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Presidential Documents

Title 3—

The President

Proclamation 9772 of August 10, 2018

Adjusting Imports of Steel Into the United States

By the President of the United States of America

A Proclamation

1. On January 11, 2018, the Secretary of Commerce (Secretary) transmitted to me a report on his investigation into the effect of imports of steel articles on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). The Secretary found and advised me of his opinion that steel articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

2. In Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States), I concurred in the Secretary's finding that steel articles, as defined in clause 1 of Proclamation 9705, as amended by clause 8 of Proclamation 9711 of March 22, 2018 (Adjusting Imports of Steel Into the United States), are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States, and decided to adjust the imports of these steel articles by imposing a 25 percent ad valorem tariff on such articles imported from most countries.

3. In Proclamation 9705, I also directed the Secretary to monitor imports of steel articles and inform me of any circumstances that in the Secretary's opinion might indicate the need for further action under section 232 with respect to such imports.

4. The Secretary has informed me that while capacity utilization in the domestic steel industry has improved, it is still below the target capacity utilization level the Secretary recommended in his report. Although imports of steel articles have declined since the imposition of the tariff, I am advised that they are still several percentage points greater than the level of imports that would allow domestic capacity utilization to reach the target level.

5. In light of the fact that imports have not declined as much as anticipated and capacity utilization has not increased to that target level, I have concluded that it is necessary and appropriate in light of our national security interests to adjust the tariff imposed by previous proclamations.

6. In the Secretary's January 2018 report, the Secretary recommended that I consider applying a higher tariff to a list of specific countries should I determine that all countries should not be subject to the same tariff. One of the countries on that list was the Republic of Turkey (Turkey). As the Secretary explained in that report, Turkey is among the major exporters of steel to the United States for domestic consumption. To further reduce imports of steel articles and increase domestic capacity utilization, I have determined that it is necessary and appropriate to impose a 50 percent ad valorem tariff on steel articles imported from Turkey, beginning on August 13, 2018. The Secretary has advised me that this adjustment will be a significant step toward ensuring the viability of the domestic steel industry.

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

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

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

(1) In order to establish increases in the duty rate on imports of steel articles from Turkey, subchapter III of chapter 99 of the HTSUS is modified as provided in the Annex to this proclamation. Clause 2 of Proclamation 9705, as amended by clause 1 of Proclamation 9740 of April 30, 2018 (Adjusting Imports of Steel Into the United States), is further amended by striking the last two sentences and inserting in lieu thereof the following three sentences: ''Except as otherwise provided in this proclamation, or in notices published pursuant to clause 3 of this proclamation, all steel articles imports specified in the Annex shall be subject to an additional 25 percent ad valorem rate of duty with respect to goods entered for consumption, or withdrawn from warehouse for consumption, as follows: (a) on or after 12:01 a.m. eastern daylight time on March 23, 2018, from all countries except Argentina, Australia, Brazil, Canada, Mexico, South Korea, and the member countries of the European Union; (b) on or after 12:01 a.m. eastern daylight time on June 1, 2018, from all countries except Argentina, Australia, Brazil, and South Korea; and (c) on or after 12:01 a.m. eastern daylight time on August 13, 2018, from all countries except Argentina, Australia, Brazil, South Korea, and Turkey. Further, except as otherwise provided in notices published pursuant to clause 3 of this proclamation, all steel articles imports from Turkey specified in the Annex shall be subject to a 50 percent ad valorem rate of duty with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 13, 2018. These rates of duty, which are in addition to any other duties, fees, exactions, and charges applicable to such imported steel articles, shall apply to imports of steel articles from each country as specified in the preceding two sentences.''.

(2) The text of U.S. note 16(a)(i) to subchapter III of chapter 99 of the HTSUS is amended by deleting ''Heading 9903.80.01 provides'' and inserting the following in lieu thereof: ''Except as provided in U.S. note 16(a)(ii), which applies to products of Turkey that are provided for in heading 9903.80.02, heading 9903.80.01 provides''.

(3) U.S. note 16(a)(ii) to subchapter III of chapter 99 of the HTSUS is re-designated as U.S. note 16(a)(iii) to subchapter III of chapter 99 of the HTSUS.

(4) The following new U.S. note 16(a)(ii) to subchapter III of chapter 99 of the HTSUS is inserted in numerical order: ''(ii) Heading 9903.80.02 provides the ordinary customs duty treatment of iron or steel products of Turkey, pursuant to the article description of such heading. For any such products that are eligible for special tariff treatment under any of the free trade agreements or preference programs listed in general note 3(c)(i) to the tariff schedule, the duty provided in this heading shall be collected in addition to any special rate of duty otherwise applicable under the appropriate tariff subheading, except where prohibited by law. Goods for which entry is claimed under a provision of chapter 98 and which are subject to the additional duties prescribed herein shall be eligible for and subject to the terms of such provision and applicable U.S. Customs and Border Protection (''CBP'') regulations, except that duties under subheading 9802.00.60 shall be assessed based upon the full value of the imported article. No claim for entry or for any duty exemption or reduction

shall be allowed for the iron or steel products enumerated in subdivision (b) of this note under a provision of chapter 99 that may set forth a lower rate of duty or provide duty-free treatment, taking into account information supplied by CBP, but any additional duty prescribed in any provision of this subchapter or subchapter IV of chapter 99 shall be imposed in addition to the duty in heading 9903.80.02.''.

(5) Paragraphs (b), (c), and (d) of U.S. note 16 to subchapter III of chapter 99 of the HTSUS are each amended by replacing ''heading 9903.80.01'' with ''headings 9903.80.01 and 9903.80.02''.

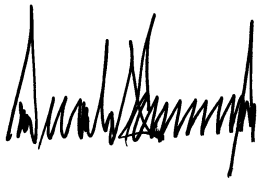
(6) The ''Article description'' for heading 9903.80.01 of the HTSUS is amended by replacing ''of Brazil'' with ''of Brazil, of Turkey''.

(7) The modifications to the HTSUS made by clauses 2 through 6 of this proclamation and the Annex to this proclamation shall be effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 13, 2018, and shall continue in effect, unless such actions are expressly reduced, modified, or terminated.

(8) The Secretary, in consultation with U.S. Customs and Border Protection of the Department of Homeland Security and other relevant executive departments and agencies, shall revise the HTSUS so that it conforms to the amendments directed by this proclamation. The Secretary shall publish any such modification to the HTSUS in the *Federal Register.*

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

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



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ANNEX

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

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 13, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by inserting in numerical sequence the following new tariff provision, with the material in the new tariff provisions inserted in the columns labeled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special," and "Rates of Duty 2", respectively:

Heading/ Subheading	Article description	Rates of Duty		
		1		2
		General	Special	
9903.80.02	Products of iron or steel that are the product of Turkey and provided for in the tariff headings or subheadings enumerated in note 16(b) to this subchapter, except any exclusions that may be determined and announced by the Department of Commerce.....	50%		

[FR Doc. 2018–17703

Filed 8–14–18; 8:45 a.m.]

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Rules and Regulations

Federal Register

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 53

[Docket No. APHIS–2015–0061]

RIN 0579–AE14

Conditions for Payment of Highly Pathogenic Avian Influenza Indemnity Claims

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with changes, an interim rule that amended the regulations pertaining to certain diseases of livestock and poultry to specify conditions for payment of indemnity claims for highly pathogenic avian influenza (HPAI). The interim rule provided a formula allowing us to split such payments between poultry and egg owners and parties with which the owners enter into contracts to raise or care for the eggs or poultry based on the proportion of the production cycle completed. That action was necessary to ensure that all contractors are compensated appropriately. The interim rule also clarified an existing policy regarding the payment of indemnity for eggs destroyed due to HPAI and required a statement from owners and contractors, unless specifically exempted, indicating that at the time of detection of HPAI in their facilities, they had in place and were following a biosecurity plan aimed at keeping HPAI from spreading to commercial premises.

DATES: Effective on August 15, 2018, we are adopting as a final rule the interim rule published at 81 FR 6745–6751, on February 9, 2016. The amendments in this final rule are effective on September 14, 2018.

FOR FURTHER INFORMATION CONTACT: Dr. Denise Brinson, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, 1506 Klondike Road, Suite 101, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule [1] effective and published in the **Federal Register** on February 9, 2016 (81 FR 6745–6751, Docket No. APHIS–2015–0061), we amended the regulations pertaining to certain diseases of livestock and poultry to specify conditions for payment of indemnity claims for highly pathogenic avian influenza (HPAI). The interim rule provided a formula allowing us to split such payments between poultry and egg owners and parties with which the owners enter into contracts to raise or care for the eggs or poultry based on the proportion of the production cycle completed. That action was necessary to ensure that all contractors are compensated appropriately. The interim rule also provided for the payment of indemnity for eggs required to be destroyed due to HPAI, thus clarifying an existing policy. Finally, the interim rule required owners and contractors, unless specifically exempted, to provide a statement that at the time of detection of HPAI in their facilities, they had in place and were following a biosecurity plan aimed at keeping HPAI from spreading to commercial premises.

Comments on the interim rule were required to be received on or before April 11, 2016. We received 18 comments by that date. They were from industry stakeholders, an animal welfare organization, and individuals. The issues raised by the commenters are discussed below.

Apportionment Formula

A number of commenters expressed concerns about the methodology set out by the interim rule for determining how to apportion funds between owner and contractor. These concerns mostly pertained to equitability and transparency, with some addressing specific sectors of the poultry industry.

Several commenters stated that the formula is flawed because it effectively apportions zero value to the preparatory work done by the contractor prior to the beginning of the production cycle. According to the commenters, contractors incur costs prior to receiving the birds, *e.g.,* for bedding, fuel, and the labor required to prepare the facilities. An indemnity payment, even if made early in the production cycle, may not be sufficient for many contractors to recover these up-front costs.

The Animal Health Protection Act (7 U.S.C. 8301) authorizes the Animal and Plant Health Inspection Service (APHIS) to make payments for birds destroyed due to HPAI based on the fair market value of the birds. While owners and contractors may have additional costs associated with the raising of the birds, the determination of fair market value accounts for the production practices and the inputs necessary to raise the species of bird. The Animal Health Protection Act does not, however, authorize us to cover all losses from HPAI, so costs incurred for certain supplies and labor performed prior to confirmation of disease may not be covered.

One of the commenters cited above further stated that, due to the initial costs contractors incur, losses for a contractor resulting from an outbreak may exceed the value of the flock. In the commenter's view, the distribution formula set out in the February 2016 interim rule does not accurately reflect the relative impacts of an HPAI outbreak on owner and contractor. The commenter recommended that, in determining the value of the loss to the contractor, APHIS should use a 5-flock average for each impacted contractor operation, based on the settlement sheets provided by the owner to the contractor.

The February 2016 interim rule set out a formula whereby the apportionment of indemnity payments to owners and contractors was based on the duration in days of the contract, as signed prior to the disease outbreak. The interim rule did include a provision, however, stating that if determining the length of service contract is impractical or inappropriate, then APHIS may use other methods as deemed appropriate. This provision allows APHIS, when appropriate, to use previous flock averages to assist in determining the contractor's portion of the indemnity payment, as the commenter suggested.

A commenter stated that contractors' loss of income resulting from bird disposal and cleanup following

[1] To view the interim rule, supporting document, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0061.*

depopulation should be factored into our formula. Noting that contractors are often directly involved with the bird disposal, the commenter stated that affected growers will lose not only the income from the flock affected by and destroyed because of HPAI, but also income from one or more flocks that cannot be raised on the premises due to the shutdown time required. While such a shutdown will also impact the owners somewhat, they can minimize economic losses by increasing placement with unaffected contractors. The contractor, who has no such recourse, therefore would bear the greater impact from such a shutdown, a difference that should be reflected in the apportionment of indemnity payments.

Under the Animal Health Protection Act, APHIS can make indemnity payments of up to 100 percent of the fair market value for live birds that must be destroyed because of HPAI. Further, the Act also authorizes APHIS to pay for certain costs associated with cleanup, disinfection, and disposal of birds and materials, such as bedding and litter, as necessary to eliminate the virus. The regulations in 9 CFR 53.2 and 53.7 also provide for such payments. While the Animal Health Protection Act does not allow APHIS to compensate owners and contractors directly for loss of income due to a shutdown of operations, the range of activities for which we do pay indemnities will go some way towards offsetting such costs.

Commenters stated that our indemnity apportionment formula should take the type and age of the birds into account. A standard cost division for all poultry is not equitable, it was suggested, because some birds require more of an investment than others. One commenter stated that specific provisions should be added to the rule to address HPAI losses experienced by breeder hen and pullet contract growers because their flocks are kept for much longer durations than broiler flocks.

These comments appear to be directed more toward our methodology for determining fair market value of the birds rather than the formula we use for apportioning indemnity payments between owners and contractors. The former is beyond the scope of the present rulemaking. That said, our formulas for determining the fair market value of destroyed poultry for the purpose of indemnifying owners and growers already take into account such factors as the type, age, and production potential of the birds. These formulas, also referred to as appraisal calculators, are developed specifically for each segment of the industry and species of bird.

