessary to decide the claim. See 38 U.S.C. 5103A.

In light of the foregoing comments, we reexamined proposed § 13.600 and agreed with the commenters that closing the record could prevent an appellant from submitting additional evidence that could impact a final decision under current regulations. A reexamination of this regulation also led us to conclude that closing of the evidentiary record would interfere with the general appellate process. Under 38 CFR 20.800, an appellant may submit additional evidence after initiating an appeal. Under 38 U.S.C. 7105(e), if an appellant submits additional evidence to the agency of original jurisdiction or the Board after the filing of a substantive appeal, the Board may review it for the first time on appeal unless the appellant specifically requests the agency of original jurisdiction to review it first; under 38 CFR 20.1304(a), an appellant may submit additional evidence within 90 days after an appeal is certified to the Board or before the Board issues a decision, whichever comes first; under § 20.1304(b), an appellant may submit additional evidence after the 90-day period upon a showing of good cause. Accordingly, we have revised § 13.600(b) to remove reference to closing the record, thus permitting the potential submission of additional evidence to the extent allowed by statutes and regulations generally governing appeals.

Regarding the commenter's concerns that the duty to assist should apply to all stages of the appeal, we stated in the preamble to proposed § 13.600 that, although decisions on fiduciary matters are made under laws that affect the provision of benefits and, therefore, fall within the scope of 38 U.S.C. 511(a) (Decisions of the Secretary; finality), fiduciary matters are not decisions on claims for benefits and would not be afforded the same procedures as prescribed by VA for benefit claims under 38 CFR part 3. See 79 FR 449. Any duty to assist will be triggered at the claim development stage. Fiduciary matters arise after a beneficiary has established his or her claim for VA benefits. Therefore, the duty to assist is not applicable to fiduciary matters.

Another commenter suggested that we include incompetency rating decisions in our list of appealable decisions. The commenter stated that it is unclear whether we intend to include incompetency rating decisions as an appealable decision in our part 13 fiduciary regulations or leave such decisions in VA's 38 CFR part 3 adjudication regulations.

We did not propose to include incompetency rating decisions in our fiduciary regulations because VA determinations of incompetency are the subject of the adjudication regulations in part 3, see 38 CFR 3.353(e), which precede the appointment of a fiduciary in cases where a beneficiary is determined unable to manage his or her VA-derived monetary benefits. Beneficiaries rated by VA as being unable to manage their VA benefits are afforded the right of appeal regarding that rating through VA's regulations in 38 CFR parts 3, 19, and 20. A beneficiary enters the fiduciary program after he or she is rated unable to manage his or her VA benefits. VA's rating agencies are authorized to find beneficiaries incompetent for the purpose of disbursement of benefits, see 38 CFR 3.353(b), (c), (d), and the rules that govern these determinations are contained in VA's part 3 regulations. While VA adjudication regulations trigger entry into VA's fiduciary program, these regulations have aspects that operate independently from VA's fiduciary program. Finally, we have found that the process described above works effectively. For the foregoing reasons, we did not propose to consolidate the rules applicable to incompetency rating decisions in our proposed part 13 regulations.

The same commenter stated that VA did not provide any reasons for closing the record after we make a final decision on an appealable fiduciary matter. The commenter stated that because fiduciary appeals involve ''mentally challenged and impaired beneficiaries, the record is highly likely to be incomplete or otherwise in need of enhancement to ensure a fair and well-founded decision of appeal.'' Citing to 38 CFR 3.103 and *Cushman* v. *Shinseki,* 576 F.3d 1290 (Fed. Cir. 2009), the commenter stated that existing VA appellate procedures should govern fiduciary appeals. The commenter further stated that an appellant's right to due process includes the right to a complete and accurate record, and closing the record amounts to a violation of a beneficiary's right to due process.

As previously explained, we are amending § 13.600 to remove reference to closing the evidentiary record.

Regarding an appellant's right to due process in fiduciary matters, VA's fiduciary regulations will afford beneficiaries all of the process that is due to them under the law through specific notice and opportunity-to-be-heard provisions. After the appointment of a fiduciary, we will afford due process in VA decisions regarding fiduciary matters as prescribed in the part 13 regulations. For instance, VA will provide to the beneficiary a written decision and notice of appellate rights in a fiduciary matter that is appealable under § 13.600. See 38 CFR 13.30(b). Regarding misuse, VA will issue a decision and provide the parties an opportunity to request reconsideration and submit any additional information, see § 13.400(c), (d), and will provide to the beneficiary a written decision and notice of appellate rights following reconsideration, see §§ 13.400(d), 13.600(a)(4).

For the foregoing reasons, we have changed our position regarding the evidentiary record on appeal. To reflect these changes, in § 13.600(b), we have removed language as it pertains to the closing of the record.

General Matters

In 38 U.S.C. 5502(a)(1), Congress authorized VA to appoint a fiduciary for the purpose of receiving and disbursing VA benefits on behalf of a beneficiary: ''Where it appears to the Secretary that the interest of the beneficiary would be served thereby, payment of benefits

under any law administered by [VA] may be made directly to the beneficiary or to a relative or some other fiduciary for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary.'' In the preamble to the proposed rule, we explained that VA interprets ''regardless of any legal disability'' in section 5502(a)(1) to mean that, in creating the fiduciary program, Congress intended VA to preempt state laws regarding guardianships and other matters to the extent necessary to ensure a national standard of practice for payment of benefits to or on behalf of VA beneficiaries who cannot manage their benefits. See 79 FR 430.

One commenter disagreed with our interpretation that Congress intended VA to preempt state law. The commenter stated that Congress intended VA to utilize ''well-developed state law in this area to aid in the appointment, regulation, and oversight of its fiduciaries.'' Citing to various Supreme Court cases, the commenter generally stated that there is no reasonable basis for our interpretation of section 5502(a)(1) and we did not address well-established legal tests for whether Congress intended a Federal statute to preempt state laws.

Matters regarding the governance of guardianships for persons with legal disabilities have their jurisdiction in state courts. See*, e.g.,* Neb. Rev. Stat. Ann. § 30–2602(a) (LexisNexis 2017). Congress specifically provided that, ''regardless of any legal disability on the part of the beneficiary,'' VA can act and appoint a fiduciary on behalf of such beneficiary. Contrary to the commenter's concern, as discussed below, this language cannot be construed to mean that Congress explicitly authorized VA to create a fiduciary program whereby it appoints a fiduciary on behalf of a beneficiary, irrespective to any legal disability, and then defers to state laws for the administration of the fiduciary program.

We do not disagree with the commenter that there are well-developed laws in matters of guardianship. We did not propose to preempt these state laws regarding the administration of state guardianship matters. When Congress enacted section 5502, it did not intend a sweeping preemption of state laws that govern guardianship activities. As we discuss further below, we believe Congress only intended for VA to preempt state law in guardianship matters as they relate to VA benefits. Under the authority granted by current law, we proposed to promulgate uniform rules for all fiduciaries appointed by VA to manage VA benefit payments on behalf of beneficiaries. As such, if we appoint a state-appointed guardian to serve as a fiduciary on behalf of a beneficiary who is receiving VA benefits, our regulations, not state law, are applicable to the appointment and oversight of the fiduciary and the fiduciary's management of VA benefits for the beneficiary, as Congress intended.

In establishing the fiduciary program, Congress did not intend for VA to refer to various state laws for the administration of the fiduciary program. For example, Congress did not intend for VA to utilize state laws regarding fiduciary fees that are paid from a beneficiary's VA benefits and subject beneficiaries to the various fee schedules prescribed by states, such that beneficiaries will be treated differently depending upon state of residence. Under section 5502(a)(2), Congress specifically mandated ''a reasonable commission for fiduciary services rendered'' to be paid from the beneficiary's VA funds, ''but the commission for any year may not exceed 4 percent of the monetary benefits.'' Furthermore, among other things, Congress authorized VA to remove any fiduciary who is not meeting the fiduciary's responsibilities to a beneficiary or who is not acting in the beneficiary's interest. See 38 U.S.C. 5502. VA's authority also extends to appointment of a temporary fiduciary in certain circumstances, suspending payments to any fiduciary who fails to properly submit an accounting to VA, and, with respect to the appointment of a fiduciary, conducting investigations of prospective fiduciaries. See 38 U.S.C. 5502, 5507. The foregoing statutory obligations demonstrate Congress' intent to create a uniform system of fiduciary services for VA beneficiaries, irrespective of inconsistent state laws.

The commenter relied on *Hines* v. *Stein,* 298 U.S. 94 (1936), and stated that the United States Supreme Court addressed the matter as to whether Congress intended VA to preempt state laws regarding guardianships and rejected VA's supremacy theory 75 years ago. The commenter's reliance on *Hines* for this proposition is misplaced. In *Hines,* the then Administrator of Veterans Affairs objected to an attorney's fee, which was allowed by a state court for an attorney's special services in a guardianship matter, on the grounds that the fees were in excess of the amount fixed by Federal statutes. See Id. at 96–97. The Court found that ''[n]othing brought to our attention would justify the view that Congress intended to deprive state courts of their usual authority over fiduciaries, or to sanction the promulgation of rules to that end by executive officers or bureaus.'' See Id. at 98. It accordingly affirmed the order of the court of common pleas allowing the attorney's fees. The Supreme Court's decision in *Hines* reflects that state courts at the time of that decision had the authority to make decisions in state-appointed guardianship cases involving veterans. This remains true in matters that do not involve matters affecting the payment of VA monetary benefits to persons whom VA has adjudicated as unable to manage these funds. In cases that involve VA's appointment of fiduciaries and their oversight of VA funds due to persons adjudicated by VA as incompetent to manage those funds, Congress has provided specific authority authorizing VA oversight via statutes now codified in chapters 55 and 61 of title 38 of the United States Code. Because these statutes were enacted after *Hines* and therefore were not addressed in *Hines, Hines* does not control in matters involving VA's appointment of fiduciaries and oversight of VA funds.

VA's longstanding interpretation of 38 U.S.C. 5502 is that VA may establish a fiduciary program, under which it oversees beneficiaries who cannot manage their own VA benefits, and preempt state law regarding guardianships and other matters to the extent necessary to ensure a national standard of practice for payment of benefits to or on behalf of VA beneficiaries who cannot manage their benefits. It is reasonable to conclude that Congress had knowledge of state laws and *Hines* as they pertain to guardianship matters, when it granted VA the authority to administer the fiduciary program. Therefore, with its enactment of 38 U.S.C. 5502, Congress expressed a remedy for subjecting VA beneficiaries to varying state laws and intended for VA to preempt state law as it relates to appointment of fiduciaries to oversee the assets of persons whom VA adjudicated as incompetent to manage their VA-derived monetary benefits.

The commenter cited various Supreme Court cases that discuss the methods by which the Court may discern whether Congress intended to preempt state law when it enacted certain Federal legislation, and the commenter stated that VA did not address any of the tests for preemption as established by the Court. There is no dispute that the Supreme Court has established various tests on the issue of whether a Federal statute preempts state laws and has discussed the various tests in numerous cases. The commenter cited *Pharmaceutical Research and*

Manufacturers of America v. *Walsh,* 538 U.S. 644 (2003), in which the Court noted: ''the question [in this case] is whether there is a probability that [a state's] program was pre-empted by the mere existence of the federal statute. We start therefore with a presumption that the state statute is valid . . . and ask whether petitioner has shouldered the burden of overcoming that presumption.'' See Id. at 661–662 (citation omitted). *Walsh* concerned whether a Maine prescription drug law, under which the state attempted to renegotiate rebates with drug manufacturers, was preempted by the Federal Medicaid statute. See Id. at 650–51.

The above-quoted statement in *Walsh* describes how the burden of showing preemption is allocated in litigation between private parties. It does not describe how courts determine whether an agency is correct in finding that Federal law preempts certain state actions. See, *e.g.,* id. at 661 (stating that, if the agency had determined that the state law impermissibly conflicted with Federal law, the agency's ''ruling would have been presumptively valid''). As explained below, our conclusion is consistent with the general standards courts apply in determining that Federal law preempts any conflicting state laws as to matters that Congress intended would be governed by Federal law. Further, unlike *Walsh,* we are not assessing the validity or invalidity of a specific state statute but, rather, are merely explaining the basis for our conclusion that Congress authorized VA to establish uniform standards governing VA fiduciary matters that would preempt state law in the event of any conflict.

As an initial matter, we emphasize that VA did not propose to intrude on state authority over a particular activity, specifically its governance of guardianship matters. In that regard, if a state appoints a person or entity to serve as legal guardian for an individual, the state law of jurisdiction would apply to that matter, and VA has no authority to interfere. VA did not propose to regulate state guardianships or to invalidate state laws as they apply to guardianship matters. However, if VA determines that it will be in a VA beneficiary's interest to appoint the beneficiary's state-appointed guardian as fiduciary over the beneficiary's VA monetary benefits, VA's regulations will apply to VA's appointment of that fiduciary and VA's oversight of the fiduciary's management of VA funds.

The doctrine of preemption has its roots in the Supremacy Clause, U.S. Const., art. VI, cl. 2, and requires courts to examine congressional intent. *Fid. Fed. Sav. & Loan Ass'n* v. *de la Cuesta,* 458 U.S. 141, 152–53 (1982). The Supreme Court has held that preemption ''may be either express or implied, and is compelled whether Congress' command is explicitly stated in the statute's language or implicitly contained in its structure and purpose. Absent explicit pre-emptive language, Congress' intent to supersede state law altogether may be inferred because the scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for the states to supplement it, because the Act of Congress may touch a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject, or because the object sought to be obtained by federal law and the character of obligations imposed by it may reveal the same purpose.'' See Id. (citations and quotations omitted). Further, ''[e]ven where Congress has not completely displaced state regulation in a specific area, state law is nullified to the extent that it actually conflicts with federal law. Such a conflict arises when compliance with both federal and state regulations is a physical impossibility.'' See Id. at 153.

In deciding questions of preemption, courts follow two guiding principles: ''First, the purpose of Congress is the ultimate touchstone in every pre-emption case. Second, in all preemption cases, and particularly in those in which Congress has legislated . . . in a field which the States have traditionally occupied, . . . [courts] start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.'' See *Wyeth* v. *Levine,* 555 U.S. 555, 565 (2009) (citations and quotations omitted).