Transparency was another issue raised by the commenters. A commenter suggested that we needed to gather more data in order to devise a fair method of apportioning indemnity payments between owners and contractors. Another commenter suggested that we should update and make more transparent our formulas for calculating indemnities.

We apportion indemnity payments between owner and contractor based on the terms of the contract between the two parties and the duration of the period during which the contractor possessed the birds or eggs. Thus, the amount of the indemnity received by the contractor from APHIS will depend largely on the terms of the contract. APHIS does not play a role in those contractual arrangements. Our indemnity calculation formulas, referred to by the second commenter above, are the means by which we determine the fair market value of birds and eggs destroyed due to HPAI and, thereby, the total amount of compensation due the indemnified party. As we have already noted, addressing these calculators is beyond the scope of the current rulemaking; however, the calculators are subject to continual review to ensure that the economic assumptions on which they are based are correct and that they adequately reflect standard industry practices.

Finally, one commenter stated that APHIS should indemnify farms that are not infected with HPAI but are indirectly affected by an HPAI outbreak. The commenter suggested that such farms may be affected economically by being unable to restock if located in a quarantine or control zone.

The Animal Health Protection Act authorizes APHIS to make payments for birds or eggs destroyed due to HPAI based on their fair market value. APHIS recognizes that some owners and contractors whose flocks do not have HPAI may still have limited ability to place birds or eggs due to movement control restrictions and, consequently, may face financial hardships. However, the Animal Health Protection Act only authorizes payment of indemnity to owners and contract growers of diseased birds or eggs that are destroyed and not to owners or contractors whose premises were only indirectly impacted.

Biosecurity

The February 2016 interim rule contained a requirement stating that, in order to be eligible to receive indemnity payments, both poultry or egg owners and contractors had to provide to APHIS a statement that at the time of detection of HPAI in their facilities, they had in place and were following a biosecurity plan. A list of recommended biosecurity measures was also included, as well as exemptions from the biosecurity statement requirement for certain relatively small facilities. Some commenters questioned whether the requirements were sufficiently stringent overall, while others focused more specifically on the exemptions for smaller facilities.

The various issues raised by these commenters, along with changes we are making in response to some comments, are discussed in detail below. One change we are making for the sake of clarity is to add a definition to § 53.1 of *poultry biosecurity plan,* which we define in this final rule as a document utilized by an owner and/or contractor describing the management practices and principles that are used to prevent the introduction and spread of infectious diseases of poultry at a specific facility.

One commenter stated that self-certification is not a reliable method for ensuring the use of best practices in biosecurity on poultry- or egg-producing premises because the self-certifying owners and growers will have an economic interest in ensuring their certifications. The commenter recommended that APHIS enforce biosecurity requirements by conducting unannounced spot inspections and, when violations are found, subjecting the violators to serious financial consequences.

We believe the commenter has raised some legitimate concerns about the efficacy of self-certification. In this final rule, we are adding provisions for verifying that the owner and/or contractor does have a biosecurity plan in place and that the plan is, in fact, being implemented. Those provisions are discussed in greater detail below.

Some commenters advocated for more rigorous biosecurity requirements. One commenter suggested that even if APHIS declines to do targeted inspections, it should at least require that there is a biosecurity plan in place prior to any HPAI outbreak or destruction of animals. The commenter stated that allowing owners and contractors to meet the requirement after an outbreak would provide a huge economic incentive to misrepresent the state of biosecurity planning at a facility in its attestation. Requiring a biosecurity statement prior to an outbreak, on the other hand, would motivate owners and contractors to address biosecurity planning earlier. Another commenter suggested that facilities subject to the requirement should have had a plan in place for 6 months prior to the outbreak,

have had no lapses during that period, have trained their employees in biosecurity, and be liable for penalties for submitting false claims.

Since the publication of the February 2016 interim rule, we have taken steps to strengthen our biosecurity requirements. In a notice [2] published in the **Federal Register** on May 5, 2017, and effective on July 5, 2017 (82 FR 21187–21188, Docket No. APHIS–2016–0103), we advised the public of our determination to update the National Poultry Improvement Plan (NPIP) Program Standards. The NPIP Program Standards is a document that provides detailed information on how to meet the requirements contained in the NPIP regulations. The NPIP Standards can be amended via notice rather than through a lengthy rulemaking process, thereby providing us with the flexibility to ensure that program requirements remain in sync with current industry practices. The May 2017 final notice followed an earlier notice of availability, upon which we did not receive any public comments. Among other changes, our updates to the NPIP Program Standards included the addition of a set of 14 biosecurity principles addressing such issues as training and biosecurity protocols for farm personnel; maintaining a line of separation between the poultry house(s) and the birds inside from any potential disease sources; control of birds, rodents, and insects; procedures for maintaining clean water supplies; and procedures for auditing biosecurity plans. A facility's biosecurity plan must address all 14 principles in order to ensure that it complies with our requirements.

The auditing process that we have developed as one of the 14 biosecurity principles addresses concerns expressed by the commenters regarding the need to have a biosecurity plan in place before a facility is affected by HPAI. Facilities will be audited at least once every 2 years or a sufficient number of times during that period to satisfy their Official State Agency (OSA),[3] a term we define in 9 CFR 145.1 and 146.1 as the State authority we recognize as a cooperator in the administration of NPIP requirements, that the facility's biosecurity plan complies with our 14 biosecurity principles, *i.e.,* with the NPIP Standards. The audit will include, but may not be limited to, an evaluation of the biosecurity plan itself and documentation showing that the plan is being implemented.

To be recognized as compliant with our biosecurity principles and eligible for indemnity, owners and/or contractors whose biosecurity plans fail the audit described above must have a check audit performed by a team appointed by the National NPIP Office and must demonstrate they have implemented applicable biosecurity measures.

The auditing procedures are described in a new paragraph (e) that we are adding to § 53.11 in this final rule and in greater detail in the NPIP Program Standards.

A number of commenters opposed exempting smaller facilities from the biosecurity certification requirement. It was stated that weak biosecurity at a facility of any size may result in the spread of HPAI and that some facilities that the interim rule exempted from the biosecurity requirement were, in fact, affected during the 2014–2015 HPAI outbreak. One commenter stated that the flock size thresholds for exempted facilities needed to be lowered considerably. According to the commenter, the bird density on some of the exempted facilities was still high enough to pose a risk of spreading HPAI.

While it is true that weak biosecurity on a farm of any size could lead to spread of disease, the farms that were affected during the 2014–2015 outbreak were overwhelming large commercial facilities. There are approximately 18,900 operations that will be subject to the biosecurity statement requirement, out of 233,770 poultry producers in the United States. Those 18,900 operations, however, produce or house approximately 99 percent of the poultry in the United States. Exempting the smaller facilities, therefore, allows us to focus our resources on the operations that raise or house 99 percent of the nation's poultry supply. While bird density on some smaller operations may be high enough to pose a risk of spreading HPAI due to environmental contamination when biosecurity is lacking, as noted above, 99 percent of the nation's poultry reside and are raised on non-exempt operations. Lowering the flock-size threshold would increase the regulatory burden on small producers, which were not a major contributing factor in disease spread during the 2014–2015 HPAI outbreak. In addition, if the small farms participate in the NPIP because they are selling poultry, they would have to have a biosecurity plan to comply with the NPIP Program Standards.

In the preamble to February 2016 interim rule, we had stated that an additional reason for our focus on large facilities is that their operators had suffered the most devastating impacts during the 2014–2015 outbreak. A commenter disputed that rationale, stating that because smaller contractors may have lost their entire flocks to depopulation, they may have been affected more adversely than the owners with whom they contracted, since the latter may have other, unaffected contractors with whom to place their products.

While the loss of any size flock adversely affects the contractor, all flocks that were infected by HPAI during the 2014–2015 outbreak were completely depopulated, including those owned by large-scale producers. During the 2014–2015 HPAI outbreak, there were 21 infected backyard flocks totaling approximately 10,000 birds versus 211 commercial flocks totaling approximately 50 million birds. In the aggregate, then, the impact on large commercial producers was much greater.

Furthermore, in some cases, depopulation may also have greater impacts on individual commercial farms than on smaller facilities. Smaller flock owners and contractors are more likely to be diversified. A small contract grower with 500 birds is unlikely to be able to make a living on selling the eggs or the meat from those birds. For that reason, he or she may have other occupations or businesses or may raise other livestock. Commercial producers, on the other hand, focus on raising poultry, so depopulation of their flocks may leave them without immediate alternatives.

A commenter questioned whether removing the exemption for smaller facilities would really place an undue regulatory burden on the owners and contractors operating such facilities. The commenter suggested that due to the lower bird density on smaller facilities, owners and contractors on small facilities may have to make fewer adaptations to their existing biosecurity procedures than would those on larger ones. That being the case, the commenter suggests, our biosecurity requirements may not place a greater regulatory burden on smaller facilities than on larger ones.

In our view, the biosecurity requirements included in this final rule and the NPIP Program Standards would likely prove more burdensome for smaller facilities than for larger ones. Many smaller owners and contractors

[2] To view the notices and the Program Standards, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0103.*

[3] We note that the State of Hawaii does not participate in the NPIP or have an OSA as defined in §§ 145.1 and 146.1. Audits on facilities in Hawaii may be performed by APHIS or an APHIS representative.

raise free-range chickens. To mitigate the chance of exposure of their flocks to HPAI and comply with our biosecurity principles, small growers and contractors would likely have to construct enclosures to prevent exposure to wild birds and waterfowl. With fewer birds on their premises, smaller owners and contractors might have to spend more per bird to construct such enclosures than would larger ones.

Miscellaneous

One commenter questioned our justification for publishing an interim rule. The commenter stated that we did not provide evidence that the Administrative Procedure Act's ''good cause'' exemption from the regular notice and comment rulemaking process should have applied to the interim rule. In the commenter's view, we did not clearly state what public interest was served by our issuing an interim rule on an emergency basis rather than a proposed rule followed by a final rule.

In our view, emergency action was necessary due to the possibility of another HPAI outbreak occurring during the spring wild bird migration season. In order to prevent the spread of the disease, we needed to ensure timely and equable compensation to both owners and contractors for flocks destroyed due to HPAI.

Finally, we are adding a new paragraph (f) to § 53.11, describing the notice-based procedure we will use to update the biosecurity principles and other sections of the NPIP Program Standards. Proposed updates will be announced to the public through a **Federal Register** notice in accordance with the NPIP regulations in 9 CFR 147.53(e).

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the changes discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988.

Executive Orders 12866, 13563, 13771 and Regulatory Flexibility Act

This action has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis is summarized below. Copies of the full analysis are available on the *Regulations.gov* website or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This final rule is considered an Executive Order 13771 regulatory action. In accordance with guidance on complying with Executive Order 13771, the single primary estimate of the cost of this rule is $9.3 million, the mid-point estimate annualized in perpetuity using a 7 percent discount rate. Details on the estimated costs of this final rule can be found in the rule's economic analysis.

Regulatory Flexibility Act

APHIS is adopting as a final rule, with changes, an interim rule that amended the regulations pertaining to certain diseases of livestock and poultry to specify conditions for payment of indemnity claims for HPAI. The interim rule provided a formula allowing us to split such payments between poultry and egg owners and parties with which the owners enter into contracts to raise or care for the eggs or poultry based on the proportion of the production cycle completed. The interim rule also clarified an existing policy regarding the payment of indemnity for eggs destroyed due to HPAI. The interim rule also required a statement from owners (including independent growers) and contractors (contract growers), unless exempt, indicating that at the time of detection of HPAI in their facilities, they had in place and were following a biosecurity plan aimed at keeping HPAI from spreading to commercial premises. Under this final rule, we are removing the self-certification and adding provisions for verifying that the owner and/or contractor does have a biosecurity plan in place and that the plan is, in fact, being implemented.

At the time of the most recent outbreak, the regulations in part 53 did not specify that the indemnity be split between owners and contractors. When APHIS pays to compensate owners and contractors for losses, that compensation should be distributed to parties who suffer losses based on the terms of the contract. The vast majority of contracts are expected to reflect the relative level of inputs or investments of the parties who suffer losses.

Inadequate biosecurity measures may have led to HPAI introduction or spread within and among some commercial facilities. Therefore, this final rule also requires large owners and contractors to have in place, at the time of detection of HPAI, and have been following a poultry biosecurity plan that is compliant with the biosecurity standards outlined in the NPIP Program Standards, in order to receive compensation for claims arising out of the destruction of animals or eggs destroyed due to an outbreak of HPAI. Note that the NPIP is a cooperative Federal-State-Industry mechanism for controlling certain poultry diseases.

The entities affected by this rule are U.S. facilities primarily engaged in breeding, hatching, and raising poultry for meat or egg production, and facilities primarily engaged in slaughtering poultry. There were about 18,900 farms that would be subject to the provisions of this rule in the 2012 Agricultural Census. Almost all commercial operations raising broilers are contract growers.[4] [5]

The United States is the world's largest poultry producer and the second-largest egg producer. The combined value of production from broilers, eggs, and turkeys, and the value of sales from chickens in 2016 was $38.7 billion. In 2016, the United States exported poultry meat valued at about $3.3 billion. Following the first HPAI findings in December 2014, a number of trading partners imposed complete or partial bans on shipments of U.S. poultry and poultry products. All but one of these restrictions from the 2014–15 outbreak have since been lifted. United States poultry and poultry product exports declined by about 31 percent from 2014 through 2016. Exports in 2017 were at approximately the same level as 2016.

Broilers account for nearly all U.S. chicken consumption. Broiler production and processing primarily occurs within highly integrated production systems. Owners of the processing facilities also own the birds that are processed and contract with growers (contract growers) to raise those birds before processing. Expanded broiler production has been made possible to a large extent by the vertically integrated production system and through the use of production contracts.

Under the system of production contracts, the contractor normally

[4] MacDonald, J.M. *Technology, Organization, and Financial Performance in U.S. Broiler Production, EIB–126 USDA* Economic Research Service. June 2014.

[5] 2011 USDA Agricultural Resource Management Survey, Version 4.

supplies the grow-out house with all the necessary heating, cooling, feeding, and watering systems. The contractor also supplies the labor needed in growing the birds. The owner normally supplies the chicks, feed, veterinary medicines, and transportation. Contractors have exclusive contracts with an owner and receive payment for the services that they provide, with premiums and discounts tied to the efficiency with which feed is converted to live-weight broilers, the minimization of mortality, or the number of eggs produced. Specific contract terms and the period covered can vary.

Embedded in the value of a bird at any point in time is the value of inputs by both owners and contractors. Contractors' costs are more or less fixed and are heavily committed early in the production cycle. Prior to the publication of the interim rule, indemnity payments went directly to the owner of the birds who, depending on the terms of the contractual arrangement, might or might not have compensated the contractor. It is important to finalize these regulations to share indemnity payments between poultry owners and contractors, both of whom have productive assets imbedded in the value of the bird.

APHIS' determination of the total amount of indemnity will remain the same under the rule as before. However, to determine the appropriate payment split between owner and contractor, APHIS may have to examine contract specifics on a case-by-case basis. This rule does not change the total amount of compensation paid in a given situation, but will ensure equitable distribution of that compensation between the owner and contractor. This rule benefits contractors who otherwise may suffer uncompensated economic losses from participating in an eradication program.

This rule also specifies the appropriate reference to eggs and a description of the appraisal of the value of eggs destroyed due to HPAI, simply clarifying existing practice for the indemnification of destroyed eggs and will not change the total amount of any compensation paid in a given future situation.

This final rule requires large owners and contractors to follow 14 industry-standard biosecurity principles. These principles are laid out in the NPIP Program Standards. The vast majority of contractors have some level of biosecurity in place on their operations, or were in the process of voluntarily adopting biosecurity measures prior to the implementation of the interim rule.

There are approximately 18,900 poultry operations that will be subject to this requirement. There will be one-time costs and annual costs for some poultry operations associated with this rule. One-time costs include the development of a biosecurity plan, and equipment purchases for those facilities that need to implement structural biosecurity measures in order to be fully compliant with the NPIP biosecurity principles. In addition, some producers will incur additional recurring biosecurity training costs necessary to be compliant with these regulations.

The biosecurity measures needed on a given operation are specific to that operation. The vast majority of operations already have some level of biosecurity in place on their operations, as a result of contractual obligations, participation in existing government/industry programs, compliance with existing regulations, or existing company policies, thereby reducing the need for many poultry operations to implement such measures from scratch. Most will be able to adhere to the NPIP biosecurity principles by making small operational changes and identifying and enumerating current standard operating procedures in their biosecurity plans. Some poultry operations will have to implement new operational or structural biosecurity measures in order to be fully compliant with the NPIP biosecurity principles. Based on discussions with industry, the measures that are most likely to involve changes for poultry operations concern the biosecurity categories of training, cleaning and disinfection of equipment, and the treatment of water. For the few poultry operations that need additional vehicle cleaning and disinfection, we estimate that the total one-time costs for equipment will be from about $48,000 to $439,000.

The vast majority of affected poultry operations have access to municipal water or a sufficiently deep well to meet the standards laid out in the biosecurity principles. For poultry operations that need to treat water we estimate that total one-time costs for equipment will range from about $570,000 to $1.1 million. Many operations affected by this rule will need to review their existing biosecurity plans and some will need to develop new plans. We estimate that if 5 percent of affected poultry operations need to develop new biosecurity plans and 95 percent need to review existing biosecurity plans, the total one-time cost could be between $1.8 million and $2 million.

We estimate that the total additional annual biosecurity training will cost from about $5.3 million to $9.3 million. In addition, annual costs of sanitizers used in vehicle cleaning and disinfection could range from about $2,550 to $10,200 in total for those few operations needing additional cleaning and disinfection. Annual costs of chemicals for water treatment could range from about $164,000 to $328,500 in total for those few operations needing water treatment. We estimate that the total cost of performing audits of the biosecurity plans at all affected facilities will be between $2.8 million and $3.3 million. Because these audits will be performed every 2 years, we assume that one half of this cost is incurred each year.

This rule directly benefits poultry operations who otherwise may suffer uncompensated economic losses from participating in an HPAI eradication program. In addition, the development or revision of biosecurity requirements may help to avert future HPAI outbreaks or prevent the spread of disease during an outbreak. To the extent that the rule contributes to the elimination of HPAI, entities at all levels of the poultry industry as well as consumers will benefit over the long term.

The 2015 HPAI outbreak had a substantial impact on the U.S. poultry sector. The birds lost during the outbreak accounted for about 12 percent of the U.S. table-egg laying population and 8 percent of the estimated inventory of turkeys grown for meat. Losses in the egg sector, including layers and eggs, were estimated at nearly $1.04 billion. Layers accounted for a large majority of the birds lost due to the outbreak with those losses compounded by extensive losses of layer pullets, young birds that mature into replacement layers. Turkey losses were magnified by the relatively large size of the birds and smaller inventory. Almost 600,000 breeding turkeys were lost. Market and breeding turkey losses due to the 2015 outbreak were estimated at $530 million.

Many destination markets for U.S. poultry commodities levied trade restrictions on U.S. poultry exports, distorting markets and exacerbating economic losses for all poultry sectors. Although very few broilers were affected by the outbreak, trade restrictions decreased overseas demand for broiler products and contributed to much lower 2015 and 2016 broiler prices compared to pre-outbreak levels.

APHIS paid indemnities for euthanized poultry and destroyed eggs as well as paying for the euthanasia, cleaning and disinfection of poultry premises and equipment, and testing for the HPAI virus to ensure poultry farms can be safely repopulated. In total, the U.S. Department of Agriculture spent about $850 million on these activities related to the 2015 outbreak.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

APHIS has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under Executive Order 13175. If a Tribe requests consultation, APHIS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the burden requirements included in this final rule will be approved by the Office of Management and Budget under control number 0579–0440.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

List of Subjects in 9 CFR Part 53

Animal diseases, Indemnity payments, Livestock, Poultry and poultry products.

Accordingly, the interim rule amending 9 CFR part 53 that was published at 81 FR 6745–6751, on February 9, 2016, is adopted as a final rule with the following changes:

PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

■ 1. The authority citation for part 53 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 53.1 is amended by adding a definition of *Poultry biosecurity plan* in alphabetical order to read as follows:

§ 53.1 Definitions.

* * * * *

Poultry biosecurity plan. A document utilized by an owner and/or contractor describing the management practices and principles that are used to prevent the introduction and spread of infectious diseases of poultry at a specific facility.

* * * * *

■ 3. Section 53.10 is amended as follows:

■ a. By removing paragraph (g) introductory text;

■ b. By revising paragraph (g)(1); and

■ c. By adding an OMB citation at the end of the section.

The revision and addition read as follows:

§ 53.10 Claims not allowed.

* * * * *

(g)(1) Except as provided in paragraph (g)(2) of this section, the Department will not allow claims arising out of the destruction of animals or eggs destroyed due to an outbreak of highly pathogenic avian influenza unless the owner of the animals or eggs and, if applicable, any party that enters into a contract with the owner to grow or care for the poultry or eggs, had in place, at the time of detection of highly pathogenic avian influenza, and was following a poultry biosecurity plan that meets the requirements of § 53.11(e).

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0440)

■ 4. Section 53.11 is amended as follows:

■ a. By adding paragraphs (e) and (f); and

■ b. By adding an OMB citation at the end of the section.

The additions read as follows:

§ 53.11 Highly pathogenic avian influenza; conditions for payment.

* * * * *

(e)(1) The owner and, if applicable, the contractor, unless exempted under § 53.10(g)(2), must have a poultry biosecurity plan that is approved by the Administrator. Approved biosecurity principles are listed in the NPIP Program Standards, as defined in § 147.51 of this chapter. Alternative biosecurity principles may also be approved by the Administrator in accordance with § 147.53(d)(2) of this chapter.

(2)(i) The biosecurity plan shall be audited at least once every 2 years or a sufficient number of times during that period to satisfy the owner and/or contractor's Official State Agency that the plan is in compliance with the biosecurity principles contained in the NPIP Program Standards. The audit will include, but may not be limited to, a review of the biosecurity plan, as well as documentation that it is being implemented.

(ii) To be recognized as being in compliance with the biosecurity principles and eligible for indemnity, owners and contractors who fail the initial audit conducted by the NPIP Official State Agency must have a check audit performed by a team appointed by National NPIP Office and must demonstrate that they have implemented applicable biosecurity measures. The team will consist of an APHIS poultry subject matter expert, the Official State Agency, and a licensed, accredited, industry poultry veterinarian.

(f) Proposed updates to the NPIP Program Standards will be announced to the public through a **Federal Register** notice, as described in § 147.53(e) of this chapter.

(Approved by the Office of Management and Budget under control number 0579–0440)

Done in Washington, DC, this 8th day of August 2018.

Greg Ibach,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2018–17554 Filed 8–14–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0709; Product Identifier 2018–NM–100–AD; Amendment 39–19359; AD 2018–17–05]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by reports that electro-hydrostatic actuators (EHAs), installed on the inboard ailerons, elevators, and rudder, had degraded insulation resistance in the direct drive solenoid valve (DDSOV), due to incorrect sealing application. This AD requires a check of the insulation resistance of the DDSOV of each affected EHA and applicable corrective actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective August 30, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 30, 2018.

We must receive comments on this AD by October 1, 2018.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal: Go to http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For Airbus SAS service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; phone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *continued-airworthiness.a350@airbus.com;* internet: *http://www.airbus.com.* For Moog Aircraft Group service information identified in this final rule, contact Moog Aircraft Group, Plant 4, 160 Jamison Road, East Aurora, NY 14052–0018; phone: 716–652–2000; email: *CASC@moog.com;* internet: *http://www.moog.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0709.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0709; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0141, dated July 3, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. The MCAI states:

> Occurrences were reported of EHA units that were returned to the manufacturer (MOOG Aircraft Group) with degraded insulation resistance in the direct drive solenoid valve (DDSOV). Investigation results revealed that moisture ingress, due to incorrect sealing application, had caused this degradation.
>
> This condition, if not detected and corrected, could lead to the DDSOV being unable to command or maintain the EHA in active mode, possibly resulting in reduced control of the aeroplane.
>
> Due to similarity of design, all five EHA positions could be affected, inboard aileron EHAs (Functional Item Number (FIN) 4CR1 and FIN 4CR2), elevator EHAs (FIN 2CT1 and FIN 2CT2) and the rudder EHA (FIN 3CY). Prompted by these findings, MOOG Aircraft Group improved the manufacturing process to ensure adequate sealing capability of the DDSOV and issued the applicable SB [MOOG Aircraft Group Service Bulletins CA67001–27–05; CA67006–27–04; and CA67008–27–04] providing a screening procedure. To address this potential unsafe condition, Airbus issued the AOT [Alert Operators Transmission A27P009–16] and the Airbus SB [Service Bulletin A350–27–P020], providing instructions to restore the EHA to nominal performance.
>
> For the reasons described above, this [EASA] AD requires a one-time insulation check of each affected EHA, and, depending on findings, accomplishment of applicable corrective action(s).

Corrective actions include replacing or reidentifying affected EHAs. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0709.

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued Service Bulletin A350–27–P020, dated February 22, 2018. This service information describes procedures for an insulation resistance check (detailed inspection) of the DDSOV of each affected EHA and applicable corrective actions.

Moog Aircraft Group has issued Service Bulletin CA67001–27–05, dated February 21, 2018. This service information identifies affected EHAs for certain inboard ailerons and describes, among other actions, procedures for applicable corrective actions.

Moog Aircraft Group has issued Service Bulletin CA67006–27–04, dated February 21, 2018. This service information identifies affected EHAs for certain elevators and describes, among other actions, procedures for applicable corrective actions.

Moog Aircraft Group has issued Service Bulletin CA67008–27–04, dated February 21, 2018. This service information identifies affected EHAs for certain rudders and describes, among other actions, procedures for applicable corrective actions.

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

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in the service information described previously. This AD also requires sending the results of the check to AirbusWorld.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the insulation resistance in the DDSOV can degrade to unsafe levels within three months, which could lead to the DDSOV being unable to command or maintain the EHA in active mode, possibly resulting in reduced control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that, for the same reason, good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0709; Product Identifier 2018–NM–100–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 11 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 24 work-hours × $85 per hour = Up to $2,040	$0	Up to $2,040	Up to $22,440.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 30 work-hours × $85 per hour = Up to $2,550	Up to $518,314	Up to $520,864.