Here, upon a plain reading of section 5502(a)(2) and a review of its legislative history, Congress intended VA to preempt state law regarding guardianships and other matters to the extent necessary to ensure a national standard of practice for payment of benefits to or on behalf of VA beneficiaries who cannot manage their benefits. As noted above, it is well established in guardianship statutes that guardianship matters relating to legal disability have their jurisdiction in state courts. State courts ultimately determine the necessity of a legal guardian based on the individual's legal disability. As such, Congress would have excluded the specific language ''regardless of any legal disability'' in section 5502 had it intended for state laws to apply to matters of payment of VA benefits to fiduciaries on behalf of VA beneficiaries who cannot manage their VA benefits. Instead, Congress provided for VA to appoint a fiduciary irrespective to any legal disability of the beneficiary and for Federal laws, rather than state laws, to govern the fiduciary program. See 38 U.S.C. 5502(a)(2) (''a fiduciary appointed by the Secretary''). More fundamentally, by vesting VA with statutory authority over the appointment, supervision, payment, and removal VA fiduciaries, Congress has made clear its intent that Federal law will govern those matters. Thus, VA proposed rules that are uniform to all fiduciaries that it appoints to manage VA benefits on behalf of beneficiaries.

In 1974, Congress amended then 38 U.S.C. 3202 and authorized VA to make payments to a fiduciary other than a state-appointed guardian. See Public Law 93–295, sec. 301, 88 Stat. 180, 183–84 (1974). Furthermore, 38 U.S.C. 5502(b), among other things, authorizes VA to suspend benefits to a fiduciary, regardless of whether he or she is appointed as guardian by the state court, if that fiduciary refuses to render an account to VA, or if he or she neglects to administer a beneficiary's estate according to law. Our conclusions regarding the plain language and the structure and purpose of section 5502 are bolstered by its legislative history. The language and available legislative history of the statute reflect Congress' intent to create a uniform fiduciary program for all VA beneficiaries who are unable to manage their VA benefits.

In support of the commenter's assertion that Congress intended VA to defer to the various state laws in its administration of the fiduciary program, the commenter noted that Congress did not prescribe any specific duty of trust for fiduciaries or administrative provisions, and generally stated that section 5502 contains language establishing Congress' intent to have VA defer to state law. We do not agree.

As the commenter stated, there are well-established legal tests for whether Congress intended to have a Federal statute preempt state laws, and the absence of language in a Federal statute does not itself mean that Congress intended that VA will defer to state law, particularly when Congress routinely delegates broad authority to Federal agencies to determine how to best administer Federal programs. Section 5502 is this type of broad authority. Nonetheless, in light of this comment, we revised § 13.140(a)(1) to include that fiduciaries in the fiduciary program owe VA and beneficiaries the duties of good

faith and candor and must administer a beneficiary's funds under management in accordance with paragraph (b) of § 13.140. We agree with the commenter that duties of candor and good faith are essential in a fiduciary-beneficiary relationship, and a fiduciary should be required to exercise good faith and to take the same care regarding a beneficiary's funds under management as he would for his or her own funds. Although the statute is silent as to these duties, it is highly unlikely that Congress would not have intended VA to require such duties from a fiduciary it appoints.

Furthermore, pursuant to 38 U.S.C. 501(a), VA may promulgate regulations that are ''necessary or appropriate to carry out the laws administered by the Department and are consistent with [38 U.S.C. 5502].'' We therefore determined that the foregoing change to § 13.140(a)(1) is appropriate and consistent with Congress' intent.

The commenter's reliance on the language in section 5502(b) that states that ''[VA] may appear or intervene . . . in any court as an interested party in any litigation . . . affecting money paid to such fiduciary'' to argue that Congress intended VA to utilize state law in administrating the fiduciary program is misplaced. The intent of the 1935 amendment to add this language to the statute was to clarify and expand the authority of the Veterans Administration to supervise court-appointed fiduciaries and to participate in litigation. See H.R. Rep. No. 74–16, at 1–2 (1935) (''[T]here is also a need for amendment to more clearly define and extend the authority of the Administrator of Veterans' Affairs to appear in courts or intervene as an interested party in litigation directly affecting money paid to fiduciaries of beneficiaries under this section.''). This language, however, does not require in any way for VA to use state laws to administer its fiduciary program. Where Congress has intended to require VA to follow state law on a particular matter relevant to VA benefits, it has done so expressly. See 38 U.S.C. 103(c). In contrast, section 5502 vests VA with authority to establish uniform Federal standards governing the appointment, supervision, payment, and removal of VA fiduciaries. VA has implemented that authority by establishing such uniform Federal standard, rather than relying upon state law, in view of the complexity, inconsistency and confusion that could result from administering a Federal program by following myriad state laws.

Furthermore, the commenter's belief that the language in section 5502(e) regarding escheat of funds held by a fiduciary demonstrates Congress' intent regarding state law is contrary to the plain text of the statute. Section 5502(e) in its entirety provides that ''[a]ny funds in the hands of a fiduciary appointed by a State court or the Secretary derived from benefits payable under laws administered by the Secretary, which under the law of the State wherein the beneficiary had last legal residence would escheat to the State, shall escheat to the United States and shall be returned by such fiduciary, or by the personal representative of the deceased beneficiary, less legal expenses of any administration necessary to determine that an escheat is in order, to the Department, and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.'' It does not provide that any escheat of VA funds with a fiduciary should be administered pursuant to state laws.

Based on the foregoing, we find that Congress clearly intended in section 5502 that VA would be responsible for prescribing and enforcing Federal standards governing the appointment, supervision, payment, and removal of VA fiduciaries and that those Federal standards would preempt any conflicting state laws on such matters. Consistent with that intent and authority, VA has established national standards for all vulnerable VA beneficiaries, regardless of their state of residence. As such, we make no changes based on the comment.

The same commenter stated that our proposed regulations should establish clear evidentiary standards upon which VA bases its decision that a beneficiary is unable to manage his or her VA benefits; however, this matter is beyond the scope of this rulemaking. The commenter noted that such standards are necessary to ensure that a beneficiary is not arbitrarily and capriciously deprived of the right to control his or her own property.

While our proposed fiduciary regulations do not contain the evidentiary standards for determining when a beneficiary is unable to manage his or her VA benefits, the regulations in 38 CFR part 3 prescribe such standards. Therefore, there are measures in place to ensure that a beneficiary is not arbitrarily or capriciously deprived of his or her right to control his or her VA benefits. A VA regulation provides that, for purposes of payment of VA benefits, VA's rating agencies have the authority to make determinations of competency and incompetency. See 38 CFR 3.353(b)(1). ''Unless the medical evidence is clear, convincing and leaves no doubt as to the person's incompetency, [VA] will make no determination of incompetency without a definite expression regarding the question by the responsible medical authorities.'' See 38 CFR 3.353(c). Such determinations must be ''based upon all evidence of record and there should be a consistent relationship between the percentage of disability, facts relating to commitment or hospitalization and the holding of incompetency.'' See Id. The regulation further provides that there is a presumption in favor of competency. See 38 CFR 3.353(d). ''Where reasonable doubt arises regarding a beneficiary's mental capacity to contract or to manage his or her own affairs, including the disbursement of funds without limitation, such doubt will be resolved in favor of competency.'' See Id. In addition, VA regulations provide for notice and an opportunity to be heard regarding the determination of incompetency. See 38 CFR 3.103(c), 3.353(e).

Moreover, not only is a beneficiary who is deemed unable to manage his or her VA benefits entitled to all of the appellate procedures associated with other VA decisions that affect the provision of his or her VA benefits, as noted above, he or she is also entitled to a pre-determination hearing if he or she so requests. In addition, even after the beneficiary is found to be unable to manage his or her VA benefits, current part 13 regulations, in appropriate circumstances, allow a beneficiary to manage his or her own VA benefits by placing him or her in a supervised direct pay program. This option provides an additional layer of protection against the erroneous deprivation of a beneficiary to control his or her own VA benefits. Finally, a beneficiary who believes that VA did not follow all applicable procedures in selecting a fiduciary may appeal this determination to the Board. Collectively, these standards provide protection against any arbitrary and capricious determinations relating to the beneficiary's ability to control his or her own VA benefits. We therefore make no change based on this comment.

A commenter stated that our proposed rules should contain qualifications and training requirements for field examiners because, among other things, field examiners are required to make decisions regarding budgets and living conditions for beneficiaries. However, the qualifications of and training for VA field examiners is an administrative matter that is outside the scope of this rulemaking. VA makes every effort to hire the most qualified field examiners and provide any training VA deems necessary, but such matters generally

are not the subject of VA regulations. Further, while VA field examiners make recommendations about whether a beneficiary's needs are being addressed and whether his or her funds are being utilized appropriately, decisions concerning appointment and/or removal of fiduciaries are made by the fiduciary hub with jurisdiction over the case, not the individual field examiner.

One commenter stated that fiduciaries are tasked with many responsibilities and noted that our rulemaking cannot address training for fiduciaries but asked that we provide services or training for fiduciaries. VA makes every effort to provide training and services to fiduciaries we appoint to serve our beneficiaries. Currently, there is a handbook titled, ''A Guide for VA Fiduciaries,'' which we provide to fiduciaries. In addition, VA has an internet website that provides training and other resources to fiduciaries. The link to the website is: *http://www.benefits.va.gov/fiduciary/index.asp.* Fiduciaries also have ways of contacting VA with questions. Fiduciaries can also call the VA Fiduciary's Program's assistance line at 1–888–407–0144 with questions or email questions to any of the fiduciary hubs at the following email addresses: Columbia: *vavbacms/ro/fid@va.gov*; Louisville: *avbacms/ro/fid@va.gov*; Milwaukee: *vavbamiw/ro/fidhub@va.gov*; Lincoln: *vavbalin/ro/fidhub@va.gov*; Indianapolis: *ind.fidhub@va.gov*; Salt Lake City: *vbawa.hub@va.gov*.

In proposed § 13.140, regarding the responsibilities of fiduciaries, we prescribed financial and nonfinancial responsibilities for fiduciaries. We believe that such responsibilities are consistent with industry standards for fiduciaries. We prescribed that fiduciaries will be required to use funds in the interest of beneficiaries and their dependents, protect funds from loss, maintain separate accounts, determine and pay just debts, provide the beneficiary information regarding VA benefit funds under management, protect funds from the claims of creditors, and provide beneficiaries a copy of any VA-approved annual accounting. In addition, we prescribed a fiduciary's non-financial responsibilities to generally include a fiduciary's obligation to monitor the beneficiary's well-being and report any concerns to appropriate authorities, including any legal guardian for the beneficiary, and that a fiduciary must maintain regular contact with a beneficiary and be responsive to beneficiary requests. We believe such responsibilities are the basic responsibilities of any fiduciary-beneficiary relationship. We do not believe that such responsibilities are burdensome. Nonetheless, we strive to provide fiduciaries with any information that could be useful in the performance of their duties as fiduciaries.

One commenter inquired about VA's approach regarding court-appointed guardianships and the cost associated with such guardianships. The commenter noted that state courts have primary oversight of court-appointed guardians and fees associated with such guardianships. The commenter inquired about VA's approach to legal guardianships, as state courts have jurisdiction over such matters.

VA's fiduciary regulations will result in a gradual discontinuance of the current practice of recognizing a court-appointed guardian or fiduciary for purposes of receiving VA benefits on behalf of a VA beneficiary. Instead, VA will establish a national standard for appointing and overseeing fiduciaries. In certain cases, VA may appoint a beneficiary's court-appointed guardian or fiduciary to serve as VA fiduciary if we determine that such an appointment will be in the beneficiary's interest. In that regard, if VA appoints a court-appointed guardian or fiduciary to also serve as VA fiduciary, VA's rules will apply as it pertains to the management of VA funds. This final rule will, over time, result in uniformity for all fiduciaries appointed by VA to manage VA benefit payments on behalf of a beneficiary and significantly reduce costs associated with court-appointed guardians or fiduciaries. Congress enacted 38 U.S.C. 5502, under which it gave VA the authority to administer the fiduciary program. VA's longstanding interpretation of this authority is that VA may establish a fiduciary program that is governed by federal laws and not various state laws. In this regard, federal laws (and not competing state laws) apply to the appointment of a VA fiduciary and VA's oversight of the fiduciary's management of a beneficiary's VA benefits.

For example, all prospective fiduciaries who will receive VA benefit payments on behalf of a beneficiary will undergo a VA investigation mandated by 38 U.S.C. 5507, regardless of if that potential fiduciary serves as a court-appointed guardian and underwent a qualification process prescribed by state law, which may vary from state to state. Also, all VA fiduciaries will have the same accounting requirements regarding a beneficiary's VA funds under management, to include the frequency of submitting an accounting, irrespective of state courts requirements. In addition, VA will not rely on state laws that subject beneficiaries to varying fee schedules depending upon the beneficiaries' state of residence. In cases in which VA determines that a fee or commission is necessary to obtain a fiduciary, Congress authorized ''a reasonable commission for fiduciary services rendered'' to be paid from the beneficiary's VA funds. See 38 U.S.C. 5502(a)(2). However, section 5502(a)(2) limits such commissions for any year to 4 percent of the beneficiary's VA monetary benefits paid to the fiduciary during the year. VA's regulations will consistently implement this authority and limit fees to 4 percent to any fiduciary we appoint. This will diminish the potential for adverse impacts on beneficiaries caused by orders issued in state courts approving fiduciary commissions that exceed the 4 percent Federal cap and make clear that a VA fiduciary's fees are limited to a statutory cap of 4 percent of the beneficiary's VA funds.

VA makes a distinction between commissions charged by the guardian related to the services of a fiduciary and expenses incurred by a beneficiary for administrative items. This final rule does not prohibit a fiduciary appointed by VA from disbursing funds to meet the expenses associated with a beneficiary's court-appointed guardianship, if such expenses are deemed reasonable. Duplication of work performed by VA-appointed and state-court-appointed fiduciaries is highly discouraged as it unnecessarily diminishes beneficiary assets.

One commenter recommended that we inform all probate courts in the nation that VA intends to appoint court-appointed fiduciaries as VA fiduciaries as a last resort. We agree and intend to notify certain interested parties, to include courts and guardians, of the important changes in this final rule.

We have made a few non-substantive edits to the proposed regulations: We changed references to ''18 years of age'' to ''age of majority,'' changed a reference to ''Regional Counsel'' to ''District Counsel'' to reflect current terminology, changed a reference to ''Assistant General Counsel'' to ''Chief Counsel'' for the same reason, and replaced ''State'' with ''state.''

Paperwork Reduction Act

This final rule at §§ 13.30, 13.140, 13.230, 13.280, and 13.600 contains new and revised collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). On January 3, 2014, in the proposed rule published in the **Federal Register**, we requested public comments on the new and revised collections of information. We

received no comments. VA has submitted the additional collections in part 13 to OMB for review under OMB Control Numbers 2900–0017, 2900–0085, 2900–0803, 2900–0804, and 2900–0815. We are adding a parenthetical statement after the authority citations in the amendatory language of this final rule to all of the sections in part 39 for which new and revised collections have been been assigned control numbers, so that the control numbers are displayed for each collection.

In accordance with 44 U.S.C. 3507(d), VA submitted a copy of the proposed rule to OMB for review and they assigned OMB control Number 2900–0815 for a new information collection contained in section 13.140(a)(2)(iv) of the proposed rule. However, the proposed rule did not explicitly solicit comments on the new information collection contained in section 13.140(a)(2)(iv). Therefore, VA requests comments by the public on the new collection of information contained in section 13.140(a)(2)(iv) 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 form of information technology, *e.g.,* permitting electronic submission of responses.

The details of the new collection of information contained in 38 CFR 13.140(a)(2)(iv) that were omitted from the comment solicitation in the proposed rule and that we seek comments through this final rule are described as follows:

Title: Maintenance of Financial Records by Federal Fiduciaries.

Summary of collection of information: Under 38 CFR 13.140, a fiduciary is required to maintain paper and electronic records relating to the management of VA benefits for the duration of service as fiduciary and for a minimum of two years following removal or resignation. No form is required for the submission of this information.

Description of the need for information and proposed use of information: This information is needed for the purposes of continued monitoring and oversight of the fiduciary.

Description of likely respondents: Fiduciaries appointed by VA to manage VA benefit payments on behalf of a beneficiary.

Estimated number of respondents per year: 37,500.

Estimated frequency of responses: Once per year.

Estimated total annual reporting and recordkeeping burden: 1,875 additional hours.

VA welcomes comments on this new information collection. Comments on the collections of information contained in this 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: Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420; fax to (202) 273–9026 (this is not a toll-free number); or email comments through *www.Regulations.gov*. Comments should indicate that they are submitted in response to ''RIN 2900–AO53.''

We are providing a 30 day comment period on this new information collection. Comments are due to OMB by August 13, 2018. We will consider all comments on the above described information collection.

The information collection provisions in this final rule subject to the PRA will not become effective until OMB approves the collections.

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. The final rule will primarily affect individual beneficiaries and fiduciaries. It will not cause a significant economic impact on fiduciaries since VA generally appoints individual family members, friends, or caretakers to provide fiduciary services for beneficiaries. These services are, in most instances, provided without charge. While some business entities provide fiduciary services to VA beneficiaries for a fee, those fees, which are capped at 4 percent of monetary benefits paid, are not sufficient to result in a significant economic impact. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 13132, Federalism

A rule has federalism implications 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. Under the Order, if a rule has federalism implications and preempts state law, to the extent practicable and permitted by law, an agency must consult with state officials concerning the rule. We have analyzed this rule under that Order and have determined that this rule does not have any new federalism implications but merely clarifies existing regulations that govern the VA fiduciary program and implements existing statutory authority provided by Congress for VA to establish and administer a fiduciary program relating to VA benefits on behalf of beneficiaries. VA does not intend to act through this rule to preempt state law but relies on authority provided by Congress. Accordingly, we do not believe this final rule requires VA to consult with state officials prior to its publication.

In 38 U.S.C. 5502(a)(1), Congress authorized VA to appoint a fiduciary for the purpose of receiving and disbursing VA benefits on behalf of a beneficiary: ''Where it appears to the Secretary that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by [VA] may be made directly to the beneficiary or to a relative or some other fiduciary for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary.'' In the preamble to the proposed rule, we explained that VA interprets ''regardless of any legal disability'' in section 5502(a)(1) to mean that, in creating the fiduciary program, Congress intended VA to preempt state laws regarding guardianships and other matters to the extent necessary to ensure a national standard of practice for payment of benefits to or on behalf of VA beneficiaries who cannot manage their benefits. See 79 FR 430.

Matters regarding the governance of guardianships for persons with legal disabilities have their jurisdiction in state courts. See *e.g.,* Neb. Rev. Stat. Ann. § 30–2602(a) (LexisNexis 2017). Congress specifically provided that, ''regardless of any legal disability on the part of the beneficiary,'' VA can act and appoint a fiduciary on behalf of such beneficiary. This language cannot be construed to mean that Congress

explicitly authorized VA to create a fiduciary program whereby it appoints a fiduciary on behalf of a beneficiary, irrespective to any legal disability, and then defers to state laws for the administration of the fiduciary program.

We realize that there are well-developed state laws in matters of guardianship. When Congress enacted section 5502, it did not intend a sweeping preemption of state laws that govern guardianship activities. Rather, we believe Congress only intended for VA to preempt state law in guardianship matters as they relate to VA benefits. Under the authority granted by current law, the purpose for this final rule is to promulgate uniform rules for all fiduciaries appointed by VA to manage VA benefit payments on behalf of beneficiaries. As such, if we appoint a state-appointed guardian to serve as a fiduciary on behalf of a beneficiary who is receiving VA benefits, our regulations, not state law, are applicable to the appointment and oversight of the fiduciary and the fiduciary's management of VA benefits for the beneficiary, as Congress intended.

For instance, Congress did not intend for VA to utilize state laws regarding fiduciary fees that are paid from a beneficiary's VA benefits and subject beneficiaries to the various fee schedules prescribed by states, such that beneficiaries will be treated differently depending upon state of residence. Under section 5502(a)(2), Congress specifically mandated ''a reasonable commission for fiduciary services rendered'' to be paid from the beneficiary's VA funds, ''but the commission for any year may not exceed 4 percent of the monetary benefits.'' Furthermore, among other things, Congress authorized VA to remove any fiduciary who is not meeting the fiduciary's responsibilities to a beneficiary or who is not acting in the beneficiary's interest. See 38 U.S.C. 5502. VA's authority also extends to appointment of a temporary fiduciary in certain circumstances and suspending payments to any fiduciary who fails to properly submit an accounting to VA. See 38 U.S.C. 5502.

Current 38 CFR part 13 has not been updated since 1975. Congress has since amended 38 U.S.C. chapters 55 and 61 to add new provisions, which, among other things, authorize VA to conduct specific investigations regarding the fitness of individuals to serve as fiduciaries, conduct onsite reviews of fiduciaries who serve more than 20 beneficiaries, require fiduciaries to file reports or accountings, and reissue certain benefits that are misused by fiduciaries. See 38 U.S.C. 5507–5510, 6106–6107. The foregoing statutory obligations demonstrate Congress' intent to create a uniform system of fiduciary services for VA beneficiaries, irrespective of inconsistent state laws.

Congress' intent to have Federal laws governing VA's fiduciary program preempt any conflicting state laws is clear in the chapter 55 and 61 provisions. While state law provides some guidance concerning fiduciary matters, those laws vary significantly from state to state and do not pertain to VA's fiduciary program. Further, VA does rely on state laws in cases where a state court has appointed a fiduciary for oversight of the veteran's assets and where there is no conflict between state and Federal law, and/or when the court-appointed fiduciary is the same as the VA-appointed fiduciary. State laws often provide helpful guidance; however, under the Supremacy Clause of the Constitution, Federal law is controlling. See U.S. Const. art. VI, cl 2; *Crosby* v. *Nat'l Foreign Trade Council,* 530 U.S. 363, 372–73 (2000). To the extent that a dispute arises between Federal and state law, Federal law establishing and governing VA's fiduciary program as codified in 38 U.S.C. chapters 55 and 61, as well as in regulations implementing those statutes, controls.

Again, because this rule does not have any new federalism implications but merely clarifies existing regulations that govern the VA fiduciary program and implements existing statutory authority provided by Congress for VA to establish and administer a fiduciary program relating to VA benefits on behalf of beneficiaries, we do not believe this final rule requires VA to consult with state officials prior to its publication and believe that this rule is in compliance with Executive Order 13132.

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,'' which requires review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule, and it has been determined to be a significant regulatory action under Executive Order 12866, because it raises novel legal or policy issues arising out of legal mandates.

This final rule is considered an E.O. 13771 regulatory action. Details on the estimated costs of this final rule can be found in the rule's economic analysis.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this final rule are as follows: 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits,

Health care, Pensions, Radioactive materials, Veterans, and Vietnam.

38 CFR Part 13

Surety bonds, Trusts and trustees, and Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on March 20, 2018, for publication.

Dated: July 6, 2018.

Consuela Benjamin,

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

For the reasons stated in the preamble, VA amends 38 CFR parts 3 and 13 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

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

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.353 [Amended]

■ 2. Amend 3.353 by:

■ a. In paragraph (b)(1), removing ''§ 13.56'' and adding, in its place, ''§ 13.110''.

■ b. In paragraph (b)(2), removing ''§ 13.55'', ''§ 13.56'', and ''§ 13.57'' and adding, in each place, ''§ 13.100''.

§ 3.401 [Amended]

■ 3. Amend § 3.401 by removing and reserving paragraph (d).

■ 4. In § 3.403, revise the paragraph heading for paragraph (a)(2) to read as follows:

§ 3.403 Children.

(a) * * *

(2) *Majority (§ 13.100).* * * *

* * * * *

■ 5. In § 3.452, revise the CROSS REFERENCES immediately after paragraph (d) to read as follows:

§ 3.452 Situations when benefits may be apportioned.

* * * * *

CROSS REFERENCES: Disappearance of veteran. *See* § 3.656. Reduction because of hospitalization. *See* § 3.551. Penal institutions. *See* § 3.666.

§ 3.500 [Amended]

■ 6. In § 3.500, remove and reserve paragraphs (l) and (m).

§ 3.501 [Amended]

■ 7. In § 3.501, remove and reserve paragraph (j) and remove paragraph (n).

§§ 3.850 through 3.857 and undesignated center heading [Removed]

■ 8. Remove §§ 3.850 through 3.857 and the undesignated center heading ''INCOMPETENTS, GUARDIANSHIP AND INSTITUTIONAL AWARDS'' immediately preceding § 3.850.

■ 9. Part 13 is revised to read as follows:

PART 13—FIDUCIARY ACTIVITIES

Sec.

13.10 Purpose and applicability of other regulations.
13.20 Definitions.
13.30 Beneficiary rights.
13.40 Representation of beneficiaries in the fiduciary program.
13.50 Suspension of benefits.
13.100 Fiduciary appointments.
13.110 Supervised direct payment.
13.120 Field examinations.
13.130 Bars to serving as a fiduciary.
13.140 Responsibilities of fiduciaries.
13.200 Fiduciary accounts.
13.210 Fiduciary investments.
13.220 Fiduciary fees.
13.230 Protection of beneficiary funds.
13.240 Funds of beneficiaries less than the age of majority.
13.250 Funds of deceased beneficiaries.
13.260 Personal funds of patients.
13.270 Creditors' claims.
13.280 Accountings.
13.300 Onsite reviews.
13.400 Misuse of benefits.
13.410 Reissuance and recoupment of misused benefits.
13.500 Removal of fiduciaries.
13.510 Fiduciary withdrawals.
13.600 Appeals.

Authority: 38 U.S.C. 501, 5502, 5506–5510, 6101, 6106–6108, and as noted in specific sections.

§ 13.10 Purpose and applicability of other regulations.

(a) *Purpose.* The regulations in this part implement the Department of Veterans Affairs' (VA) fiduciary program, which is authorized by 38 U.S.C. chapters 55 and 61. The purpose of the fiduciary program is to protect certain VA beneficiaries who, as a result of injury, disease, or infirmities of advanced age, or by reason of being less than the age of majority, cannot manage their VA benefits. Under this program, VA oversees these vulnerable beneficiaries to ensure their well-being, and appoints and oversees fiduciaries who manage these beneficiaries' benefits.

(b) *Applicability of other regulations.* Fiduciary matters arise after VA has determined that a beneficiary is entitled to benefits, and decisions on fiduciary matters are not decisions on claims for VA monetary benefits. Accordingly, VA's regulations governing the adjudication of claims for benefits, *see* 38 CFR part 3, do not apply to fiduciary matters unless VA has prescribed applicability in this part.

(Authority: 38 U.S.C. 501)

§ 13.20 Definitions.

The following definitions apply to this part:

Dependent means a beneficiary's spouse as defined by this section, a beneficiary's child as defined by § 3.57 of this chapter, or a beneficiary's parent as defined by § 3.59 of this chapter, who does not have an income sufficient for reasonable maintenance and who obtains support for such maintenance from the beneficiary.

Fiduciary means an individual or entity appointed by VA to receive VA benefits on behalf of a beneficiary for the use and benefit of the beneficiary and the beneficiary's dependents.

Hub Manager means the individual who has authority to oversee the activities of a VA Fiduciary Hub or the Veterans Service Center Manager of the Manila, Philippines, VA Regional Office.

In the fiduciary program means, with respect to a beneficiary, that the beneficiary:

(1) Has been rated by VA as incapable of managing his or her own VA benefits as a result of injury, disease, or the infirmities of advanced age;

(2) Has been determined by a court with jurisdiction as being unable to manage his or her own financial affairs; or

(3) Is less than the age of majority.

Rating authority means VA employees who have authority under § 3.353 of this chapter to determine whether a beneficiary can manage his or her VA benefits.

Relative means a person who is an adopted child or is related to a beneficiary by blood or marriage, as defined by this chapter.

Restricted withdrawal agreement means a written contract between VA, a fiduciary, and a financial institution in which the fiduciary has VA benefit funds under management for a beneficiary, under which certain funds cannot be withdrawn without the consent of the Hub Manager.

Spouse means a husband or wife whose marriage, including common law

marriage and same-sex marriage, meets the requirements of 38 U.S.C. 103(c).

VA benefit funds under management means the combined value of the VA funds maintained in a fiduciary account or accounts managed by a fiduciary for a beneficiary under § 13.200 and any VA funds invested by the fiduciary for the beneficiary under § 13.210, to include any interest income and return on investment derived from any account.

Written notice means that VA will provide to the beneficiary and the beneficiary's representative and legal guardian, if any, a written decision in a fiduciary matter that is appealable under § 13.600. Such notice will include:

(1) A clear statement of the decision,

(2) The reason(s) for the decision,

(3) A summary of the evidence considered in reaching the decision, and

(4) The necessary procedures and time limits to initiate an appeal of the decision.