We estimate that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of reporting the check results on U.S. operators to be $85 per product.

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW, Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–17–05 Airbus SAS: Amendment 39–19359; Docket No. FAA–2018–0709; Product Identifier 2018–NM–100–AD.

(a) Effective Date

This AD becomes effective August 30, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by reports that electro-hydrostatic actuators (EHAs), installed on the inboard ailerons, elevators, and rudder, had degraded insulation resistance in the direct drive solenoid valve (DDSOV), due to incorrect sealing application. We are issuing this AD to address this condition, which could lead to the DDSOV being unable to command or maintain the EHA in active mode, possibly resulting in reduced control of the airplane.

(f) Compliance

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

(g) Definitions

For the purposes of this AD, the definitions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD apply.

(1) An affected EHA is an EHA installed on inboard ailerons, elevators, and rudder, as listed by part number and serial number in the applicable service information specified in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD, except those that are paint marked, as specified in the applicable service information specified in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD.

(i) Moog Aircraft Group Service Bulletin CA67001–27–05, dated February 21, 2018 (aileron).

(ii) Moog Aircraft Group Service Bulletin CA67006–27–04, dated February 21, 2018 (elevator).

(iii) Moog Aircraft Group Service Bulletin CA67008–27–04, dated February 21, 2018 (rudder).

(2) A serviceable EHA is an EHA having a part number and serial number not listed in the applicable service information specified in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD; or an affected EHA having a paint mark as specified in the applicable service information specified in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD.

(3) Group 1 airplanes are those that have an affected EHA installed. Group 2 airplanes are those that do not have an affected EHA installed.

(h) Initial Insulation Resistance Check

(1) For Group 1 airplanes, which have not been inspected in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A27P009–16: Within 3 months after the airplane has reached 700 flight hours since airplane first flight, or within 30 days after the effective date of this AD, whichever occurs later, accomplish an insulation resistance check (detailed inspection) of the DDSOV of each affected EHA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–27–P020, dated February 22, 2018.

(2) For Group 1 airplanes, which have been inspected in accordance with the instructions of Airbus AOT A27P009–16: Within 3 months after the airplane has reached 36 months since airplane first flight, or within 3 months after the effective date of this AD, whichever occurs later, accomplish an insulation resistance check of the DDSOV of each affected EHA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–27–P020, dated February 22, 2018.

(i) Additional Check and Corrective Action

(1) If during the check required by paragraph (h)(1) of this AD, the measured insulation resistance is 15 Megohms (MOhms) or less, before next flight, replace the affected EHA with a serviceable EHA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–27–P020, dated February 22, 2018.

(2) If during the check required by paragraph (h)(1) of this AD, the measured insulation resistance is more than 15 MOhms, within 3 months after the airplane has reached 36 months since airplane first flight, or within 3 months after the effective date of this AD, whichever occurs later, accomplish an insulation resistance check of the DDSOV of each affected EHA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–27–P020, dated February 22, 2018.

(3) Depending on measured resistance result of the check required by paragraph (h)(2) or (i)(2) of this AD, within the applicable compliance time defined in figure 1 to paragraph (i)(3) of this AD, accomplish the applicable corrective action(s) defined in figure 1 to paragraph (i)(3) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–27–P020, dated February 22, 2018; or the applicable service information specified in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD.

Figure 1 to paragraph (i)(3) of this AD – *Insulation Resistance Results and Corrective Actions*

Measured Resistance (in MOhms)	Compliance Time (since last check of the insulation resistance)	Actions
15 or less	Before next flight	Replace the affected EHA with a serviceable EHA
More than 15, but not more than 50	Within 3 months	
More than 50, but not more than 100	Within 6 months	
More than 100 MOhms	Before next flight	Re-identify the affected EHA (apply paint marking) as serviceable EHA

(j) Reporting

For each check required by paragraph (h)(2) or (i)(2) of this AD: Within 30 days after each check required by paragraph (h)(2) or (i)(2) of this AD or within 30 days after the effective date of this AD, whichever occurs later, report the results, including no findings, using the online reporting application in AirbusWorld, as specified in Appendix A. ''Inspection Report'' of Airbus Service Bulletin A350–27–P020, dated February 22, 2018.

(k) Parts Installation Prohibition

For Group 1 and Group 2 airplanes: From the effective date of this AD, no person may install an affected EHA on any airplane.

(l) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0141, dated July 3, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0709.

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

(o) Material Incorporated by Reference

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

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

(i) Airbus SAS Service Bulletin A350–27–P020, dated February 22, 2018.

(ii) Moog Aircraft Group Service Bulletin CA67001–27–05, dated February 21, 2018.

(iii) Moog Aircraft Group Service Bulletin CA67006–27–04, dated February 21, 2018.

(iv) Moog Aircraft Group Service Bulletin CA67008–27–04, dated February 21, 2018.

(3) For Airbus SAS service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; phone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *continued-airworthiness.a350@airbus.com;* internet: *http://www.airbus.com.*

(4) For Moog Aircraft Group service information identified in this AD, contact Moog Aircraft Group, Plant 4, 160 Jamison Road, East Aurora, NY 14052–0018; phone: 716–652–2000; email: *CASC@moog.com;* internet: *http://www.moog.com.*

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

(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 Des Moines, Washington, on August 5, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–17482 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1022; Product Identifier 2017–NM–098–AD; Amendment 39–19357; AD 2018–17–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 and 787–9 airplanes. This AD was prompted by reports of failures of the lip heater assemblies of the inlet ice protection system of the cabin air compressor (CAC) due to chafing. This AD requires changing the airplane electrical connectors and the routes of certain wire bundles, and installing new or modified left and right CAC inlet duct assemblies. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 19, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 19, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1022.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1022; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Joe Salemeh, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3536; email: *joe.salameh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8 and 787–9 airplanes. The NPRM published in the **Federal Register** on November 17, 2017 (82 FR 54302). The NPRM was prompted by reports of failures of the CAC inlet ice protection system (CIPS) inlet lip heater assemblies due to chafing of the CIPS inlet lip heater wire harness against adjacent structures. The NPRM proposed to require changing the airplane electrical connectors and the routes of certain wire bundles, and installing new or modified left and right CAC inlet duct assemblies. We are issuing this AD to address any damage to the CIPS inlet lip heater wire bundle, which could cause an electrical short and potential loss of functions essential for safe flight of the airplane.

Comments

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

Request for Clarification of Affected Spare Parts

Oman Air requested clarification regarding whether the proposed AD applies only to the airplane line numbers specified in the service information, or whether the proposed AD would also require modification of spare ducts.

Oman Air stated that the applicability in the proposed AD includes those airplanes that are specified in Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017. Oman Air also stated that the service information also affects spare CAC inlet duct assemblies with part numbers specified in the service information. Oman Air commented that the service information recommended that the spares be modified in accordance with Boeing Alert Service Bulletin B787–81205–SB300019–00, or any later FAA-approved revision. Oman Air stated that there is no mention of spares in the proposed rule, no compliance time associated with the spares, and no parts installation prohibition paragraph.

We agree to clarify. This AD applies only to the airplanes specified in the applicability, which includes Boeing Model 787–8 and 787–9 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 002, dated April 20, 2018. Modification of spare parts is not required by this AD because operators must maintain affected airplanes in the required configuration. The FAA is not mandating action on spare parts, but an operator that wants to use those parts and not discard them must do the modification using the component service information. In addition, the existing spare parts cannot be installed after the accomplishment of Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017, because the electrical connectors are different due to the modifications in the component service information and the airplane service information. We have not changed this AD in this regard.

Request To Use the Information Notice

All Nippon Airways (ANA), Boeing, and United Airlines (UAL) requested that the FAA use Boeing Information Notice B787–A–30–00–0019–02A–931E–D, Issue 001, dated December 15, 2017, as a source when referencing Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017. Boeing stated that the information notice informs operators of a wire termination reference error that does not affect system function or airplane safety. ANA stated that the correction in the information notice must be incorporated in conjunction with the incorporation of Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017. UAL stated that the use of the information notice would avoid unnecessary requests for alternative methods of compliance (AMOC).

We agree with the commenters. We agree that the information notice corrects a wiring termination reference error for certain configurations to make it consistent with the 787 Wiring Diagram Manual and that accomplishing the service information with the wiring error does not affect system function or airplane safety. The manufacturer has revised the service information to correct the wiring termination reference error; therefore, we have revised paragraph (g) of this AD to require accomplishment of the actions in accordance with Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 002, dated April 20, 2018. We have also added paragraph (h) to this AD to give credit for actions completed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017. In addition, we have given credit for Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017, in conjunction with Boeing Information Notice B787–A–30–00–0019–02A–931E–D, Issue 001, dated December 15, 2017. We redesignated subsequent paragraphs accordingly.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 002, dated April 20, 2018. This service information describes procedures for changing the airplane electrical connectors and the routes of certain wire bundles, and installing new or modified left and right CAC inlet duct assemblies. 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 66 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Change and installation	20 work-hours × $85 per hour = $1,700	$32,937	$34,637	$2,286,042

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–17–03 The Boeing Company: Amendment 39–19357; Docket No. FAA–2017–1022; Product Identifier 2017–NM–098–AD.

(a) Effective Date

This AD is effective September 19, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 and 787–9 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 002, dated April 20, 2018.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice/Rain protection system wiring.

(e) Unsafe Condition

This AD was prompted by reports of failures of the Cabin Air Compressor (CAC) inlet ice protection system (CIPS) inlet lip heater assemblies due to chafing of the CIPS inlet lip heater wire harness against adjacent structures. We are issuing this AD to address any damage to the CIPS inlet lip heater wire bundle, which could cause an electrical short and potential loss of functions essential for safe flight of the airplane.

(f) Compliance

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

(g) Required Actions

Within 36 months after the effective date of this AD, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 002, dated April 20, 2018.

(h) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017.

(2) This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 001, dated March 22, 2017, in conjunction with Boeing Information Notice B787–A–30–00–0019–02A–931E–D, Issue 001, dated December 15, 2017.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(4) For service information that contains steps that are labeled as RC, the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

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

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

(j) Related Information

For more information about this AD, contact Joe Salemeh, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th Street, Des Moines, WA 98198; phone and fax: 206–231–3536; email: *joe.salameh@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin B787–81205–SB300019–00, Issue 002, dated April 20, 2018.

(ii) Reserved.

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

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

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

Issued in Des Moines, Washington, on August 5, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–17481 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0028; Product Identifier 2017–NM–143–AD; Amendment 39–19356; AD 2018–17–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. This AD was prompted by a determination that the safe life limits of the horizontal stabilizer trim actuator (HSTA) attachment pins and trunnions were not listed in certain airworthiness limitations (AWLs) and that the HSTA attachment pins and trunnions were not serialized. This AD requires revision of the maintenance or inspection program, as applicable, to include the latest revision of the AWLs, serialization of the HSTA attachment pins and trunnions, and repair or replacement of damaged HSTA attachment pins and

trunnions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 19, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 19, 2018.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0028.

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–2018–0028; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7239; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. The NPRM published in the **Federal Register** on February 8, 2018 (83 FR 5587) (''the NPRM''). The NPRM was prompted by a determination that the safe life limits of the HSTA attachment pins and trunnions were not listed in certain AWLs and that the HSTA attachment pins and trunnions were not serialized. The NPRM proposed to require revision of the maintenance or inspection program, as applicable, to include the latest revision of the AWLs, serialization of the HSTA attachment pins and trunnions, and repair or replacement of damaged HSTA attachment pins and trunnions. We are issuing this AD to address failure of the HSTA attachment pins and trunnions, which could lead to a disconnect of the horizontal stabilizer and subsequent loss of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2017–24, dated July 12, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. The MCAI states:

> During a review of the Horizontal Stabilizer Trim Actuator (HSTA) system, it was discovered that the safe life limits of the HSTA attachment pins and trunnions were not listed in the Airworthiness Limitation (AWL) Section of the Instructions for Continued Airworthiness. Also, the HSTA attachment pins and trunnions were not serialized making it impossible to keep accurate records of the life of these parts. Failure of these pins and trunnions could lead to a disconnect of the horizontal stabilizer and subsequent loss of the aeroplane.
>
> This [Canadian] AD mandates the incorporation of AWL tasks into the maintenance schedule and serialization of HSTA attachment pins and trunnions. Some aircraft require AWL tasks and serialization of the attachment pins only, while others require AWL tasks and serialization of the trunnions and attachment pins [and repair or replacement if damaged (including linear scratches, pits, spalling, dents, or surface texture variations)].

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0028.

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 Allow Using Later Revisions of the Service Information

NetJets requested that paragraph (h) of the proposed AD be revised to specify the latest time limits/maintenance checks (TLMC) revisions. NetJets noted that some of the TLMC documents referenced in the proposed AD have been revised. NetJets also requested that we revise the proposed AD so that operators can use later approved revisions of the TLMC documents to show compliance without requesting an alternative method of compliance (AMOC).