(Authority: 38 U.S.C. 501)

§ 13.30 Beneficiary rights.

Except as prescribed in this part, a beneficiary in the fiduciary program is entitled to the same rights afforded any other VA beneficiary.

(a) *General policy.* Generally, a beneficiary has the right to manage his or her own VA benefits. However, due to a beneficiary's injury, disease, or infirmities of advanced age or by reason of being less than the age of majority, VA may determine that the beneficiary is unable to manage his or her benefits without VA supervision or the assistance of a fiduciary. Or a court with jurisdiction might determine that a beneficiary is unable to manage his or her financial affairs. Under any of these circumstances, VA will apply the provisions of this part to ensure that VA benefits are being used to maintain the well-being of the beneficiary and the beneficiary's dependents.

(b) *Specific rights.* The rights of beneficiaries in the fiduciary program include, but are not limited to, the right to:

(1) Receive direct payment of recurring monthly benefits until VA appoints a fiduciary if the beneficiary reaches the age of majority or older;

(2) Receive written notice regarding VA's appointment of a fiduciary or any other decision on a fiduciary matter that affects VA's provision of benefits to the beneficiary;

(3) Appeal to the Board of Veterans' Appeals VA's appointment of a fiduciary;

(4) Be informed of the fiduciary's name, telephone number, mailing address, and email address;

(5) Contact his or her fiduciary and request a disbursement of funds for current or foreseeable needs or consideration for payment of previously incurred expenses, account balance information, or other information or assistance consistent with the responsibilities of the fiduciary prescribed in § 13.140;

(6) Obtain from his or her fiduciary a copy of the fiduciary's VA-approved annual accounting;

(7) Have VA reissue benefits misused by a fiduciary if VA is negligent in appointing or overseeing the fiduciary or if the fiduciary who misused the benefits meets the criteria prescribed in § 13.410;

(8) Appeal to the Board of Veterans' Appeals VA's determination regarding its own negligence in misuse and reissuance of benefits matters;

(9) Submit to VA a reasonable request for appointment of a successor fiduciary. For purposes of this paragraph, *reasonable request* means a good faith effort to seek replacement of a fiduciary, if:

(i) The beneficiary's current fiduciary receives a fee deducted from the beneficiary's account under § 13.220 and the beneficiary requests an unpaid volunteer fiduciary who ranks higher in the order of preference under § 13.100(e);

(ii) The beneficiary requests removal of his or her fiduciary under § 13.500(a)(1)(iii) and supervised direct payment of benefits under § 13.110; or

(iii) The beneficiary provides credible information that the current fiduciary is not acting in the beneficiary's interest or is unable to effectively serve the beneficiary due to a personality conflict or disagreement and VA is not able to obtain resolution;

(10)(i) Be removed from the fiduciary program and receive direct payment of benefits without VA supervision provided that the beneficiary:

(A) Is rated by VA as able to manage his or her own benefits; or

(B) Is determined by a court with jurisdiction as able to manage his or her financial affairs if the beneficiary is in the fiduciary program as a result of a court order and not a decision by VA's rating agency; or

(C) Attains the age of majority;

(ii) Have a fiduciary removed and receive direct payment of benefits with VA supervision as prescribed in § 13.110 regarding supervised direct payment and § 13.500 regarding removal of fiduciaries generally, provided that the beneficiary establishes the ability to manage his or her own benefits with limited and temporary VA supervision; and

(11) Be represented by a VA-accredited attorney, claims agent, or representative of a VA-recognized veterans service organization. This includes the right to have a representative present during a field examination and the right to be represented in the appeal of a fiduciary matter under § 13.600.

(Authority: 38 U.S.C. 501)
(Approved by the Office of Management and Budget under control number 2900–0017.)

§ 13.40 Representation of beneficiaries in the fiduciary program.

The provisions of 38 CFR 14.626 through 14.629 and 14.631 through 14.637 regarding accreditation and representation of VA claimants and beneficiaries in proceedings before VA are applicable to representation of beneficiaries before VA in fiduciary matters governed by this part.

(a) *Accreditation.* Only VA-accredited attorneys, claims agents, and accredited representatives of VA-recognized veterans service organizations who have complied with the power-of-attorney requirements in § 14.631 of this chapter may represent beneficiaries before VA in fiduciary matters.

(b) *Standards of conduct.* Accredited individuals who represent beneficiaries in fiduciary matters must comply with the general and specific standards of conduct prescribed in § 14.632(a) through (c) of this chapter, and attorneys must also comply with the standards prescribed in § 14.632(d). For purposes of this section:

(1) A fiduciary matter is not a claim for VA benefits. However, the term *claimant* in § 14.632 of this chapter includes VA beneficiaries who are in the fiduciary program, and the term *claim* in § 14.632 includes a fiduciary matter that is pending before VA.

(2) The provisions of § 14.632(c)(7) through (9) of this chapter mean that an accredited individual representing a beneficiary in a fiduciary matter may not:

(i) Delay or refuse to cooperate in the processing of a fiduciary appointment or any other fiduciary matter, including but not limited to a field examination prescribed by § 13.120 and the investigation of a proposed fiduciary prescribed by § 13.100;

(ii) Mislead, threaten, coerce, or deceive a beneficiary in the fiduciary program or a proposed or current fiduciary regarding payment of benefits or the rights of beneficiaries in the fiduciary program; or

(iii) Engage in, or counsel or advise a beneficiary or proposed or current fiduciary to engage in, acts or behavior prejudicial to the fair and orderly

conduct of administrative proceedings before VA.

(3) The Hub Manager will submit a written report regarding an alleged violation of the standards of conduct prescribed in this section to the VA Chief Counsel who administers the accreditation program for a determination regarding further action, including suspension or cancellation of accreditation under § 14.633 of this chapter, and notification to any agency, court, or bar to which the attorney, agent, or representative is admitted to practice.

(c) *Fees.* Except as prescribed in paragraphs (c)(1)(i) through (iii) of this section, an accredited attorney or claims agent may charge a reasonable fixed or hourly fee for representation services provided to a beneficiary in a fiduciary matter, provided that the fee meets the requirements of § 14.636 of this chapter.

(1) The following provisions of § 14.636 of this chapter do not apply in fiduciary matters:

(i) Fees under § 14.636(e) of this chapter, to the extent that the regulation authorizes a fee based on a percentage of benefits recovered;

(ii) The presumptions prescribed by § 14.636(f) of this chapter based upon a percentage of a past-due benefit amount. In fiduciary matters, the reasonableness of a fixed or hourly-rate fee will be determined based upon application of the reasonableness factors prescribed in § 14.636(e); and

(iii) Direct payment of fees by VA out of past-due benefits under § 14.636(g)(2) and (h) of this chapter.

(2) An accredited attorney or claims agent who wishes to charge a fee for representing a beneficiary in a fiduciary matter must comply with the fee agreement filing requirement prescribed in § 14.636(g)(3) of this chapter.

(3) VA, the beneficiary, or the beneficiary's fiduciary may challenge the reasonableness of a fee charged by an accredited attorney or claims agent using the procedures prescribed in § 14.636(i) of this chapter.

(Authority: 38 U.S.C. 501, 38 U.S.C. chapter 59)

§ 13.50 Suspension of benefits.

(a) Notwithstanding the beneficiary rights prescribed in § 13.30, the Hub Manager will temporarily suspend payment of benefits and hold such benefits in the U.S. Treasury to the credit of the beneficiary or take other action that the Hub Manager deems appropriate to prevent exploitation of VA benefit funds or to ensure that the beneficiary's needs are being met, if:

(1) The beneficiary or the beneficiary's attorney, claims agent, or representative withholds cooperation in any of the appointment and oversight procedures prescribed in this part; or

(2) VA removes the beneficiary's fiduciary for any reason prescribed in § 13.500(b) and is unable to appoint a successor fiduciary before the beneficiary has an immediate need for disbursement of funds.

(b) All or any part of the funds held in the U.S. Treasury to the beneficiary's credit under paragraph (a) of this section will be disbursed under the order and in the discretion of the VA Regional Office Director who has jurisdiction over the fiduciary hub or regional office for the benefit of the beneficiary or the beneficiary's dependents.

(Authority: 38 U.S.C. 501, 512, 5502, 5504)

§ 13.100 Fiduciary appointments.

(a) *Authority.* Except as prescribed in paragraph (b) of this section, the Hub Manager will appoint a fiduciary for a beneficiary who:

(1) Has been rated by VA as being unable to manage his or her VA benefits,

(2) Has been determined by a court with jurisdiction as being unable to manage his or her financial affairs, or

(3) Has not reached age of majority.

(b) *Exceptions.* The Hub Manager will not appoint a fiduciary for a beneficiary who:

(1) Is eligible for supervised direct payment under § 13.110, or

(2) Is not a beneficiary described in paragraph (a)(1) or (a)(2) of this section and has not reached age of majority, but

(i) Is serving in the Armed Forces of the United States, or

(ii) Has been discharged from service in the Armed Forces of the United States, or

(iii) Qualifies for survivors' benefits as a surviving spouse.

(c) *Retroactive benefit payments.* The Hub Manager will withhold any retroactive, one-time, or other lump-sum benefit payment awarded to a beneficiary described in paragraph (a) of this section until the Hub Manager has appointed a fiduciary for the beneficiary and, if applicable, the fiduciary has obtained a surety bond under § 13.230.

(d) *Initial appointment.* In appointing a fiduciary, the Hub Manager will make every effort to appoint the person, agency, organization, or institution that will best serve the interest of the beneficiary. The Hub Manager will consider the results of a field examination, which will include a face-to-face meeting with the beneficiary and the beneficiary's dependents at their residence when practicable, and will conduct the investigation prescribed in paragraph (f) of this section. The Hub Manager will also consider whether:

(1) VA benefits can be paid directly to the beneficiary with limited and temporary supervision by VA, as prescribed in § 13.110;

(2) The circumstances require appointment of a temporary fiduciary under paragraph (h) of this section; and

(3) The proposed fiduciary is complying with the responsibilities of a fiduciary prescribed in § 13.140 with respect to all beneficiaries in the fiduciary program currently being served by the proposed fiduciary and whether the proposed fiduciary can handle an additional appointment without degrading service for any other beneficiary.

(e) *Order of preference in appointing a fiduciary.* The Hub Manager will consider individuals and entities for appointment in the following order of preference, provided that the proposed fiduciary is qualified and willing to serve and the appointment would serve the beneficiary's interest:

(1) The preference stated by the beneficiary in the fiduciary program, if the beneficiary has the capacity to state such a preference. If the beneficiary has a legal guardian appointed to handle his or her affairs, the Hub Manager will presume that the beneficiary does not have the capacity to state a preference and will consider individuals and entities in the order of preference prescribed in paragraphs (e)(2) through (10) of this section;

(2) The beneficiary's spouse;

(3) A relative who has care or custody of the beneficiary or his or her funds;

(4) Any other relative of the beneficiary;

(5) Any friend, acquaintance, or other person who is willing to serve as fiduciary for the beneficiary without a fee;

(6) The chief officer of a public or private institution in which the beneficiary receives care or which has custody of the beneficiary;

(7) The bonded officer of an Indian reservation, if applicable;

(8) An individual or entity who has been appointed by a court with jurisdiction to handle the beneficiary's affairs;

(9) An individual or entity who is not willing to serve without a fee; or

(10) A temporary fiduciary, if necessary.

(f) *Investigation of a proposed fiduciary.* Except as prescribed in paragraph (f)(3) of this section, before appointing a fiduciary for a beneficiary in the fiduciary program, the Hub Manager will conduct an investigation

regarding the proposed fiduciary's qualifications.

(1) The investigation will include:

(i) To the extent practicable, a face-to-face interview of the proposed fiduciary;

(ii) A review of a credit report on the proposed fiduciary issued by a credit reporting agency no more than 30 days prior to the date of the proposed appointment;

(iii) A criminal background check to determine whether the proposed fiduciary has been convicted of any offense which would be a bar to serving as a fiduciary under § 13.130 or which the Hub Manager may consider and weigh under the totality of the circumstances regarding the proposed fiduciary's qualifications;

(iv) Obtaining proof of the proposed fiduciary's identity and relationship to the beneficiary, if any; and

(v) A determination regarding the need for surety bond under § 13.230 and the proposed fiduciary's ability to obtain such a bond.

(2) The Hub Manager may, at any time after the initial appointment or reappointment of the fiduciary for a beneficiary, repeat all or part of the investigation prescribed by paragraph (f)(1) of this section to ensure that the fiduciary continues to meet the qualifications for service and there is no current bar to service under § 13.130.

(3) The Hub Manager must conduct the requirements of paragraphs (f)(1)(i),(ii) and (iii) for every subsequent appointment of the fiduciary for each beneficiary.

(4) VA will not conduct the investigation prescribed by paragraph (f) of this section if the proposed fiduciary is an entity, such as the trust department of a bank that provides fiduciary services.

(g) *Expedited appointment.* The Hub Manager may waive the requirements of paragraphs (f)(1)(i) through (iii) of this section and expedite the appointment of a proposed fiduciary if the Hub Manager determines that an expedited appointment would be in the beneficiary's interest and:

(1) The proposed fiduciary is:

(i) The beneficiary's parent (natural, adopted, or step-parent) and the beneficiary is less than the age of majority, or

(ii) The beneficiary's spouse; or

(2) The annual amount of VA benefits the proposed fiduciary would manage for the beneficiary does not exceed the amount specified in 38 U.S.C. 5507(c)(2)(D), as adjusted by VA pursuant to 38 U.S.C. 5312.

(h) *Temporary fiduciary appointments.* (1) The Hub Manager may appoint a temporary fiduciary for a period not to exceed 120 days in any of the following circumstances:

(i) VA has removed a fiduciary for cause under § 13.500 and cannot expedite the appointment of a successor fiduciary, and the beneficiary has an immediate need for fiduciary services; or

(ii) The Hub Manager determines that the beneficiary has an immediate need for fiduciary services and it would not be in the beneficiary's or the beneficiary's dependents' interest to pay benefits to the beneficiary until a fiduciary is appointed.

(2) Any temporary fiduciary appointed under this paragraph (h) must be:

(i) An individual or entity that has already been subject to the procedures for appointment in paragraphs (d) and (f) of this section, and

(ii) Performing satisfactorily as a fiduciary for at least one other VA beneficiary for whom the fiduciary has submitted an annual accounting that VA has approved.

(i) *Authorization for disclosure of information.* The Hub Manager will:

(1) Obtain from every proposed fiduciary who is an individual a written authorization for VA to disclose to the beneficiary information regarding any fiduciary matter that may be appealed under § 13.600, including but not limited to the fiduciary's qualifications for appointment under § 13.100 or misuse of benefits under § 13.400. Such disclosures may occur in VA's correspondence with the beneficiary, in a VA fiduciary appointment or misuse of benefits decision, in a statement of the case for purposes of appeal under § 13.600, or upon request by the beneficiary, the beneficiary's guardian, or the beneficiary's accredited attorney, claims agent, or representative;

(2) Notify the proposed fiduciary that the disclosed information may be used by the beneficiary in appealing a VA appointment or misuse decision to the Board of Veterans' Appeals under § 13.600; and

(3) Terminate consideration of a proposed fiduciary if the individual refuses to provide the authorization prescribed in paragraph (i)(1) of this section. Such refusal is a bar to serving as a fiduciary for a beneficiary under § 13.130(b).

(Authority: 38 U.S.C. 501, 5502, 5506, 5507)

§ 13.110 Supervised direct payment.

(a) *Authority.* The Hub Manager may authorize the payment of VA benefits directly to an adult beneficiary in the fiduciary program who has reached the age of majority if the Hub Manager determines, based upon a field examination, that the beneficiary can manage his or her VA benefits with limited and temporary VA supervision. In making this determination, the Hub Manager will consider:

(1) Whether the beneficiary is aware of his or her monthly income;

(2) Whether the beneficiary is aware of his or her fixed monthly expenses such as rent, mortgage, utilities, clothing, food, and medical bills;

(3) The beneficiary's ability to:

(i) Allocate appropriate funds to fixed monthly expenses and discretionary items;

(ii) Pay monthly bills in a timely manner; and

(iii) Conserve excess funds; and

(4) Any other information that demonstrates the beneficiary's actual ability to manage his or her VA benefits with limited VA supervision.

(b) *Supervision.* The limited and temporary supervision of beneficiaries receiving direct payment under paragraph (a) of this section will consist of:

(1) Assistance in the development of a budget regarding the beneficiary's income and expenses,

(2) Assistance with creating a fund usage report to aid the beneficiary in tracking his or her income and expenses, and

(3) Periodic reviews of the beneficiary's fund usage report, as required by the Hub Manager.

(c) *Reassessment.* The Hub Manager will reassess the beneficiary's ability to manage his or her VA benefits at or before the end of the first 12-month period of supervision. Based upon a field examination, an evaluation of the factors listed in paragraph (a) of this section, and the results of the supervision prescribed in paragraph (b) of this section, the Hub Manager will determine whether the beneficiary can manage his or her benefits without VA supervision.

(1) If the beneficiary demonstrates the ability to manage his or her VA benefits without supervision, the Hub Manager will prepare a report that summarizes the findings and refer the matter with a recommendation and supporting evidence to the rating authority for application of § 3.353(b)(3) of this chapter regarding reevaluation of ability to manage VA benefits and § 3.353(d) of this chapter regarding the presumption of ability to manage VA benefits without restriction.

(2) If the beneficiary does not demonstrate the ability to manage his or her VA benefits without VA supervision, the Hub Manager will:

(i) Appoint a fiduciary, or

(ii) Continue supervised direct payment for not longer than one additional 12-month period based upon evidence that additional supervision might assist the beneficiary in developing the ability to manage his or her own VA benefits. At the conclusion of the additional period of supervised direct payment, the Hub Manager will conduct the reassessment prescribed by paragraph (c) of this section and either recommend reevaluation under paragraph (c)(1) of this section or appoint a fiduciary under paragraph (c)(2)(i) of this section.

(Authority: 38 U.S.C. 501, 5502)

§ 13.120 Field examinations.

(a) *Authority.* The Hub Manager will order a field examination regarding fiduciary matters within the Hub Manager's jurisdiction for any of the reasons prescribed in paragraph (c) of this section. For purposes of this section, *field examination* means the inquiry, investigation, or monitoring activity conducted by designated fiduciary hub or other qualified VA personnel who are authorized to:

(1) Interview beneficiaries, dependents, and other interested persons regarding fiduciary matters;

(2) Interview proposed fiduciaries and current fiduciaries regarding their qualifications, performance, or compliance with VA regulations;

(3) Conduct investigations and examine witnesses regarding any fiduciary matter;

(4) Take affidavits;

(5) Administer oaths and affirmations;

(6) Certify copies of public or private documents; and

(7) Aid claimants and beneficiaries in the preparation of claims for VA benefits or other fiduciary or claim-related material.

(b) *Scope of field examinations.* Field examinations may include, but are not limited to:

(1) Assessing a beneficiary's and the beneficiary's dependents' welfare and physical and mental well-being, environmental and social conditions, and overall financial situation, based upon visiting the beneficiary's current residence and conducting a face-to-face interview of the beneficiary and the beneficiary's dependents, when practicable;

(i) The Hub Manager will waive the requirements of paragraph (b)(1) of this section if the Veterans Health Administration (VHA) has approved the fiduciary as the beneficiary's family caregiver, and VHA's status report regarding the beneficiary indicates the beneficiary is in an excellent situation.

(ii) The provisions of paragraph (b)(1)(i) of this section do not apply when the Hub Manager has information that a fiduciary, who is also the beneficiary's VHA-designated family caregiver, is misusing a beneficiary's VA funds under management, is neglecting a beneficiary, or has failed to comply with the requirements of § 13.140, or there is insufficient evidence to determine the beneficiary's well-being.

(2) Assessing the beneficiary's ability to manage his or her own VA benefits with only limited VA supervision (*see* § 13.110 regarding supervised direct payment);

(3) Collecting and reviewing financial documentation, including income and expenditure information;

(4) Providing any necessary assistance to the beneficiary with issues affecting current or additional VA benefits, claims, and non-VA matters that may affect or conflict with VA benefits;

(5) Making appropriate referrals in cases of actual or suspected physical or mental abuse, neglect, or other harm to a beneficiary;

(6) Investigating, when necessary, allegations that a beneficiary's fiduciary has engaged in misconduct or misused VA benefits to include but not limited to allegations regarding:

(i) Theft or misappropriation of funds,

(ii) Failure to comply with the responsibilities of a fiduciary as prescribed in § 13.140,

(iii) Other allegations of inappropriate fund management by a fiduciary, and

(iv) Other special circumstances which require a visit with or onsite review of the fiduciary, such as a change in an award of benefits or benefit status, or non-fiduciary program matters.

(c) *Reasons for conducting field examinations.* A Hub Manager will order a field examination to:

(1) Determine whether benefits should be paid directly to a beneficiary under § 13.110 or to a fiduciary appointed for the beneficiary under § 13.100;

(2) Determine whether benefit payments should continue to be made directly to a beneficiary under § 13.110 or to a fiduciary on behalf of a beneficiary; or

(3) Ensure the well-being of a beneficiary in the fiduciary program or to protect a beneficiary's VA benefit funds.

(Authority: U.S.C. 501, 512, 5502, 5506, 5507, 5711)

(Approved by the Office of Management and Budget under control numbers 2900–0815 and 2900–0803.)

§ 13.130 Bars to serving as a fiduciary.

(a) An individual or entity may not serve as a fiduciary for a VA beneficiary if the individual or entity:

(1) Misused or misappropriated a beneficiary's VA benefits while serving as the beneficiary's fiduciary;

(2) Has been convicted of a felony offense. For purposes of this paragraph, *felony offense* means a criminal offense for which the minimum period of imprisonment is 1 year or more, regardless of the actual sentence imposed or the actual time served. However, such conviction is not a bar to serving as a fiduciary for a beneficiary if all of the following conditions are met:

(i) The conviction occurred more than 10 years preceding the proposed date of appointment;

(ii) The conviction did not involve any of the following offenses:

(A) Fraud;

(B) Theft;

(C) Bribery;

(D) Embezzlement;

(E) Identity theft;

(F) Money laundering;

(G) Forgery;

(H) The abuse of or neglect of another person; or

(I) Any other financial crime;

(iii) There is no other person or entity who is willing and qualified to serve; and

(iv) The Hub Manager determines that the nature of the conviction is such that appointment of the individual poses no risk to the beneficiary and is in the beneficiary's interest.

(b) An individual may not serve as a fiduciary for a VA beneficiary if the individual:

(1) Refuses or neglects to provide the authorization for VA disclosure of information prescribed in § 13.100(i);

(2) Is unable to manage his or her own Federal or state benefits and is in a Federal or state agency's fiduciary, representative payment, or similar program;

(3) Has been adjudicated by a court with jurisdiction as being unable to manage his or her own financial affairs;

(4) Is incarcerated in a Federal, state, local, or other penal institution or correctional facility, sentenced to home confinement, released from incarceration to a half-way house, or on house arrest or in custody in any facility awaiting trial on pending criminal charges;

(5) Has felony charges pending;

(6) Has been removed as legal guardian by a state court for misconduct;

(7) Is under the age of majority; or

(8) Knowingly violates or refuses to comply with the regulations in this part.

(Authority: 38 U.S.C. 501, 5502, 5506, 5507, 6101, 6106)

§ 13.140 Responsibilities of fiduciaries.

Any individual or entity appointed by VA as a fiduciary to receive VA benefit payments on behalf of a beneficiary in the fiduciary program must fulfill certain responsibilities associated with the services of a fiduciary. These responsibilities include:

(a) *General.* (1) Fiduciaries appointed by VA to manage the VA funds of a beneficiary are also responsible for monitoring the beneficiary's well-being and using available funds to ensure that the beneficiary's needs are met. Fiduciaries owe VA and beneficiaries the duties of good faith and candor and must administer a beneficiary's funds under management in accordance with paragraph (b) of this section. In all cases, the fiduciary must disburse or otherwise manage funds according to the best interests of the beneficiary and the beneficiary's dependents and in light of the beneficiary's unique circumstances, needs, desires, beliefs, and values.

(2) The fiduciary must take all reasonable precautions to protect the beneficiary's private information contained in the fiduciary's paper and electronic records.

(i) For purposes of this section:

(A) *Reasonable precautions* means protecting against any unauthorized access to or use of the beneficiary's private information that may result in substantial harm or inconvenience to the beneficiary; and

(B) *Private information* means a beneficiary's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such beneficiary: VA claim number, Social Security number, date of birth, address, driver's license number or state-issued identification card number, or financial account number or credit card or debit card number, with or without any required security code, access code, personal identification number, or password, that would permit access to the beneficiary's account.

(ii) At a minimum, fiduciaries must place reasonable restrictions upon access to paper records containing the beneficiary's private information, including storage of such records in locked facilities, storage areas, or containers.

(iii) For electronic records containing the beneficiary's private information, the fiduciary must:

(A) Use unique identifications and passwords, which are not vendor-supplied default identifications and passwords, for computer, network, or online site access that are reasonably designed to maintain the security of the beneficiary's information and the fiduciary's financial transactions;

(B) Control access to data security passwords to ensure that such passwords are kept in a location and format that do not compromise the security of the beneficiary's private information; and

(C) For records containing private information on a computer system that is connected to the internet, keep reasonably up-to-date firewall and virus protection and operating system security patches to maintain the integrity of the beneficiary's private information and prevent unauthorized disclosure. For purposes of this section, a system is reasonably updated if the fiduciary installs software updates immediately upon release by the original equipment or software manufacturer, uses internet browser security settings suitable for transmission of private information, and maintains password-protected wireless connections or other networks.

(iv) The fiduciary must keep all paper and electronic records relating to the fiduciary's management of VA benefit funds for the beneficiary for the duration of service as fiduciary for the beneficiary and for a minimum of 2 years from the date that VA removes the fiduciary under § 13.500 or from the date that the fiduciary withdraws as fiduciary for the beneficiary under § 13.510.

(b) *Financial responsibilities.* The fiduciary's primary financial responsibilities include, but are not limited to:

(1) The use of the beneficiary's VA benefit funds under management only for the care, support, education, health, and welfare of the beneficiary and his or her dependents. Except as authorized under § 13.220 regarding fiduciary fees, a fiduciary may not derive a personal financial benefit from management or use of the beneficiary's funds;

(2) Protection of the beneficiary's VA benefits from loss or diversion;

(3) Except as prescribed in § 13.200 regarding fiduciary accounts, maintenance of separate financial accounts to prevent commingling of the beneficiary's funds with the fiduciary's own funds or the funds of any other beneficiary for whom the fiduciary has funds under management;

(4) Determination of the beneficiary's just debts. For purposes of this section, *just debts* mean the beneficiary's legitimate, legally enforceable debts;

(5) Timely payment of the beneficiary's just debts, provided that the fiduciary has VA benefit funds under management for the beneficiary to cover such debts;

(6) Providing the beneficiary with information regarding VA benefit funds under management for the beneficiary, including fund usage, upon request;

(7) Providing the beneficiary with a copy of the annual accounting approved by VA under § 13.280;

(8) Ensuring that any best-interest determination regarding the use of funds is consistent with VA policy, which recognizes that beneficiaries in the fiduciary program are entitled to the same standard of living as any other beneficiary with the same or similar financial resources, and that the fiduciary program is not primarily for the purpose of preserving funds for the beneficiary's heirs or disbursing funds according to the fiduciary's own beliefs, values, preferences, and interests; and

(9) Protecting the beneficiary's funds from the claims of creditors as described in § 13.270.

(c) *Non-financial responsibilities.* The fiduciary's primary non-financial responsibilities include, but are not limited to:

(1) Contacting social workers, mental health professionals, or the beneficiary's legal guardian regarding the beneficiary, when necessary;

(2) To the extent possible, ensuring the beneficiary receives appropriate medical care;

(3) Correcting any discord or uncomfortable living or other situations when possible;

(4) Acknowledging and addressing any complaints or concerns of the beneficiary to the best of the fiduciary's ability;

(5) Reporting to the appropriate authorities, including any legal guardian, any type of known or suspected abuse of the beneficiary;

(6) Maintaining contact with the beneficiary for purposes of assessing the beneficiary's capabilities, limitations, needs, and opportunities;

(7) Being responsive to the beneficiary and ensuring the beneficiary and his or her legal guardian have the fiduciary's current contact information.