We partially agree with the commenter's request. In this circumstance, the specific tasks required by this AD have not changed in the latest available service information from the earlier revisions of the service information specified in the NPRM. We have therefore revised this AD to refer to the latest available service information and revised paragraph (k) of this AD to provide credit for actions done using earlier revisions of certain service information. However, we may not refer to any document that does not yet exist. In general terms, we are required by Office of the Federal Register (OFR) regulations to either publish the service document contents as part of the actual AD language; or submit the service document to the OFR for approval as ''referenced'' material, in which case we may only refer to such material in the text of an AD. The AD may refer to the service document only if the OFR approved it for ''incorporation by reference.'' See 1 CFR part 51.

To allow operators to use later revisions of the referenced document (issued after publication of the AD), either we must revise the AD to reference specific later revisions, or operators must request approval to use later revisions as an AMOC with this AD under the provisions of paragraph (m)(1) of this AD. We cannot reference a specific revision not yet in existence so the only option is to request an AMOC.

Request To Use a Service Bulletin Instead of a TLMC

Disney Aviation Group requested that the proposed AD be revised to use actions in a service bulletin instead of the TLMC for any required inspections. The commenter noted that most operators have an electronic subscription that automatically gives them the newest revision of the TLMC documents. The commenter stated that since the TLMCs have been updated since the draft AD was issued, operators

will not be able to comply with the AD, and will have to request an AMOC. The commenter noted that service bulletins are not revised as often as TLMC documents, and when they are updated they are not superseded by future revisions. The commenter pointed out that other manufacturers issue service bulletins with similar requirements and the related ADs require those service bulletins.

We disagree with the commenter's request. As noted previously, we have revised this AD to refer to the latest available TLMC documents. We cannot, however, mandate how a given manufacturer makes their service information available. Since Bombardier, Inc. has chosen to provide the TLMCs in a separate document, rather than a service bulletin, that is what operators must use to show compliance with this AD. We have therefore not changed this AD in this regard.

Conclusion

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

• Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information.

The following service information describes procedures for serializing the HSTA attachment pins and trunnions. These documents are distinct since they apply to different airplane models in different configurations.

• Bombardier Service Bulletin 600–0760, Revision 01, dated April 21, 2017.

• Bombardier Service Bulletin 601–0626, Revision 01, dated April 21, 2017.

• Bombardier Service Bulletin 604–27–034, Revision 01, dated April 21, 2017.

• Bombardier Service Bulletin 605–27–005, Revision 01, dated April 21, 2017.

The following service information identifies airworthiness limitation tasks for revising the life limits for HSTA attachment pins and trunnions. These documents are distinct since they apply to different airplane models in different configurations.

• Section 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 600 Time Limits/Maintenance Checks, Publication No. PSP 605, Revision 39, dated January 8, 2018.

• Section 5–10–10, ''Time Limits (Structural)—Pre SB 601–0280,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 46, dated January 8, 2018.

• Section 5–10–11, ''Time Limits (Structural)—Post SB 601–0280,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 46, dated January 8, 2018.

• Section 5–10–12, ''Time Limits (Structural)—Post SB 601–0360,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 46, dated January 8, 2018.

• Section 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 42, dated January 8, 2018.

• Section 5–10–11, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 42, dated January 8, 2018.

• Section 5–10–12, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 42, dated January 8, 2018.

The following service information describes life limits for certain HSTA attachment pins and trunnion supports. These documents are distinct since they apply to different airplane models in different configurations.

• Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 604 CL–604 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 30, dated December 4, 2017. This service information describes, among other tasks: Task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3;'' and Task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3.''

• Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 605 CL–605 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 18, dated December 4, 2017. This service information describes, among other tasks: Task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3;'' and Task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3.''

• Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 650 CL–650 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 5, dated December 4, 2017. This service information describes, among other tasks: Task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3;'' and Task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3.''

The following service information describes procedures for identifying damage to HSTA attachment pins and trunnions, and repair or replacement instructions. These documents are distinct since they apply to different airplane models in different configurations.

• Bombardier Repair Engineering Order (REO) 600–27–42–002, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

• Bombardier Repair Engineering Order (REO) 604–27–42–011, ''General Repair—HSTA Trunnion P/N 601R92386–1/–3,'' dated December 15, 2016.

• Bombardier Repair Engineering Order (REO) 604–27–42–012, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Serialization	Up to 20 work-hours × $85 per hour = Up to $1,700	$449	Up to $2,149	Up to $294,413.

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–17–02 Bombardier, Inc.: Amendment 39–19356; Docket No. FAA–2018–0028; Product Identifier 2017–NM–143–AD.

(a) Effective Date

This AD is effective September 19, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Bombardier, Inc., airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category.

(1) Model CL–600–1A11 (600) airplanes, serial numbers 1002 and 1004 through 1085 inclusive.

(2) Model CL–600–2A12 (601) airplanes, serial numbers 3001 through 3066 inclusive.

(3) Model CL–600–2B16 (601–3A and 601–3R Variants) airplanes, serial numbers 5001 through 5194 inclusive.

(4) Model CL–600–2B16 (604 Variant) airplanes, serial numbers 5301 through 5665 inclusive, 5701 through 5990 inclusive, and 6050 and subsequent.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that the safe life limits of the horizontal stabilizer trim actuator (HSTA) attachment pins and trunnions were not listed in certain airworthiness limitations (AWLs) and that the HSTA attachment pins and trunnions were not serialized. We are issuing this AD to prevent failure of the HSTA attachment pins and trunnions, which could lead to a disconnect of the horizontal stabilizer and subsequent loss of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision for Model CL–600–1A11 (600), Model CL–600–2A12 (601), and Model CL–600–2B16 (601–3A and 601–3R Variants) Airplanes

For airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD: Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the life limit AWL tasks identified in table 1 to paragraph (g) of this AD, as specified in the applicable service information identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD. The initial compliance time is within 500 flight cycles of the effective date of this AD, or at the applicable time (in terms of landings) specified in the applicable AWL task identified in table 1 to paragraph (g) of this AD, whichever occurs later.

(1) For Model CL–600–1A11 (600) airplanes, Section 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 600 Time Limits/Maintenance Checks, Publication No. PSP 605, Revision 39, dated January 8, 2018.

(2) For Model CL–600–2A12 (601) airplanes, the applicable task specified in paragraph (g)(2)(i), (g)(2)(ii), or (g)(2)(iii) of this AD, as identified in Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 46, dated January 8, 2018.

(i) Section 5–10–10, ''Time Limits (Structural)—Pre SB 601 – 0280.''

(ii) Section 5–10–11, ''Time Limits (Structural)—Post SB 601 – 0280.''

(iii) Section 5–10–12, ''Time Limits (Structural)—Post SB 601 – 0360.''

(3) For Model CL–600–2B16 (601–3A and 601–3R Variants) airplanes, the applicable task specified in paragraph (g)(3)(i), (g)(3)(ii), or (g)(3)(iii) of this AD, as identified in Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 42, dated January 8, 2018.

(i) Section 5–10–10, ''Time Limits (Structural).''

(ii) Section 5–10–11, ''Time Limits (Structural).''

(iii) Section 5–10–12, ''Time Limits (Structural).''

Table 1 to paragraph (g) of this AD – *Life limit AWL tasks*

Part Name	Part Number	Landings
HSTA installation pin, lower attachment	600-92383-1	50,000
HSTA installation pin, upper attachment	600-92384-1	50,000

(h) Maintenance or Inspection Program Revision for Model CL–600–2B16 (604 Variant) Airplanes

For airplanes identified in paragraph (c)(4) of this AD: Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate new life limit AWL Task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3,'' and Task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3,'' as specified in the applicable time limits maintenance checks (TLMC) manuals identified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD. The initial compliance time is within 500 flight cycles after the effective date of this AD, or at the applicable time specified in the applicable AWL task, whichever occurs later.

(1) For airplanes having serial numbers 5301 through 5665 inclusive: Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 604 CL–604 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 30, dated December 4, 2017.

(2) For airplanes having serial numbers 5701 through 5990 inclusive: Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 605 CL–605 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 18, dated December 4, 2017.

(3) For airplanes having serial numbers 6050 and subsequent: Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 650 CL–650 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 5, dated December 4, 2017.

(i) Serialization of HSTA Attachment Pins and Trunnions

For airplanes identified in table 2 to paragraph (i) of this AD: Within 48 months after the effective date of this AD, or prior to performing a maintenance task required by paragraph (g) or (h) of this AD, as applicable, whichever occurs first, do a general visual inspection for damage (including linear scratches, pits, spalling, dents, or surface texture variations), and add serial numbers to the HSTA trunnions, lower attachment pin, and upper attachment pin, as applicable, in accordance with the Accomplishment Instructions of the applicable service information specified in table 2 to paragraph (i) of this AD. If any damage to the HSTA trunnions or attachment pins is found, repair the damage in accordance with the applicable service information specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD; or using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature. If the damaged HSTA trunnion or attachment pin cannot be repaired in accordance with the applicable service information specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD: Before further flight, replace the damaged HSTA trunnion or attachment pin with a serviceable serialized HSTA trunnion or attachment pin, in accordance with the applicable service information specified in table 2 to paragraph (i) of this AD.

(1) Bombardier Repair Engineering Order (REO) 600–27–42–002, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

(2) Bombardier Repair Engineering Order (REO) 604–27–42–011, ''General Repair—HSTA Trunnion P/N 601R92386–1/–3,'' dated December 15, 2016.

(3) Bombardier Repair Engineering Order (REO) 604–27–42–012, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

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Table 2 to paragraph (i) of this AD – *Service bulletins for part serialization*

Airplane model	Bombardier Service Bulletin	Parts to serialize
CL-600-1A11 (600), serial numbers 1002 and 1004 through 1085 inclusive	600-0760, Revision 01, dated April 21, 2017	HSTA upper attachment pin HSTA lower attachment pin
CL-600-2A12 (601), serial numbers 3001 through 3066 inclusive	601-0626, Revision 01, dated April 21, 2017	HSTA upper attachment pin HSTA lower attachment pin
CL-600 2B16 (601-3A and 601-3R Variants), serial numbers 5001 through 5194 inclusive	601-0626, Revision 01, dated April 21, 2017	HSTA upper attachment pin HSTA lower attachment pin
CL-600-2B16 (604 Variant), serial numbers 5301 through 5665 inclusive	604-27-034, Revision 01, dated April 21, 2017	HSTA trunnions HSTA upper attachment pin HSTA lower attachment pin
CL-600-2B16 (604 Variant), serial numbers 5701 through 5926 inclusive	605-27-005, Revision 01, dated April 21, 2017	HSTA trunnions HSTA upper attachment pin HSTA lower attachment pin

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(j) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) or (h) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m)(1) of this AD.

(k) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (k)(1)(i), (k)(1)(ii), or (k)(1)(iii) of this AD, as applicable.

(i) Section 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 600 Time Limits/Maintenance Checks, Publication No. PSP 605, Revision 38, dated March 28, 2017.

(ii) Section 5–10–10, ''Time Limits (Structural)—Pre SB 601–0280,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 45, dated March 28, 2017.

(iii) Section 5–10–11, ''Time Limits (Structural)—Post SB 601–0280,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 45, dated March 28, 2017.

(iv) Section 5–10–12, ''Time Limits (Structural)—Post SB 601–0360,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 45, dated March 28, 2017.

(v) Section 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 41, dated March 28, 2017.

(vi) Section 5–10–11, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 41, dated March 28, 2017.

(vii) Section 5–10–12, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 41, dated March 28, 2017.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (k)(2)(i), (k)(2)(ii), or (k)(2)(iii) of this AD, as applicable.

(i) Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 604 CL–604 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 29, dated June 16, 2017.

(ii) Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 605 CL–605 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 17, dated June 16, 2017.

(iii) Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 650 CL–650 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 4, dated June 16, 2017.

(3) This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (k)(3)(i), (k)(3)(ii), (k)(3)(iii), or (k)(3)(iv) of this AD, as applicable.

(i) Bombardier Service Bulletin 600–0760, dated February 25, 2013.

(ii) Bombardier Service Bulletin 601–0626, dated February 25, 2013.

(iii) Bombardier Service Bulletin 604–27–034, dated February 25, 2013.

(iv) Bombardier Service Bulletin 605–27–005, dated February 25, 2013.

(l) Parts Installation Limitations

(1) As of the effective date of this AD, no person may install, on any airplane, an HSTA attachment pin, unless the pin has a serial number.

(2) As of the effective date of this AD, no person may install, on any Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplane with serial number 5301 and subsequent, an HSTA trunnion, unless the HSTA trunnion has a serial number.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2017–24, dated July 12, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0028.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7239; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

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

(o) Material Incorporated by Reference

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

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

(i) Bombardier Repair Engineering Order (REO) 600–27–42–002, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

(ii) Bombardier Repair Engineering Order (REO) 604–27–42–011, ''General Repair—HSTA Trunnion P/N 601R92386–1/–3,'' dated December 15, 2016.

(iii) Bombardier Repair Engineering Order (REO) 604–27–42–012, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

(iv) Bombardier Service Bulletin 600–0760, Revision 01, dated April 21, 2017.

(v) Bombardier Service Bulletin 601–0626, Revision 01, dated April 21, 2017.

(vi) Bombardier Service Bulletin 604–27–034, Revision 01, dated April 21, 2017.