(d) *The fiduciary's responsibilities to VA.* Any fiduciary who has VA benefit funds under management on behalf of a beneficiary in the fiduciary program must:

(1) If the fiduciary is also appointed by a court, annually provide to the fiduciary hub with jurisdiction a certified copy of the accounting(s) provided to the court or facilitate the hub's receipt of such accountings;

(2) Notify the fiduciary hub regarding any change in the beneficiary's circumstances, to include the beneficiary's relocation, the beneficiary's serious illness, or any

other significant change in the beneficiary's circumstances which might adversely impact the beneficiary's well-being;

(3) Provide documentation or verification of any records concerning the beneficiary or matters relating to the fiduciary's responsibilities within 30 days of a VA request, unless otherwise directed by the Hub Manager;

(4) When necessary, appear before VA for face-to-face meetings; and

(5) Comply with the policies and procedures prescribed in this part.

(Authority: 38 U.S.C. 501, 512, 5502, 5507, 5509, 5711)

(Approved by the Office of Management and Budget under control numbers 2900–0017 and 2900–0085.)

§ 13.200 Fiduciary accounts.

Except as prescribed in paragraph (b) of this section, any fiduciary appointed by VA to receive payments on behalf of a beneficiary must deposit the beneficiary's VA benefits in a fiduciary account that meets the requirements prescribed in paragraph (a) of this section.

(a) *Separate accounts.* Except as prescribed in paragraph (b) of this section, a fiduciary must establish and maintain a separate financial institution account for each VA beneficiary that the fiduciary serves. The fiduciary must not commingle a beneficiary's funds with the fiduciary's funds or any other beneficiary's funds, either upon or after receipt. The account must be:

(1) Established for direct deposit of VA benefits,

(2) Established in a Federally-insured financial institution, and in Federally-insured accounts when funds qualify for such deposit insurance, and

(3) Titled in the beneficiary's and fiduciary's names and note the existence of the fiduciary relationship.

(b) *Exceptions.* The general rule prescribed in paragraph (a) of this section regarding establishment and maintenance of separate accounts does not apply to the following fiduciaries:

(1) The beneficiary's spouse;

(2) State or local Government entities;

(3) Institutions, such as public or private medical care facilities, nursing homes, or other residential care facilities, when an annual accounting is not required. *See* § 13.280 regarding accounting requirements; or

(4) A trust company or a bank with trust powers organized under the laws of the United States or a state.

(Authority: U.S.C. 501, 5502, 5509, 5711)

§ 13.210 Fiduciary investments.

(a) *General.* A fiduciary must conserve or invest any VA benefits that the fiduciary receives on behalf of a beneficiary, whether such benefits are in the form of recurring monthly payments or a one-time payment, if the beneficiary or the beneficiary's dependents do not need the benefits for current maintenance, reasonably foreseeable expenses, or reasonable improvements in the beneficiary's and the beneficiary's dependents' standard of living. Conservation of beneficiary funds is for the purpose of addressing unforeseen circumstances or planning for future care needs given the beneficiary's disabilities, circumstances, and eligibility for care furnished by the Government at Government expense. Fiduciaries should not conserve VA benefit funds under management for a beneficiary based primarily upon the interests of the beneficiary's heirs or according to the fiduciary's own values, preferences, and interests.

(b) *Types of investments.* An investment must be prudent and in the best interest of the beneficiary. Authorized investments include United States savings bonds or interest or dividend-paying accounts insured under Federal law. Any such investment must be clearly titled in the beneficiary's and fiduciary's names and identify the fiduciary relationship.

(c) *Exceptions.* The general rules regarding investment of VA benefits do not apply to the following fiduciaries:

(1) The beneficiary's spouse, and

(2) The chief officer of an institution in which the beneficiary is being furnished hospital treatment or institutional, nursing, or domiciliary care. VA benefits paid to the chief officer may not be invested.

(Authority: 38 U.S.C. 501, 5502)

§ 13.220 Fiduciary fees.

(a) *Authority.* The Hub Manager with jurisdiction over a fiduciary appointment may determine whether a fee is necessary to obtain the services of a fiduciary. A fee is necessary only if no other person or entity is qualified and willing to serve without a fee and the beneficiary's interests would be served by the appointment of a qualified paid fiduciary. The Hub Manager will not authorize a fee if the fiduciary:

(1) Is a spouse, dependent, or other relative of the beneficiary; or

(2) Will receive any other form of payment in connection with providing fiduciary services for the beneficiary.

(b) *Limitation on fees.* The Hub Manager will authorize a fiduciary to whom a fee is payable under paragraph (a) of this section to deduct from the beneficiary's account a reasonable monthly fee for fiduciary services rendered.

(1) For purposes of this section, *reasonable monthly fee* means a monetary amount that is authorized by the Hub Manager and does not exceed 4 percent of the monthly VA benefit paid to the fiduciary on behalf of the beneficiary for a month in which the fiduciary is eligible under paragraph (b)(2) of this section to collect a fee.

(2) A monthly fee may be collected for any month during which the fiduciary:

(i) Provides fiduciary services on behalf of the beneficiary,

(ii) Receives a recurring VA benefit payment for the beneficiary, and

(iii) Is authorized by the Hub Manager to receive a fee for fiduciary services.

(3) Fees may not be computed based upon:

(i) Any one-time, retroactive, or lump-sum payment made to the fiduciary on behalf of the beneficiary;

(ii) Any funds conserved by the fiduciary for the beneficiary in the beneficiary's account under § 13.200 or invested by the fiduciary for the beneficiary under § 13.210, to include any interest income and return on investment derived from any account; or

(iii) Any funds transferred to the fiduciary by a prior fiduciary for the beneficiary, or from the personal funds of patients or any other source.

(4) The Hub Manager will not authorize a fee for any month for which:

(i) VA or a court with jurisdiction determines that the fiduciary misused or misappropriated benefits, or

(ii) The beneficiary does not receive a VA benefit payment. However, the Hub Manager may authorize a fee for a month in which the beneficiary did not receive a benefit payment if VA later issues benefits for that month and the fiduciary:

(A) Receives VA approval to collect a fee for the month for which payment was made,

(B) Provided fiduciary services during the month for which payment was made, and

(C) Was the beneficiary's fiduciary when VA made the retroactive payment.

(Authority: 38 U.S.C. 501, 5502, 6101, 6106)

§ 13.230 Protection of beneficiary funds.

(a) *General.* Except as prescribed in paragraph (c) of this section, within 60 days of appointment, the fiduciary must furnish to the fiduciary hub with jurisdiction a corporate surety bond that is conditioned upon faithful discharge of all of the responsibilities of a fiduciary prescribed in § 13.140 and meets the requirements of paragraph (d) of this section, if the VA benefit funds that are due and to be paid for the beneficiary will exceed $25,000 at the time of appointment. The Hub Manager

will not authorize the release of a retroactive, one-time, or other pending lump-sum benefit payment to the fiduciary until the fiduciary has furnished the bond prescribed by this section.

(b) *Accumulated funds.* The provisions of paragraph (a) of this section, which require a fiduciary to furnish a surety bond, apply in any case in which the accumulation over time of VA benefit funds under management by a fiduciary for a beneficiary exceeds $25,000. Except as prescribed in paragraph (c) of this section, within 60 days of accumulated funds exceeding the prescribed threshold, the fiduciary will furnish to the fiduciary hub a bond that meets the requirements of paragraph (d) of this section.

(c) *Exceptions.* (1) The provisions of paragraphs (a) and (b) of this section do not apply to:

(i) A fiduciary that is a trust company or a bank with trust powers organized under the laws of the United States or a state;

(ii) A fiduciary who is the beneficiary's spouse; or

(iii) A fiduciary in the Commonwealth of Puerto Rico, Guam, or another territory of the United States, or in the Republic of the Philippines, who has entered into a restricted withdrawal agreement in lieu of a surety bond.

(2) The Hub Manager may, at any time, require the fiduciary to obtain a bond described in paragraph (a) of this section and meeting the requirements of paragraph (d) of this section, without regard to the amount of VA benefit funds under management by the fiduciary for the beneficiary, if special circumstances indicate that obtaining a bond would be in the beneficiary's interest. Such special circumstances may include but are not limited to:

(i) A marginal credit report for the fiduciary; or

(ii) A fiduciary's misdemeanor criminal conviction either before or after appointment for any offense listed in § 13.130(a)(2)(ii);

(d) *Bond requirements.* A bond furnished by a fiduciary under paragraph (a) or (b) of this section must meet the following requirements:

(1) The bond must be a corporate surety bond in an amount sufficient to cover the value of the VA benefit funds under management by the fiduciary for the beneficiary.

(2) After furnishing the prescribed bond to the fiduciary hub, the fiduciary must:

(i) Adjust the bond amount to account for any increase or decrease of more than 20 percent in the VA benefit funds under management by the fiduciary for the beneficiary; and

(ii) Furnish proof of the adjustment to the fiduciary hub not later than 60 days after a change in circumstance described in paragraph (d)(2)(i) of this section.

(3) The bond furnished by the fiduciary must also:

(i) Identify the fiduciary, the beneficiary, and the bonding company; and

(ii) Contain a statement that the bond is payable to the Secretary of Veterans Affairs.

(e) *Periodic proof of bond.* A fiduciary must furnish proof of adequate bonding:

(1) With each annual accounting prescribed by § 13.280; and

(2) At any other time the Hub Manager with jurisdiction requests proof.

(f) *Liability.* (1) Except as otherwise provided by the terms of the bond, the surety and the fiduciary guaranteed by the surety are jointly and severally liable for any misappropriation or misuse of VA benefits by the fiduciary.

(2) VA may collect on the bond regardless of any prior reissuance of benefits by VA under § 13.410 and until liability under the terms of the bond is exhausted.

(g) *Bond expenses*—(1) *Authority.* The fiduciary may deduct from the beneficiary's account any expense related to obtaining, maintaining, or adjusting a bond prescribed by this section.

(2) *Notice.* The Hub Manager will provide the beneficiary written notice regarding any bond furnished at the beneficiary's expense under paragraph (a), (b), or (c)(2) of this section or adjusted under paragraph (d)(2) of this section.

(Authority: 38 U.S.C. 501, 5502, 5507) (Approved by the Office of Management and Budget under control numbers 2900–0017 and 2900–0804.)

§ 13.240 Funds of beneficiaries less than the age of majority.

(a) *General.* Except as prescribed in paragraph (b) of this section, a fiduciary who receives VA benefits on behalf of a beneficiary who is less than the age of majority may use the benefits only for the use and benefit of that beneficiary and only if the fiduciary first determines that the person or persons who have custody of the beneficiary and are responsible for the beneficiary's needs are unable to provide for those needs.

(b) *Education benefits.* A fiduciary who receives VA education benefits on behalf of a beneficiary who is less than the age of majority may use the benefits for the beneficiary's education regardless of the ability of the person or persons who have custody of the beneficiary to pay for the beneficiary's education.

(Authority: 38 U.S.C. 501, 5502)

§ 13.250 Funds of deceased beneficiaries.

(a) *General.* When a beneficiary who has a fiduciary dies without leaving a valid will and without heirs, all VA benefit funds under management by the fiduciary for the deceased beneficiary on the date of death, less any deductions authorized by paragraph (c) of this section, must be returned to VA if such funds would escheat to a state.

(b) *Accountings.* Upon the death of a beneficiary described in paragraph (a) for whom the fiduciary must return to VA all benefit funds under management, less any deductions authorized under paragraph (c) of this section, or upon the death of any beneficiary for whom a fiduciary was required to submit an annual accounting to VA under § 13.280, the fiduciary must submit a final accounting to the fiduciary hub with jurisdiction within 90 days of the beneficiary's death.

(c) *Expenses.* The fiduciary may deduct a reasonable fee from the deceased beneficiary's account for purposes of determining whether the beneficiary's funds under management would escheat to a state under state law or whether the deceased beneficiary left a valid will or is survived by heirs. For the purpose of this section, *reasonable fee* means an amount customarily charged by attorneys or other professionals authorized to do such work in the state where the deceased beneficiary had his or her permanent place of residence.

(d) *Estate matters.* Upon the death of a beneficiary who has a valid will or heirs, the fiduciary must hold the remaining funds under management in trust for the deceased beneficiary's estate until the will is probated or heirs are ascertained, and disburse the funds according to applicable state law.

(Authority: U.S.C. 501, 5502)

§ 13.260 Personal funds of patients.

(a) *Distribution of funds.* Benefits deposited by VA in the personal funds of patients account for a veteran who was rated by VA as being unable to manage his or her VA benefits and who died leaving an account balance are payable to an eligible person. For purposes of this section, *eligible person* means an individual living at the time the account balance is distributed in the following order of preference:

(1) The deceased veteran's spouse, as defined by § 3.1000(d)(1) of this chapter;

(2) The veteran's children (in equal shares), as defined by § 3.57 of this

chapter, but without regard to age or marital status; or

(3) The veteran's dependent parents (in equal shares) or surviving parent, as defined by § 3.59 of this chapter, provided that the parents were or parent was dependent within the meaning of § 3.250 of this chapter on the date of the veteran's death.

(4) Any balance remaining in the personal funds of patients account that cannot be distributed in accordance with paragraphs (a)(1) through (3) of this section will be used by VA to reimburse anyone who bore the expense of the veteran's last sickness or burial or will be deposited to the credit of the applicable current VA appropriation.

(b) *Application.* A person who seeks distribution of a deceased veteran's funds from the personal funds of patients account under paragraph (a) of this section must file an application with VA not later than 5 years after the veteran's death. If any person who seeks such distribution is under a legal disability that prevents him or her from filing an application at the time of the veteran's death, the 5-year period will run from the date of termination or removal of the legal disability.

(Authority: 38 U.S.C. 501, 5502)

§ 13.270 Creditors' claims.

Under 38 U.S.C. 5301(a)(1), VA benefit payments are exempt, both before and after receipt by the beneficiary, from the claims of creditors and taxation. The fiduciary should invoke this defense in applicable circumstances. If the fiduciary does not do so, the Hub Manager may refer the matter to the District Counsel for evaluation and appropriate legal action.

(Authority: 38 U.S.C. 501, 512, 5301)

§ 13.280 Accountings.

(a) *General.* Except as prescribed in paragraph (d) of this section, a fiduciary for a beneficiary must submit to the fiduciary hub with jurisdiction an annual accounting regarding the VA benefit funds under management by the fiduciary for the beneficiary if:

(1) The amount of VA benefit funds under management for the beneficiary exceeds $10,000;

(2) The fiduciary deducts a fee authorized under § 13.220 from the beneficiary's account;

(3) The beneficiary is being paid VA compensation benefits at a total disability rating (100 percent), whether schedular, extra-schedular, or based on individual unemployability; or

(4) The Hub Manager determines an accounting is necessary to ensure the fiduciary has properly managed the beneficiary's funds.

(b) *Scope of accounting.* For purposes of this section, *accounting* means the fiduciary's written report regarding the income and funds under management by the fiduciary for the beneficiary during the accounting period prescribed by the Hub Manager. The accounting prescribed by this section pertains to all activity in the beneficiary's accounts, regardless of the source of funds maintained in those accounts. An accounting consists of:

(1) A beginning inventory or account balance,

(2) An itemization of income,

(3) An itemization of expenses,

(4) An ending inventory or account balance,

(5) Copies of financial institution documents reflecting receipts, expenditures, and beginning and ending balances, and

(6) Receipts, when required by the Hub Manager.

(c) *Submission requirements.* Fiduciaries must submit annual accountings to the fiduciary hub as follows:

(1) The fiduciary must submit accountings on the appropriate VA form not later than 30 days after the end of the accounting period prescribed by the Hub Manager.

(2) The fiduciary must submit a corrected or supplemental accounting not later than 14 days after the date of VA notice of an accounting discrepancy.

(d) *Exceptions.* The provisions of this section that generally require the submission of an annual accounting do not apply to a fiduciary who is:

(1) The beneficiary's spouse;

(2) A chief officer of a Federal institution;

(3) A chief officer of a non-VA facility receiving benefits for a beneficiary institutionalized in the facility and:

(i) The beneficiary's monthly care, maintenance, and personal use expenses equal or exceed the amount of the beneficiary's monthly VA benefit; and

(ii) The amount of VA benefit funds under management by the fiduciary does not exceed $10,000; or

(4) A fiduciary who receives benefits on behalf of a beneficiary and both permanently resides outside of the United States or in the Commonwealth of Puerto Rico or the Republic of the Philippines, and the fiduciary was appointed outside of the United States or in the Commonwealth of Puerto Rico or the Republic of the Philippines.

(e) *Failure to comply with accounting requirements.* The Hub Manager will treat any willful neglect or refusal to file proper accountings as prima facie evidence of embezzlement or misappropriation of VA benefits. Such evidence is grounds for starting a misuse investigation under § 13.400.

(Authority: 38 U.S.C. 501, 5502, 5509, 6101) (Approved by the Office of Management and Budget under control number 2900–0017.)

§ 13.300 Onsite reviews.

(a) *Periodic onsite reviews.* (1) The Hub Manager will conduct a periodic, scheduled, onsite review of any fiduciary in the United States, whether the fiduciary is an individual or an entity, if:

(i) The fiduciary serves 20 or more beneficiaries, and

(ii) The total annual amount of recurring VA benefits paid to the fiduciary for such beneficiaries exceeds the threshold established in 38 U.S.C. 5508 as adjusted by VA under 38 U.S.C. 5312.

(2) The Hub Manager must complete at least one periodic onsite review triennially if the fiduciary meets the requirements of paragraph (a)(1) of this section.

(3) VA will provide the fiduciary with written notice of the periodic onsite review at least 30 days before the scheduled review date. The notice will:

(i) Inform the fiduciary of the pending review and the fiduciary's obligation under this part to cooperate in the onsite review process, and

(ii) Request that the fiduciary make available for review all relevant records, including but not limited to case files, bank statements, accountings, ledgers, check registers, receipts, bills, and any other items necessary to determine that the fiduciary has been acting in the best interest of VA beneficiaries and meeting the responsibilities of fiduciaries prescribed in § 13.140.

(b) *Unscheduled onsite reviews.* The Hub Manager may conduct unscheduled onsite reviews of any fiduciary, regardless of the number of beneficiaries served by the fiduciary or the total amount of VA benefit funds under management by the fiduciary, if:

(1) VA receives from any source credible information that the fiduciary has misused or is misusing VA benefits;

(2) The fiduciary's annual accounting is seriously delinquent. For purposes of this section, *seriously delinquent* means the fiduciary failed to submit the required accounting within 120 days after the ending date of the annual accounting period;

(3) VA receives from any source credible information that the fiduciary is not adequately performing the responsibilities of a fiduciary prescribed in § 13.140; or

(4) The Hub Manager determines that an unscheduled onsite review is necessary to ensure that the fiduciary is

acting in the interest of the beneficiary or beneficiaries served by the fiduciary.

(c) *Procedures.* (1) Onsite reviews will consist of the following:

(i) A face-to-face meeting with the fiduciary. In the case of a fiduciary that is an entity, the face-to-face meeting will be with a representative of the entity;

(ii) A review of all relevant records maintained by the fiduciary, including but not limited to case files, bank statements, accountings, ledgers, check registers, receipts, bills, and any other items necessary to determine whether the fiduciary has been acting in the interest of VA beneficiaries; and

(iii) Interviews of beneficiaries, the fiduciary's employees, and other individuals as determined necessary by the Hub Manager.

(2) Not later than 30 days after completing a periodic or unscheduled onsite review, the Hub Manager will provide the fiduciary a written report of VA's findings, recommendations for correction of deficiencies, requests for additional information, and notice of VA's intent regarding further action.

(3) Unless good cause for an extension is shown, not later than 30 days after the date that VA mails the report prescribed by paragraph (d)(2) of this section, the fiduciary must submit to the fiduciary hub a response to any VA request for additional information or recommendation for corrective action.

(4) The Hub Manager will remove the fiduciary for all VA beneficiaries whom the fiduciary serves if the fiduciary:

(i) Refuses to cooperate with VA during a periodic or unscheduled onsite review,

(ii) Is unable to produce necessary records,

(iii) Fails to respond to a VA request for additional information or recommendation for corrective action, or

(iv) Is found during an onsite review to have misused VA benefits.

(Authority: 38 U.S.C. 501, 5508)

§ 13.400 Misuse of benefits.

(a) *Definition of misuse.* Misuse of benefits by a fiduciary occurs in any case in which the fiduciary receives payment of benefits for the use and benefit of a beneficiary and the beneficiary's dependents, if any, and uses any part of such payment for a use other than the use and benefit of the beneficiary or the beneficiary's dependents. For the purpose of this section, *use and benefit* means any expenditure reasonably intended for the care, support, or maintenance of the beneficiary or the beneficiary's dependents. Such expenditures may include the fiduciary's efforts to improve the beneficiary's standard of living under rules prescribed in this part.

(b) *Misuse determinations.* Upon receipt of information from any source regarding possible misuse of VA benefits by a fiduciary, the Hub Manager may, upon his or her discretion, investigate the matter and issue a misuse determination in writing. This decision will:

(1) Identify the beneficiary,

(2) Identify the fiduciary,

(3) State whether the fiduciary is an individual fiduciary serving 10 or more beneficiaries or a corporation or other entity serving one or more beneficiaries,

(4) Identify the source of the information,

(5) Describe in detail the facts found as a result of the investigation,

(6) State the reasons for the Hub Manager's determination regarding whether the fiduciary misused any part of the beneficiary's benefit paid to the fiduciary, and

(7) If the Hub Manager determines that the fiduciary did misuse any part of the beneficiary's benefit, identify the months in which such misuse occurred.

(c) *Notice.* The Hub Manager will provide written notice of the misuse determination prescribed in paragraph (b) of this section, including a copy of the Hub Manager's written decision, an explanation regarding the reconsideration procedure prescribed in paragraph (d) of this section, and the beneficiary's right to appeal under § 13.600, to:

(1) The fiduciary;

(2) The beneficiary or the beneficiary's legal guardian, and the beneficiary's accredited representative, attorney, or claims agents;

(3) The court of jurisdiction if the fiduciary is also the beneficiary's court-appointed guardian and/or conservator; and

(4) The Director of the Pension and Fiduciary Service.

(d) *Finality and reconsideration of misuse determinations.* (1) The Hub Manager's misuse determination is a final decision, unless:

(i) The Hub Manager receives a written request for reconsideration from the fiduciary or the beneficiary not later than 30 days after the date that the Hub Manager mailed notice of his or her misuse determination; or

(ii) The Hub Manager receives a notice of disagreement from the beneficiary not later than 1 year after the date that the Hub Manager mailed notice of his or her misuse determination.

(2) The fiduciary or the beneficiary may submit additional information pertinent to reconsideration of the misuse determination and not previously considered by the Hub Manager, provided that the additional information is submitted with the written reconsideration request.

(3) The Hub Manager will close the record regarding reconsideration at the end of the 30-day period described in paragraph (d)(1)(i) of this section and furnish a timely request submitted by the fiduciary or the beneficiary, including any new information, to the Director of the VA Regional Office with jurisdiction over the fiduciary hub for a final decision.

(4) In making the misuse determination on reconsideration, the Regional Office Director's decision will be based upon a review of the information of record as of the date of the Hub Manager's misuse determination and any new information submitted with the request. The decision will:

(i) Identify the beneficiary,

(ii) Identify the fiduciary,

(iii) Identify if the fiduciary is also the beneficiary's court-appointed guardian or conservator,

(iv) Identify the date of the Hub Manager's prior decision,

(v) Describe in detail the facts found as a result of the Director's review of the Hub Manager's decision and any new information submitted with the reconsideration request, and

(vi) State the reasons for the Director's final decision, which may affirm, modify, or overturn the Hub Manager's decision.

(5) The Hub Manager will provide written notice of the Regional Office Director's final decision on reconsideration to:

(i) The fiduciary,

(ii) The beneficiary or the beneficiary's legal guardian, and the beneficiary's accredited representative, attorney, or claims agent;

(iii) The court, if the fiduciary is also the beneficiary's court-appointed guardian or conservator; and

(iv) The Director of the Pension and Fiduciary Service.

(e) *Reporting of misuse.* Except as prescribed in § 1.204 of this chapter, which requires VA management officials to promptly report possible criminal matters involving felonies to the VA Office of Inspector General, reporting of misuse cases will occur as follows:

(1) Not later than 30 days after a final determination is made under paragraph (d) of this section that a fiduciary has misused VA benefits, the Director of the VA Regional Office who has jurisdiction over the fiduciary hub will notify the

VA Office of Inspector General for purposes of any further action that the Inspector General deems appropriate under separate authority, and the court of jurisdiction if the fiduciary is also the beneficiary's court-appointed legal guardian and/or conservator.

(2) For purposes of application of § 13.410 regarding reissuance and recoupment of benefits, the Office of Inspector General will advise the Director of the Pension and Fiduciary Service of any final decision regarding prosecution of a fiduciary who misused VA benefits and any final judgment of a court in such a prosecution not later than 30 days after the decision is made or judgment is entered.

(Authority: 38 U.S.C. 501, 5502, 6106)

§ 13.410 Reissuance and recoupment of misused benefits.

(a) *General.* (1) If the Hub Manager or the Regional Office Director upon reconsideration determines that a fiduciary described in paragraph (a)(2) of this section misused any part of a beneficiary's benefit paid to the fiduciary, the Regional Office Director will reissue benefits to the beneficiary's successor fiduciary in an amount equal to the amount of funds misused.

(2) This paragraph (a) applies to a fiduciary that is:

(i) An individual who served 10 or more beneficiaries during any month in which misuse occurred; or

(ii) A corporation or other entity serving one or more beneficiaries.

(b) *Negligence.* In any case in which the Hub Manager or the Regional Office Director upon reconsideration determines that an individual fiduciary who served fewer than 10 beneficiaries during any month in which misuse occurred misused a beneficiary's funds under management by the fiduciary, the Hub Manager will refer the matter to the Director, Pension and Fiduciary Service, for a determination of whether VA negligence caused the misuse. The Regional Office Director will reissue benefits to the beneficiary's successor fiduciary in an amount equal to the amount of funds misused if the Director of the Pension and Fiduciary Service determines that VA negligence caused the misuse. The Pension and Fiduciary Service Director's negligence determination will be based upon a review of the VA information of record as of the date of the Hub Manager's or Regional Office Director's misuse determination. For purposes of this section, VA negligence causes misuse when:

(1) The Hub Manager failed to properly investigate or monitor the fiduciary; for example, when:

(i) The Hub Manager failed to review the fiduciary's accounting within 60 days after the date on which the accounting was scheduled for review. The date that an accounting is scheduled for review is the date the fiduciary hub receives the accounting;

(ii) The Hub Manager did not decide whether to investigate an allegation of misuse within 60 days of receipt of the allegation;

(iii) After deciding to investigate an allegation of misuse and finding misuse, the Hub Manager failed to initiate action within 60 days of receipt of the misuse allegation to terminate the fiduciary.

(2) Actual negligence by VA is shown. For purposes of this section, *actual negligence* means the Hub Manager's failure to exercise toward a beneficiary in the fiduciary program the care which a reasonable or prudent person would exercise in the circumstances, or the Hub Manager's taking action that a reasonable or prudent person would not take. The Regional Office Director shall reissue benefits based on actual negligence if the Director of the Pension and Fiduciary Service determines that:

(i) The Hub Manager owed a duty to the beneficiary under this part,

(ii) The Hub Manager's action or failure to act was negligent, and

(iii) The Hub Manager's negligence proximately caused the misuse of benefits by the fiduciary. For purposes of this section, *proximate cause* means that the misuse would not have occurred but for the Hub Manager's negligence.

(c) *Recoupment of misused benefits.* In all cases in which the Hub Manager or Regional Office Director upon reconsideration determines that a fiduciary misused benefits, VA will make a good faith effort to recoup the total amount of misused benefits from the fiduciary.

(1) For purposes of this section, *good faith effort* means that the Hub Manager will:

(i) Recover any misused benefits from the surety company, if a surety bond was in place regarding protection of beneficiary funds; or

(ii) In cases in which no surety bond was in place and the fiduciary does not repay all misused benefits within the time prescribed by the Hub Manager in consultation with the fiduciary:

(A) Request the creation of a debt to the United States in the amount of any misused benefits that remain unpaid; and

(B) Coordinate further recoupment action, including collection of any debt owed by the fiduciary to the United States as a result of the misuse, with the appropriate Federal and state agencies.

(2) VA will pay benefits recouped under paragraph (c) of this section to the beneficiary's successor fiduciary after deducting any amount reissued under paragraph (a) or (b) of this section.

(d) *Notice.* The Hub Manager, or in the case of a negligence determination, the Director of the Pension and Fiduciary Service, will provide the beneficiary or the beneficiary's legal guardian, and the beneficiary's accredited representative, attorney or claims agent written notice of any decision regarding reissuance or recoupment of benefits under this section.