(vii) Bombardier Service Bulletin 605–27–005, Revision 01, dated April 21, 2017.

(viii) Section 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 600 Time Limits/Maintenance Checks, Publication No. PSP 605, Revision 39, dated January 8, 2018.

(ix) Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 46, dated January 8, 2018.

(A) Section 5–10–10, ''Time Limits (Structural)—Pre SB 601–0280.''

(B) Section 5–10–11, ''Time Limits (Structural)—Post SB 601–0280.''

(C) Section 5–10–12, ''Time Limits (Structural)—Post SB 601–0360.''

(x) Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601A–5, Revision 42, dated January 8, 2018.

(A) Section 5–10–10, ''Time Limits (Structural).''

(B) Section 5–10–11, ''Time Limits (Structural).''

(C) Section 5–10–12, ''Time Limits (Structural).''

(xi) Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 604 CL–604 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 30, dated December 4, 2017.

(xii) Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 605 CL–605 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 18, dated December 4, 2017.

(xiii) Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 650 CL–650 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 5, dated December 4, 2017.

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

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

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

Issued in Des Moines, Washington, on August 5, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–17483 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2018–0033]

RIN 0960–AI23

Making Permanent the Attorney Advisor Program

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are making permanent the attorney advisor program, which has proved to be an integral tool in providing timely decisions to the public while maximizing the use of our administrative law judges (ALJs). The attorney advisor initiative permits some attorney advisors to develop claims, including holding prehearing conferences, and, in cases in which the documentary record clearly establishes that a fully favorable decision is warranted, issue fully favorable decisions before a hearing is conducted. We expect that by making the attorney advisor program permanent, we will be able to continue to reduce the number of pending claims at the hearing level of our administrative review process and provide more timely service to claimants.

DATES: This final rule is effective August 15, 2018.

FOR FURTHER INFORMATION CONTACT: Susan Swansiger, Office of Hearings Operations, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041, (703) 605–8500. For information on eligibility or filing for benefits, call our national toll-free number, 800–772–1213 or TTY 800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background of the Attorney Advisor Program

Under the attorney advisor program, certain attorney advisors may develop claims and, in appropriate cases, issue

fully favorable decisions before a hearing.

We first created the attorney advisor program in 1995 through notice and comment rulemaking for a limited period of two years.[1] The program's success prompted us to renew it several times until it expired in April 2001.[2] On August 9, 2007, we published an interim final rule that reinstituted the attorney advisor program in order to provide more timely service to the increasing number of applicants for Social Security disability benefits and Supplemental Security Income payments based on disability.[3] We considered the public comments we received on the interim final rule, and on March 3, 2008, we issued a final rule without change.[4]

As before, we intended the attorney advisor program to be a temporary modification to our procedures, but with the potential to become a permanent program. Therefore, we included in sections 404.942(g) and 416.1442(g) of the interim final rule a provision that the program would end on August 10, 2009, unless we decided to either terminate the rule earlier or extend it beyond that date by publication of a final rule in the **Federal Register**. Since that time, we have periodically extended the sunset date.[5] The current sunset date for the program is August 2, 2019.[6]

We explained in the 2008 final rule that the number of requests for hearings had increased significantly in recent years. From 2008 to the present, the number of pending hearing requests has continued to remain high, and we anticipate that we will receive several hundred thousand hearing requests in fiscal year 2018 and in fiscal year 2019.[7] To preserve the maximum degree of flexibility and manage our hearings-level workloads effectively, we have decided to make the attorney advisor rule permanent.

Time Savings and Other Benefits of Making the Program Permanent

Under the attorney advisor program, attorney advisors conduct certain prehearing proceedings and, when the record clearly establishes that a fully favorable decision is warranted, may issue a fully favorable decision before an ALJ holds a hearing. Thus, the attorney advisor program allows us to issue fully favorable decisions more quickly in appropriate cases, which, in turn, allows claimants to receive disability benefits under title II or disability payments under title XVI months, or perhaps even a year, earlier than if they had to wait for a hearing before an ALJ. As well, since attorney advisors may issue fully favorable decisions in cases that would otherwise require an ALJ to hold a hearing and issue a decision, the program allows ALJs to spend their time adjudicating more complex cases.

As an added benefit of the program, even if an attorney advisor cannot issue a fully favorable decision after conducting prehearing proceedings, the summary the attorney advisor drafts during his or her review can be valuable to the ALJ, helping to expedite the hearing process. Moreover, prehearing proceedings by an attorney advisor do not delay the scheduling of a hearing unless a fully favorable decision is in process. Thus, if the attorney advisor is unable to issue a fully favorable decision after conducting prehearing proceedings, the case returns to its original place in line and continues under our standard hearing process, with no delays caused by the attorney advisor's review. For these reasons, making the attorney advisor program permanent benefits claimants by giving them a chance to receive a fully favorable decision more quickly and by expediting the overall hearings process, and it benefits ALJs and their support staff by allowing them to receive helpful case summaries from attorney advisors who assist with developing the record in cases that are selected for prehearing proceedings but that still require a hearing before an ALJ.

Regulatory Procedures

Justification for Issuing a Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We find that there is good cause under 5 U.S.C. 553(b)(B) to issue this regulatory change as a final rule without prior public comment. We find that prior public comment is unnecessary because this final rule merely removes the sunset provision of 20 CFR 404.942 and 416.1442 and does *not* make any substantive changes to the attorney advisor program. Importantly, we developed the attorney advisor program through notice and comment rulemaking in 1995, and we requested public comments again when we reinstituted the program, without change, in 2007. We received only three public comments in response to our 2007 interim final rule, and two of them supported the rule. The current rules expressly provide that we may extend the program beyond the current expiration date by notice of a final rule in the **Federal Register**. Accordingly, in light of the technical nature of the rule, and because we requested and addressed public comments on the attorney advisor program on two prior occasions, we find there is good cause to issue this final rule without prior public comment.

In addition, because we are not making any substantive changes to the attorney advisor program, we find that there is good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). To ensure that we have uninterrupted authority to use attorney advisors to address the number of pending cases at the hearing level, we find that it is in the public interest to make this final rule effective on the date of publication.

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the requirements for a significant regulatory action under Executive Order (E.O.) 12866, as supplemented by E.O. 13563. Therefore, OMB has reviewed this final rule.

Executive Order 13771

This rule is not subject to the requirements of Executive Order 13771 because it is administrative in nature

[1] 60 FR 34126 (June 30, 1995).

[2] 62 FR 35073 (extending expiration date to June 30, 1998); 63 FR 35515 (extending expiration date to April 1, 1999); 64 FR 13677 (extending expiration date to April 1, 2000), 64 FR 51892 (extending expiration date to April 2, 2001).

[3] 72 FR 44763.

[4] 73 FR 11349.

[5] 74 FR 33327 (extending the expiration date to August 10, 2011); 76 FR 18383 (extending the expiration date to August 9, 2013); 78 FR 45459 (extending the expiration date to August 7, 2015); 80 FR 31990 (extending the expiration date to August 4, 2017); 82 FR 34400 (extending the expiration date to February 5, 2018); and 83 FR 711 (extending the expiration date to August 3, 2018).

[6] 83 FR 28992 (extending the expiration date to August 2, 2019).

[7] Our budget estimates indicate that we expect to receive approximately 582,000 hearing requests in fiscal year 2018 and 578,000 in fiscal year 2019 (available at: *https://www.ssa.gov/budget/FY19Files/2019CJ.pdf*).

and results in no more than de minimis costs.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-age, Survivors and Disability Insurance; Reporting and recordkeeping requirements; Social security.

20 CFR Part 416

Administrative practice and procedure; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Nancy A. Berryhill,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart J of part 404 and subpart N of part 416 of Chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD–AGE, SURVIVORS AND DISABILITY INSURANCE

(1950–)

Subpart J—[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

§ 404.942 [Amended]

■ 2. In § 404.942, remove paragraph (g).

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—[Amended]

■ 3. The authority citation for subpart N continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

§ 416.1442 [Amended]

■ 4. In § 416.1442, remove paragraph (g).

[FR Doc. 2018–17547 Filed 8–14–18; 8:45 am]

BILLING CODE 4191–02–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 September 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 September 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 September 2018.[1]

The September 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 August 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 September 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.

[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.

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 299 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
*	*	*	*	*	*	*	*	
299	9–1–18	10–1–18	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 299 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
*	*	*	*	*	*	*	*	
299	9–1–18	10–1–18	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. 2018–17351 Filed 8–14–18; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0782]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow commercial filming. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective from 7 a.m. through 9 p.m. on August 25, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0782, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

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

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

The drawspan will be secured in the closed-to-navigation position from 7 a.m. to 9 p.m. on August 25, 2018, to allow filming and a photoshoot for commercial advertisement. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: August 9, 2018.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2018–17522 Filed 8–14–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0348]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Lower Mississippi River. This action is necessary to provide for the safety of persons, vessels, and the marine environment on these navigable waters near New Orleans, LA, during a fireworks display. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector New Orleans or a designated representative.

DATES: This rule is effective from 8:45 p.m. through 10 p.m. on August 25, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0348 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander Benjamin Morgan, Sector New Orleans Waterways Management Division, U.S. Coast Guard; telephone 504–365–2231, email *Benjamin.P.Morgan@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On April 9, 2018, AFX Pro, LLC, notified the Coast Guard that it would be conducting a fireworks display from 9 p.m. through 10 p.m. on August 25, 2018, for the National Guard Association of the United States Annual Conference. The fireworks will be launched from a barge in the Mississippi River at the approximate mile marker (MM) 96.2 above Head of Passes, New Orleans, LA. In response, on May 14, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Lower Mississippi River, New Orleans, LA (83 FR 22225). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended June 13, 2018, we received no comments.

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

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 Sector New Orleans (COTP) has determined that potential hazards associated with the fireworks to be used in this August 25, 2018 display will be a safety concern for anyone within a one-mile section of the river. The purpose of this rule is to ensure safety of vessels on the navigable waters in the safety zone before, during, and after the fireworks display.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on May 14, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 8:45 p.m. through 10 p.m. on August 25, 2018. The safety zone will cover all navigable waters on the Lower Mississippi River, between mile markers (MMs) 95.7 and 96.7 above Head of Passes. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9 p.m. to 10 p.m. fireworks display.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative. The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Broadcasts (MSIBs) as appropriate.

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

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

This regulatory action determination is based on the size and duration of the safety zone. This safety zone is for only one hour and fifteen minutes on a one-mile section of the waterway. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one hour and fifteen minutes that will prohibit entry between MM 95.7 and MM 96.7 on the Lower Mississippi River above Head of Passes. 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.T08–0348 to read as follows:

§ 165.T08–0348 Safety Zone; Lower Mississippi River, New Orleans, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River, New Orleans, LA from mile marker (MM) 95.7 to MM 96.7 above Head of Passes.

(b) *Effective period.* This section is effective from 8:45 p.m. through 10 p.m. on August 25, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200.

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

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Broadcasts (MSIBs) as appropriate.

Dated: August 10, 2018.

K.M. Luttrell,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2018–17595 Filed 8–14–18; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; FCC 14–54, 16–64, and 18–5]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the rules for the Connect America Fund Phase II auction contained in the Commission's *Connect America Fund Orders,* FCC 14–54, FCC 16–64, and FCC 18–5. This document is consistent with the *Connect America Fund Orders,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the new information collection requirements.

DATES: The amendment to § 54.315(c)(1)(ii) published at 83 FR 15982, April 13, 2018 is effective August 15, 2018.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau at (202) 418–7400 or TTY (202) 418–0484. For additional information concerning the Paperwork Reduction Act information collection requirements contact Nicole Ongele at (202) 418–2991 or via email at *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Commission submitted new information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995, on June 7, 2018. OMB approved the new information collection requirements on July 31, 2018. The information collection requirements are contained in the Commission's *Connect America Fund Orders,* FCC 14–54, published at 79 FR 39164, July 9, 2014, FCC 16–64, published at 81 FR 44414, July 7, 2016 and FCC 18–5, published at 83 FR 15982, April 13, 2018. The OMB Control Number is 3060–1256. The Commission publishes this document as an announcement of the effective date of the rules published on July 7, 2016 and April 13, 2018. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1–A620, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060–1256, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on July 31, 2018, for the information collection requirements contained in 47 CFR 54.315(b) and (c) and the amendment to 47 CFR 54.315(c)(1)(ii) published at 81 FR 44414, July 7, 2016 and 83 FR 15982, April 13, 2018. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1256. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1256.

OMB Approval Date: July 31, 2018.

OMB Expiration Date: July 31, 2021.

Title: Application for Connect America Fund Phase II Auction Support—FCC Form 683.

Form Number: FCC Form 683.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions, and State, Local or Tribal Governments.

Number of Respondents and Responses: 400 respondents; 800 responses.

Estimated Time per Response: 2–12 hours (on average).

Frequency of Response: Annual reporting requirements, on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection 47 U.S.C. 154, 254 and 303(r) of the Communications Act of 1934, as amended.

Total Annual Burden: 5,600 hours.

Total Annual Cost(s): No Cost.