(Authority: 38 U.S.C. 501, 6106, 6107)

§ 13.500 Removal of fiduciaries.

(a) The Hub Manager may remove a fiduciary if the Hub Manager determines that fiduciary services are no longer required for a beneficiary or removal is in the beneficiary's interest. Reasons for removal include, but are not limited to:

(1) *Beneficiary reasons.* (i) A VA rating authority determines that the beneficiary can manage his or her own VA benefits without VA supervision or appointment of a fiduciary;

(ii) The beneficiary requests appointment of a successor fiduciary under § 13.100;

(iii) The beneficiary requests supervised direct payment of benefits under § 13.110; or

(iv) The beneficiary dies.

(2) *Fiduciary reasons.* (i) The fiduciary's further service is barred under § 13.130;

(ii) The fiduciary fails to maintain his or her qualifications or does not adequately perform the responsibilities of a fiduciary prescribed in § 13.140;

(iii) The fiduciary fails to timely submit a complete accounting as prescribed in § 13.280;

(iv) VA or a court with jurisdiction determines that the fiduciary misused or misappropriated VA benefits;

(v) The fiduciary fails to respond to a VA request for information within 30 days after such request is made, unless the Hub Manager grants an extension based upon good cause shown by the fiduciary;

(vi) The fiduciary is unable or unwilling to provide the surety bond prescribed by § 13.230 or, if applicable, enter into a restricted withdrawal agreement;

(vii) The fiduciary no longer meets the requirements for appointment under § 13.100; or

(viii) The fiduciary is unable or unwilling to manage the beneficiary's benefit payments, accounts, or investments.

(b) *Procedures.* (1) If the Hub Manager determines that it is necessary to remove a fiduciary and appoint a successor fiduciary, the Hub Manager will:

(i) Provide the fiduciary and the beneficiary written notice of the removal; and

(ii) Instruct the fiduciary regarding the fiduciary's responsibilities prior to transfer of funds to a successor fiduciary or provide other instructions to the fiduciary.

(2) The fiduciary must:

(i) Continue as fiduciary for the beneficiary until the Hub Manager provides the fiduciary with the name and address of the successor fiduciary and instructions regarding the transfer of funds to the successor fiduciary; and

(ii) Not later than 30 days after transferring funds to the successor fiduciary or as otherwise instructed by the Hub Manager, provide the fiduciary hub a final accounting.

(Authority: 38 U.S.C. 501, 5502, 5507, 6106)

§ 13.510 Fiduciary withdrawals.

(a) *General.* A fiduciary may not withdraw as fiduciary for a beneficiary until the fiduciary receives notice from the Hub Manager regarding transfer of the beneficiary's funds to a successor fiduciary.

(b) *Voluntary withdrawal.* (1) Subject to the limitation prescribed in paragraph (a) of this section, a fiduciary who has VA benefit funds under management for a beneficiary may withdraw from the fiduciary relationship with the beneficiary at any time if the fiduciary:

(i) Provides the fiduciary hub with jurisdiction written notice of the fiduciary's intent to withdraw as fiduciary for the beneficiary;

(ii) Describes the reasons for withdrawal;

(iii) Continues as fiduciary for the beneficiary until the Hub Manager provides the fiduciary with the name and address of the successor fiduciary and instructions regarding the transfer of funds to the successor fiduciary; and

(iv) Not later than 30 days after transferring funds to the successor fiduciary or as otherwise instructed by the Hub Manager, provides the fiduciary hub with jurisdiction a final accounting.

(2) Upon receipt of the notice of intent to withdraw prescribed in paragraph (b)(1)(i) of this section, the Hub Manager will make a reasonable effort under the circumstances to expedite the appointment of a successor fiduciary. In determining the extent to which the fiduciary hub must expedite the appointment of a successor fiduciary, the Hub Manager will consider:

(i) The reasons for the withdrawal request provided under paragraph (b)(1)(ii) of this section;

(ii) The number of beneficiaries affected;

(iii) The relationship between the affected beneficiary or beneficiaries and the fiduciary; and

(iv) Whether expedited appointment of a successor fiduciary is necessary to protect the interests of the beneficiary or beneficiaries.

(c) *Notice.* If a fiduciary requests to withdraw from service for a beneficiary, the Hub Manager will provide the beneficiary or the beneficiary's legal guardian, and the beneficiary's accredited representative, attorney, or claims agent written notice of the withdrawal request and the procedures for appointment of a successor fiduciary.

(Authority: 38 U.S.C. 501, 5502)

§ 13.600 Appeals.

Except as prescribed in paragraph (a) of this section, VA decisions regarding fiduciary matters are committed to the Secretary of Veterans Affairs' discretion by law, as delegated to subordinate officials under this part, and cannot be appealed to the Board of Veterans' Appeals or any court.

(a) *Appealable decisions.* A beneficiary may appeal to the Board of Veterans' Appeals the following decisions:

(1) The Hub Manager's appointment of a fiduciary under § 13.100;

(2) The Hub Manager's removal of a fiduciary under § 13.500;

(3) The Hub Manager's misuse determination under § 13.400;

(4) The VA Regional Office Director's final decision upon reconsideration of a misuse determination under § 13.400(d); and

(5) The Director of the Pension and Fiduciary Service's negligence determination for purposes of reissuance of benefits under § 13.410.

(b) *Procedures.* (1) VA decisions regarding fiduciary matters are final, subject only to the right of appeal prescribed in this section.

(2) The initiation and processing of appeals under this section are governed by parts 19 and 20 of this chapter.

(Authority: 38 U.S.C. 501)

(Approved by the Office of Management and Budget under control number 2900–0085.)

[FR Doc. 2018–14856 Filed 7–12–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Friday,
No. 135 July 13, 2018

Part III

The President

Executive Order 13842—Establishing an Exception to Competitive Examining Rules for Appointment to Certain Positions in the United States Marshals Service, Department of Justice
Executive Order 13843—Excepting Administrative Law Judges From the Competitive Service

Federal Register
Vol. 83, No. 135
Friday, July 13, 2018

Presidential Documents

Title 3—

The President

Executive Order 13842 of July 10, 2018

Establishing an Exception to Competitive Examining Rules for Appointment to Certain Positions in the United States Marshals Service, Department of Justice

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

Section 1. *Providing Appointment Authority.* (a) Good administration of the executive branch necessitates that the U.S. Marshals Service (USMS), a component of the Department of Justice, have a hiring authority that is currently available to other Federal law enforcement agencies and that would, among other things, enable the USMS to be competitive in recruiting high-quality Deputy U.S. Marshals and Criminal Investigators, to better hire and retain qualified individuals in certain duty locations, and to more expeditiously fill vacant positions consistent with law enforcement needs. Accordingly, it is appropriate to place Deputy U.S. Marshals and Criminal Investigators of the USMS in Schedule B of the excepted service, as it is impracticable to hold open competition or to apply usual competitive examining procedures for those positions related to Federal law enforcement.

(b) Appointments to the positions identified in subsection (a) of this section:

(i) may not be made to positions of a confidential or policy-determining character or to positions in the Senior Executive Service; and

(ii) shall constitute Schedule B appointments that are:

(A) excepted from the competitive service; and

(B) subject to laws and regulations governing Schedule B appointments, including basic qualification standards established by the Director of the Office of Personnel Management (Director) for the applicable occupation and grade level.

Sec. 2. *Providing Conversion Authority.* (a) Deputy U.S. Marshals and Criminal Investigators of the USMS appointed under Schedule B may, upon completion of 3 years of substantially continuous, fully satisfactory service, be converted non-competitively to career appointments, provided they meet the qualifications and other requirements established by the Director.

(b) The Director shall prescribe such regulations as may be necessary to implement this order.

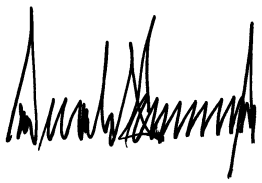
Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
July 10, 2018.

[FR Doc. 2018–15195
Filed 7–12–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Executive Order 13843 of July 10, 2018

Excepting Administrative Law Judges From the Competitive Service

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

Section 1. *Policy.* The Federal Government benefits from a professional cadre of administrative law judges (ALJs) appointed under section 3105 of title 5, United States Code, who are impartial and committed to the rule of law. As illustrated by the Supreme Court's recent decision in *Lucia* v. *Securities and Exchange Commission,* No. 17–130 (June 21, 2018), ALJs are often called upon to discharge significant duties and exercise significant discretion in conducting proceedings under the laws of the United States. As part of their adjudications, ALJs interact with the public on issues of significance. Especially given the importance of the functions they discharge—which may range from taking testimony and conducting trials to ruling on the admissibility of evidence and enforcing compliance with their orders—ALJs must display appropriate temperament, legal acumen, impartiality, and sound judgment. They must also clearly communicate their decisions to the parties who appear before them, the agencies that oversee them, and the public that entrusts them with authority.

Previously, appointments to the position of ALJ have been made through competitive examination and competitive service selection procedures. The role of ALJs, however, has increased over time and ALJ decisions have, with increasing frequency, become the final word of the agencies they serve. Given this expanding responsibility for important agency adjudications, and as recognized by the Supreme Court in *Lucia,* at least some—and perhaps all—ALJs are ''Officers of the United States'' and thus subject to the Constitution's Appointments Clause, which governs who may appoint such officials.

As evident from recent litigation, *Lucia* may also raise questions about the method of appointing ALJs, including whether competitive examination and competitive service selection procedures are compatible with the discretion an agency head must possess under the Appointments Clause in selecting ALJs. Regardless of whether those procedures would violate the Appointments Clause as applied to certain ALJs, there are sound policy reasons to take steps to eliminate doubt regarding the constitutionality of the method of appointing officials who discharge such significant duties and exercise such significant discretion.

Pursuant to my authority under section 3302(1) of title 5, United States Code, I find that conditions of good administration make necessary an exception to the competitive hiring rules and examinations for the position of ALJ. These conditions include the need to provide agency heads with additional flexibility to assess prospective appointees without the limitations imposed by competitive examination and competitive service selection procedures. Placing the position of ALJ in the excepted service will mitigate concerns about undue limitations on the selection of ALJs, reduce the likelihood of successful Appointments Clause challenges, and forestall litigation in which such concerns have been or might be raised. This action will also give agencies greater ability and discretion to assess critical qualities in ALJ candidates, such as work ethic, judgment, and ability to meet the particular needs of the agency. These are all qualities individuals should

have before wielding the significant authority conferred on ALJs, and each agency should be able to assess them without proceeding through complicated and elaborate examination processes or rating procedures that do not necessarily reflect the agency's particular needs. This change will also promote confidence in, and the durability of, agency adjudications.

Sec. 2. *Excepted Service.* Appointments of ALJs shall be made under Schedule E of the excepted service, as established by section 3 of this order.

Sec. 3. *Implementation.* (a) Civil Service Rule VI is amended as follows:

(i) 5 CFR 6.2 is amended to read:

OPM shall list positions that it excepts from the competitive service in Schedules A, B, C, and D, and it shall list the position of administrative law judge in Schedule E, which schedules shall constitute parts of this rule, as follows:

Schedule A. Positions other than those of a confidential or policy-determining character for which it is not practicable to examine shall be listed in Schedule A.

Schedule B. Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examination as may be prescribed by OPM.

Schedule C. Positions of a confidential or policy-determining character shall be listed in Schedule C.

Schedule D. Positions other than those of a confidential or policy-determining character for which the competitive service requirements make impracticable the adequate recruitment of sufficient numbers of students attending qualifying educational institutions or individuals who have recently completed qualifying educational programs. These positions, which are temporarily placed in the excepted service to enable more effective recruitment from all segments of society by using means of recruiting and assessing candidates that diverge from the rules generally applicable to the competitive service, shall be listed in Schedule D.

Schedule E. Position of administrative law judge appointed under 5 U.S.C. 3105. Conditions of good administration warrant that the position of administrative law judge be placed in the excepted service and that appointment to this position not be subject to the requirements of 5 CFR, part 302, including examination and rating requirements, though each agency shall follow the principle of veteran preference as far as administratively feasible.

(ii) 5 CFR 6.3(b) is amended to read:

(b) To the extent permitted by law and the provisions of this part, and subject to the suitability and fitness requirements of the applicable Civil Service Rules and Regulations, appointments and position changes in the excepted service shall be made in accordance with such regulations and practices as the head of the agency concerned finds necessary. These shall include, for the position of administrative law judge appointed under 5 U.S.C. 3105, the requirement that, at the time of application and any new appointment, the individual, other than an incumbent administrative law judge, must possess a professional license to practice law and be authorized to practice law under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established under the United States Constitution. For purposes of this requirement, judicial status is acceptable in lieu of ''active'' status in States that prohibit sitting judges from maintaining ''active'' status to practice law, and being in ''good standing'' is also acceptable in lieu of ''active'' status in States where the licensing authority considers ''good standing''

as having a current license to practice law. This requirement shall constitute a minimum standard for appointment to the position of administrative law judge, and such appointments may be subject to additional agency requirements where appropriate.

(iii) 5 CFR 6.4 is amended to read:

Except as required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A, C, D, or E, or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.

(iv) 5 CFR 6.8 is amended to add after subsection (c):

(d) Effective on July 10, 2018, the position of administrative law judge appointed under 5 U.S.C. 3105 shall be listed in Schedule E for all levels of basic pay under 5 U.S.C. 5372(b). Incumbents of this position who are, on July 10, 2018, in the competitive service shall remain in the competitive service as long as they remain in their current positions.

(b) The Director of the Office of Personnel Management (Director) shall:

(i) adopt such regulations as the Director determines may be necessary to implement this order, including, as appropriate, amendments to or rescissions of regulations that are inconsistent with, or that would impede the implementation of, this order, giving particular attention to 5 CFR, part 212, subpart D; 5 CFR, part 213, subparts A and C; 5 CFR 302.101; and 5 CFR, part 930, subpart B; and

(ii) provide guidance on conducting a swift, orderly transition from the existing appointment process for ALJs to the Schedule E process established by this order.

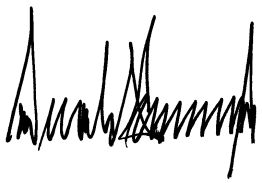
Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
July 10, 2018.

[FR Doc. 2018–15202
Filed 7–12–18; 11:15 am]
Billing code 3295–F8–P

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