Nature and Extent of Confidentiality: Although most of the information collected in FCC Form 683 will be made available for public inspection, the Commission will withhold certain information collected in FCC Form 683 from routine public inspection. Specifically, the Commission will treat certain financial and technical information submitted in FCC Form 683 as confidential. In addition, an applicant may use the abbreviated process under 47 CFR 0.459(a)(4) to request confidential treatment of the audited financial statements that are submitted during the post-selection review process. However, if a request for public inspection for this technical or financial information is made under 47 CFR 0.461, and the applicant has any objections to disclosure, the applicant will be notified and will be required to justify continued confidential treatment. To the extent that an applicant seeks to have other information collected in FCC Form 683 or during the post-selection review process withheld from public inspection, the applicant may request confidential treatment pursuant to 47 CFR 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will use the information collected under this information collection to determine whether Connect America Fund Phase II auction winning bidders are eligible to receive Phase II auction support. In its *USF/ICC Transformation Order and Further Notice of Proposed Rulemaking,* FCC 11–161, 76 FR 78385, December 16, 2011, the Commission comprehensively reformed and modernized the high-cost

program within the universal service fund to focus support on networks capable of providing voice and broadband services. The Commission created the Connect America Fund and concluded that support in price cap areas would be provided through a combination of ''a new forward-looking model of the cost of constructing modern multi-purpose networks'' and a competitive bidding process (the Connect America Fund Phase II auction or Phase II auction). The Commission also sought comment on proposed rules governing the Connect America Fund Phase II auction, including basic auction design and the application process.

In the Connect America Fund Phase II auction, service providers will compete to receive support of up to $1.98 billion over 10 years to offer voice and broadband service in unserved high-cost areas. The Commission adopted new rules to implement the reforms, conduct the Phase II auction, and determine whether Phase II auction winning bidders are eligible to receive Phase II support. In its April 2014 *Connect America Order,* FCC 14–54, the Commission adopted various rules regarding participation in the Phase II auction, the term of support, and the eligible telecommunications carrier (ETC) designation process. In its *Phase II Auction Order,* FCC 16–64, the Commission adopted rules to govern the Phase II auction, including a two-stage application process that includes a pre-auction short-form application to be submitted by parties interested in bidding in the Phase II auction and a post-auction long-form application that must be submitted by winning bidders seeking to become authorized to receive Phase II auction support. In its *Phase II Auction Procedures Public Notice,* FCC 18–6, 83 FR 13590, March 29, 2018, the Commission adopted the final procedures for the Phase II auction, including the long-form application disclosure and certification requirements for winning bidders seeking to become authorized to receive Phase II auction support. In its *Phase II Auction Order on Reconsideration,* FCC 18–5, the Commission modified its previously-adopted letter of credit rules to provide some additional relief for Phase II auction support recipients by reducing the costs of maintaining a letter of credit. Based on the Commission's experience with auctions and consistent with the record, this two-stage application process balances the need to collect information essential to conducting a successful auction and authorizing Phase II support with administrative efficiency.

Under this information collection, the Commission will collect information from Connect America Fund Phase II auction winning bidders to determine the recipients of Phase II auction support. To aid in collecting this information, the Commission has created FCC Form 683, which the public will use to provide the disclosures and certifications that must be made by Phase II auction winning bidders in the Connect America Fund Phase II auction seeking to become authorized for Phase II support. Commission staff will review the information collected in FCC Form 683 as part of the post-selection review process to determine whether a long-form applicant is eligible to receive Phase II support.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–17479 Filed 8–14–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518–3398–01]

RIN 0648–XG421

Reef Fish Fishery of the Gulf of Mexico; 2018 Recreational Accountability Measure and Closure for Gulf of Mexico Gray Triggerfish

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the gray triggerfish recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2018 fishing year through this temporary rule. NMFS has projected that the 2018 recreational annual catch target (ACT) for Gulf gray triggerfish has been met. Therefore, NMFS closes the recreational sector for Gulf gray triggerfish on August 17, 2018, and it will remain closed through the end of the fishing year on December 31, 2018. This closure is necessary to protect the Gulf gray triggerfish resource.

DATES: This temporary rule is effective at 12:01 a.m., local time, on August 17, 2018, until 12:01 a.m., local time, on January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *lauren.waters@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes gray triggerfish, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All gray triggerfish weights discussed in this temporary rule are in round weight.

The 2018 recreational annual catch limit (ACL) for Gulf gray triggerfish specified in 50 CFR 622.41(b)(2)(iii) is 241,200 lb (109,406 kg) and the recreational ACT is 217,100 lb (98,475 kg).

As specified by 50 CFR 622.41(b)(2)(i), NMFS is required to close the recreational sector for gray triggerfish when the recreational ACT is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the 2018 recreational ACT for Gulf gray triggerfish was reached. Accordingly, this temporary rule closes the recreational sector for Gulf gray triggerfish effective at 12:01 a.m., local time, August 17, 2018, and it will remain closed through the end of the fishing year on December 31, 2018.

During the recreational closure, the bag and possession limits for gray triggerfish in or from the Gulf EEZ are zero. The prohibition on possession of Gulf gray triggerfish also applies in Gulf state waters for a vessel issued a valid Federal charter vessel/headboat permit for Gulf reef fish.

As specified in 50 CFR 622.34(f), there is a seasonal closure for Gulf gray triggerfish at the beginning of each fishing year from January 1 through the end of February; therefore, after the closure implemented by this temporary rule is effective on August 17, 2018, the recreational harvest or possession of Gulf gray triggerfish will not again be permitted until March 1, 2019.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the recreational sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish. Prior notice and opportunity for public comment would require time and would potentially allow the recreational sector to exceed the recreational ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: August 10, 2018.

Alan D. Risenhoover,

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

[FR Doc. 2018–17586 Filed 8–10–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 158
Wednesday, August 15, 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 THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–NCR–25928; PPNCNAMAS0, PPMPSPD1Z.YM0000]

RIN 1024–AE45

Special Regulations, Areas of the National Park System, National Capital Region, Special Events and Demonstrations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to revise special regulations related to demonstrations and special events at certain national park units in the National Capital Region. The proposed changes would modify regulations explaining how the NPS processes permit applications for demonstrations and special events. The rule would also identify locations where activities are allowed, not allowed, or allowed but subject to restrictions.

DATES: Comments must be received by October 15, 2018.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 1024–AE45 by any of the following methods:

- *Electronically:* Federal eRulemaking portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Hardcopy:* Mail or hand deliver to National Park Service, National Mall and Memorial Parks, 900 Ohio Drive SW, Washington, DC 20024, Attn: Brian Joyner.

Instructions: All comments received must include the agency name (National Park Service) and RIN (1024–AE45) for this rulemaking. Comments will not be accepted by fax, email, or in any way other than those specified above. Comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. 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, we cannot guarantee that we will be able to do so. To view comments received through the Federal eRulemaking portal, go to *http://www.regulations.gov* and enter 1024–AE45 in the search box.

FOR FURTHER INFORMATION CONTACT: Brian D. Joyner, Chief of Staff, National Park Service, National Mall and Memorial Parks, (202) 245–4468, *NAMA_Superintendent@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Mall and areas surrounding the White House in Washington, DC are managed by the National Park Service (NPS) on behalf of the American people. These areas are contained within two administrative units of the National Park System: The National Mall and Memorial Parks and President's Park.

National Mall and Memorial Parks

Within the National Mall and Memorial Parks, the NPS administers more than 1,000 acres of park land within the District of Columbia, including 14 units of the national park system: Belmont-Paul Women's Equality National Monument, Constitution Gardens, Ford's Theatre National Historic Site, Franklin Delano Roosevelt Memorial, Korean War Veterans Memorial, Lincoln Memorial, Martin Luther King, Jr. Memorial, Pennsylvania Avenue National Historic Site, the Mall, Thomas Jefferson Memorial, Vietnam Veterans Memorial, Washington Monument and Plaza, World War I Memorial, and World War II Memorial. The National Mall and Memorial Parks also contains more than 150 reservations, circles, fountains, squares, triangles, and park spaces in the center of Washington, DC that were created as part of the L'Enfant plan of the city.

The National Mall is a preeminent national landscape that is home to the enduring symbols of our country including various trees and gardens that symbolize cultural and diplomatic exchanges and gifts from other nations. It includes a combination of formally designed areas, such as the Mall and the grounds of the Washington Monument, as well as natural areas, such as the Tidal Basin and West Potomac Park. The National Mall also contains monuments, memorials, statues, and other commemorative works that honor important persons, historical events, and the ideals of democracy. The monuments, memorials, and sites in the National Mall and Memorial Parks connect visitors directly with American history and values, cultural heritage, and the sacrifices of so many, supporting our national identity as well as individual connections to the larger national and international experience. The NPS protects the valuable urban green space within the National Mall and Memorial Parks that accommodates a variety of passive and active recreational activities for a diverse population.

President's Park

President's Park comprises three distinct cultural landscapes that are each fundamental to the park and provide the setting for the ''President's Park'' as defined by Pierre L'Enfant in 1791. The White House is the oldest public building in the District of Columbia and has been the home and office of every president of the United States except for George Washington. The White House, including its wings, serves as the residence of the first family, offices for the president and staff, and an evolving museum. Lafayette Park to the north of the White House is a 19th-century public park redesigned in the 1960s. The park is bounded by H Street to the north, Madison Place to the east, Pennsylvania Avenue to the south, and Jackson Place to the west. Lafayette Park is an example of early American landscape design and the 19th century neighborhood of the president. The Ellipse area, or President's Park South, to the south of the White House grounds is another important cultural landscape. President's Park South consists of the elliptical park area known as the Ellipse, Sherman Park to the northeast, and the First Division Memorial Park to the northwest. Lafayette Park and the Ellipse provide a dignified transition area from an urban environment to the White House environs. They also

protect and enhance views to and from the White House and provide a setting for the public to view the White House. Many national monuments and memorials are found throughout the park, illustrating the significant role of President's Park as a symbolic location within the urban landscape of the nation's capital.

Demonstrations and Special Events

The buildings, structures, and grounds that compose the National Mall and Memorial Parks and President's Park are national symbols of American democracy. Citizens from the United States and around the world come to these areas to participate in American democracy, celebrate freedom, and experience our nation's history and culture. The NPS receives regular requests from the public to conduct demonstrations, which include various types of expressive activity such as marches and art displays, at locations within the National Mall and Memorial Parks and President's Park. The NPS also receives requests to hold special events, such as wedding ceremonies, national celebratory events, and sporting activities, at the same locations. Each year, the NPS issues an average of 750 permits for demonstrations and 1,500 permits for special events within the NPS units subject to 36 CFR 7.96 (as explained below). Most of these activities are held within the National Mall and Memorial Parks and President's Park. The NPS also issues an average of 800 permits for commercial filming within these parks each year. The NPS dedicates significant resources to processing permit applications and managing permitted activities in a manner that mitigates impacts to park resources, secures sensitive locations, and keeps visitors safe.

Proposed Rule

The NPS proposes to revise the regulations applicable to demonstrations and special events that are held within the National Mall and Memorial Parks and President's Park. The NPS intends these revisions to (i) modify regulations explaining how the NPS processes permit applications to conduct activities in these areas; and (ii) better identify locations where activities are allowed, not allowed, or allowed but subject to restrictions. The NPS intends these changes to provide greater clarity to the public about how and where demonstrations and special events may be conducted in a manner that protects and preserves the cultural and historic integrity of these areas.

The supplementary information contained below will explain the proposed changes to existing regulations in section 7.96 of Title 36, Code of Federal Regulations (36 CFR 7.96). These regulations govern activities within the National Mall and Memorial Parks, President's Park, and other administrative units subject to section 7.96. These other units—such as portions of the Chesapeake and Ohio Canal National Historical Park, National Capital Parks-East, George Washington Memorial Parkway, and Rock Creek Park—are located nearby the National Mall and Memorial Parks and President's Park. The NPS encounters management issues related to demonstrations and special events in these locations that are similar to those encountered in the National Mall and Memorial Parks and President's Park. In some cases, a single event such as a foot race will cross through several of these units. The administrative benefit of having a uniform set of regulations and permit processes for units in close proximity to one another supports applying the proposed changes in this rule to all of the units that are subject to section 7.96. This will allow the NPS to better manage these events and provide service to the public. The applicability of section 7.96 to the National Mall and Memorial Parks, President's Park, and these other units is discussed in more detail below.

A summary of the proposed changes is contained in the following table, along with a citation of the regulation that would be changed. The proposed changes are discussed below in the order they appear in the table below. In addition to the changes listed below, the proposed rule would reorganize several paragraphs in section 7.96 without changing any of the text.

No.	Proposed change	Citation
1	Remove several units from the applicability of § 7.96	7.96(a)
2	Adopt definitions of "demonstrations" and "special events" from 36 CFR part 2	7.96(g)(1)(i) and (ii)
3	Move the definition of "structure" to the definitions section in § 7.96(g)(1)	7.96(g)(1) and (5)(ix)(A)(*4*)
4	Consider changing the number of people that could take part in a demonstration without a permit at specific locations.	7.96(g)(2)(ii)
5	Require a permit for the erection of structures during a special event or demonstration regardless of the number of participants.	7.96(g)(2) and (g)(5)(vi)(E)
6	Consider requiring permit applicants to pay fees to allow the NPS to recover some of the costs of administering permitted activities that contain protected speech.	7.96(g)(3)
7	Establish permanent security zones at President's Park where public access is currently prohibited	7.96(g)(3)(i)
8	Modify and establish restricted zones at memorials on the National Mall where special events and demonstrations would not be allowed in order to preserve an atmosphere of contemplation.	7.96(g)(3)(ii)
9	Modify regulations explaining how the NPS processes permit applications for demonstrations and special events.	7.96(g)(3) and (4)
10	Adopt criteria in 36 CFR part 2 for reviewing permit applications that apply to other NPS areas. Remove redundant criteria in § 7.96.	7.96(g)(4) and (5)
11	Establish a maximum permit period of 30 days, plus a reasonable amount of time needed for set up and take down of structures before and after a demonstration or special event.	7.96(g)(4)(vi)
12	Identify locations where structures may not be used, and restrict the height, weight, equipment, and materials of structures when they are permitted during special events and demonstrations.	7.96(g)(5)(vi)
13	Apply existing sign restrictions (e.g. supports, dimensions) in President's Park to other locations within the National Mall and Memorial Parks and President's Park.	7.96(g)(5)(vii)
14	Other minor changes to § 7.96	7.96(g)

1. Remove Several Units From the Applicability of 7.96

The National Capital Region (NCR) is an administrative grouping of National Park System units that are located in and around metropolitan Washington, DC. NPS regulations at 36 CFR 7.96 apply to certain park units located within the NCR. These special regulations modify the general regulations in 36 CFR part 2 that apply to all areas administered by the NPS,

but only for those parks identified in section 7.96.

Paragraph (a) of section 7.96 lists the park units in the NCR that are subject to the special regulations in that section. This rule would revise paragraph (a) to limit applicability and scope of the NCR special regulations to the following park areas:

- All park areas located in Washington, DC
- the George Washington Memorial Parkway
- all park areas located within National Capital Parks East (an administrative grouping of park units in the NCR that are generally located east of the U.S. Capitol)
- the portion of Chesapeake and Ohio Canal National Historical Park that is located in Washington, DC and Montgomery County, Maryland

The special regulations in section 7.96 exist to address unique management issues that are present in these park units in the NCR but not present in other parks in the NCR or elsewhere in the country. One of these issues—especially for park units near the National Mall and the White House—is how to manage the high volume, magnitude, and impacts of special events and demonstrations. Section 7.96 addresses this issue with special rules that govern these activities. One of these rules requires individuals and organizations to send permit applications for demonstrations and special events to a central permit office in Washington, DC, for review and processing. The NPS routes all permit applications through this office, and then to the impacted park(s), to avoid potential confusion about where applications should be sent. It would be confusing to require the public to send permit applications directly to each park unit because there are so many areas administered by the NPS in the NCR, many of which are in close proximity to one another. Other unique management issues faced by these parks in the NCR include the Presidential Inauguration, other national celebration events, security needs associated with the White House Complex and the Executive Office Building, and the use of athletic fields near the National Mall. These activities are also addressed by special regulations in section 7.96.

Park units that are not identified in paragraph (a) of section 7.96 follow general NPS regulations in part 2. This is consistent with 36 CFR 1.2(c), which provides that the NPS general regulations in part 2 apply unless there are NPS special regulations for individual park areas. The general regulations in part 2 address special events and demonstrations in sections 2.50 and 2.51. Instead of using a central office, permit applications for these other parks are sent directly to park headquarters and processed by the administrative office at the park unit.

Section 7.96 already applies to the park units identified in this proposed rule. The proposed changes to paragraph 7.96(a) in this rule would remove the following park units from the applicability and scope of the NCR special regulations in section 7.96:

- Three parks in Virginia—Manassas National Battlefield Park, Prince William Forest Park, and Wolf Trap National Park for the Performing Arts
- The portion of Chesapeake and Ohio Canal National Historical Park that is located outside the District of Columbia and Montgomery County, Maryland

By removing these parks from scope and applicability of the NCR special regulations, they instead would be governed by the general regulations for special events and demonstrations found in sections 2.50 and 2.51. Although these parks are organized within the administrative grouping of the NCR, they are located further away from the metropolitan core of Washington, DC. This reduces any confusion about where permit applications should be sent. It is not necessary or efficient that permit applications for these outlying NCR parks be routed through the centralized permit office in Washington, DC. Allowing these outlying NCR parks to operate their own permit offices that can receive permit applications directly is consistent with how other NCR parks outside the Washington, DC, metropolitan area (*i.e.,* Antietam National Battlefield, Harpers Ferry National Historical Park, and Monocacy National Battlefield) have operated for decades. Instead of using a central permit office in Washington, DC, visitors would send permit applications for these outlying parks to the administrative offices of each park, to the attention of the superintendent:

Park unit	Mailing address
Manassas National Battlefield Park	12521 Lee Highway, Manassas, VA 20109, (703) 754–1861.
Prince William Forest Park	18100 Park Headquarters Road, Triangle, VA 22172, (703) 221–4706.
Wolf Trap National Park for the Performing Arts	1551 Trap Road, Vienna, VA 22182–1643, (703) 255–1808.
Chesapeake and Ohio Canal National Historical Park	1850 Dual Highway, Suite 100, Hagerstown, MD 21740, (301) 739–4200.

The other special regulations in section 7.96 either are not relevant to these parks (*e.g.* staging the Presidential Inauguration, organized athletic events, and taxi cab operations around National Memorials) or are addressed by NPS regulations in 36 CFR part 2 (*e.g.* fishing and camping). In order to maintain the existing prohibition on bathing, swimming or wading throughout the Chesapeake and Ohio Canal, the proposed rule would state that paragraph (e) of section 7.96 would apply to the portions of the Chesapeake and Ohio Canal National Historical Park that are located in Maryland outside of Montgomery County.

2. Revise Definitions of ''Demonstrations'' and ''Special Events''

NPS general regulations in 36 CFR part 2 define the term ''demonstrations'' and ''special events.'' These terms apply to activities that occur within all units of the National Park System except for those units identified in section 7.96 and located within the NCR. Section 7.96(g)(1) contains definitions for the terms ''demonstration'' and ''special events'' that apply only to those units identified in section 7.96 and located within the NCR. For both sets of definitions, the term ''demonstration(s)'' is defined to include activities that are considered expression and speech that are protected by the First Amendment. Special events are described or defined to include other activities that do not enjoy the same heightened protection under the First Amendment. The definitions of ''demonstration(s)'' in section 2.51 and section 7.96(g)(1) are the same. The list of types of special events in section 2.50 and the definition in section 7.96(g)(1) are similar, but different in some ways. A comparison is displayed in the table below:

	Part 2	Section 7.96 definition
Demonstration(s)	Includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services, and all other like forms of conduct that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to attract a crowd or onlookers. This term does not include casual park use by visitors or tourists that is not reasonably likely to attract a crowd or onlookers. 36 CFR 2.51(a).	Includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers. This term does not include casual park use by visitors or tourists that is not reasonably likely to attract a crowd or onlookers. 36 CFR 7.96(g)(1)(i).
Special Events	Sports events, pageants, regattas, public spectator attractions, entertainments, ceremonies, and similar events. 36 CFR 2.50(a).	Includes sports events, pageants, celebrations, historical reenactments, regattas, entertainments, exhibitions, parades, fairs, festivals and similar events (including such events presented by the National Park Service), which are not demonstrations under paragraph (g)(1)(i) of this section, and which are engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term also does not include casual park use by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers. 36 CFR 7.96(g)(1)(ii).

In order to avoid confusion that may arise from having separate but similar definitions in part 2 and section 7.96(g), the NPS proposes to remove the definition of ''demonstration'' in section 7.96(g)(1) and refer to the definition in section 2.51 instead. For the same reason, the NPS proposes to remove the definition of ''special events'' in section 7.96(g)(1) and refer to the activities listed in section 2.50(a) instead. Even though the description of special events in section 2.50(a) and the definition of ''special events'' in section 7.96(g)(1) are worded differently, the NPS does not regard them as substantively different. The NPS does not consider referring to the part 2 terminology as a definition in section 7.96(g)(1) to be a substantive change to the meaning of special events. The description in section 2.50(a) is broad enough to include celebrations, historical reenactments, entertainments, exhibitions, parades, fairs, and festivals, which are part of the current definition in section 7.96(g)(1) but not part of the description of special events in 2.50(a). The description in section 2.50(a) is also broad enough to include other events, such as marathons, that are common within the National Mall and Memorial Parks. The statement in the definition in section 7.96(g)(1) that special events include events presented by the NPS would be moved to a new definition of ''events'' that is explained below. This means that the NPS will continue to issue permits for NPS-sponsored events like the Fourth of July Celebration as a means of reserving park lands for these events.

The definition in section 7.96 states that special events are those activities that do not qualify as demonstrations. This affects how the event is managed because certain regulations in section 7.96 treat demonstrations and special events differently. For example, demonstrations involving 25 or fewer people generally may be held without a permit. This permit exception does not apply to special events. Other provisions in section 7.96 apply to demonstrations and special events in the same manner.

The NPS proposes to streamline these regulations by defining the term ''events,'' which would mean both demonstrations and special events, as those terms are defined in sections 2.50 and 2.51. This definition will also include a statement that events do not include casual park use by visitors or tourists that is not reasonably likely to attract a crowd or onlookers. This caveat is included in both current definitions of ''demonstration(s)'' in parts 2 and 7 and in the current definition of ''special event'' in section 7.96. The NPS proposes to replace the existing phrase ''which does not have an intent or propensity,'' which is used in the definition of ''special events'' in section 7.96, with the phrase ''that is not reasonably likely,'' which is used in the definitions of ''demonstration(s)'' in parts 2 and 7. The NPS prefers to have one standard for determining what constitutes casual park use and believes the ''reasonably likely'' standard is more objective and easier to understand than a standard that requires NPS law enforcement staff to discern the intent of a person or group. This would provide greater clarity to the public about what types of activities are subject to the regulations in section 7.96. The NPS will retain use of the terms ''demonstrations'' and ''special events'' in certain locations within section 7.96 where the distinction is necessary to ensure that NPS does not overly restrict speech that enjoys heightened protections under the First Amendment.

The NPS will remove the text in the section 7.96 definition that states that special events are those activities that do not qualify as demonstrations. Experience managing events has shown that some demonstrations have elements that are special events. The NPS specifically seeks comments on how it might further differentiate between the demonstration element(s) and the special event element(s) of a single activity. What factors should the NPS consider when differentiating between the demonstration and special event elements of a single activity? How should the NPS regulate activities that have elements of demonstrations and special events? The NPS seeks comments on the definitions and treatment of demonstrations and special events. What additional factors should the NPS consider when determining whether an activity is a demonstration or a special event?

3. Move the Definition of ''Structure'' to the Definitions Section in 7.96(g)(1)

Section 7.96(g)(5)(ix) contains regulations that apply to Lafayette Park. These regulations prohibit the erection, placement, or use of structures of any kind except for those that are hand-carried and certain speakers' platforms depending upon the size of the demonstration. In order to understand what is prohibited, the regulations define the term ''structure'' in section 7.96(g)(5)(ix)(A)*(4).* The definition includes most items that could be erected or placed within the park, with limited exceptions for signs, attended

bicycles and baby strollers, and wheelchairs and other similar devices.

The NPS proposes to move the definition of ''structure'' from section 7.96(g)(5)(ix)(A)*(4),* to the definitions section in 7.96(g)(1). This would clarify that the definition of the term ''structure'' applies anywhere that term is used in section 7.96. This includes section 7.96(g)(5)(vi), which regulates the use of structures in connection with demonstrations and special events located within any unit identified in section 7.96(a). This includes the National Mall and Memorial Parks and President's Park. This change would reduce the potential for confusion about the meaning of the term ''structure'' in section 7.96. The existing definition in 7.96(g)(5)(ix)(A)*(4)* has proven to be workable and clearly understood. Moving the term to the definitions section would make it easier for the public to find and understand the meaning of this term. The NPS proposes to add trailers, jumbotrons, light towers, delay towers, portable restrooms, and mobile stages to the definition of a structure because these items are commonly requested as part of larger events.

4. Consider Changing the Number of People That Could Take Part in a Demonstration Without a Permit at Specific Locations

Section 7.96(g)(2) states that a demonstration or special event may be held only pursuant to a valid permit. There are some important exceptions, however, for demonstrations. Demonstrations involving 25 persons or fewer may be held without a permit. This exception in section 7.96(g)(2)(i) is known as the ''small group exception.'' In addition to the small group exception, section 7.96(g)(2)(ii) identifies several locations where demonstrations of larger groups may be held without a permit. Up to 500 persons may demonstrate at Franklin Park and McPherson Square without a permit, up to 100 persons may demonstrate at U.S. Reservation No. 31 without a permit, and up to 1,000 persons may demonstrate at Rock Creek and Potomac Parkway without a permit.

The NPS seeks comment on whether it should increase the maximum number of persons that may demonstrate at Franklin Park and McPherson Square without a permit. The NPS also requests comment on whether it should establish new exceptions for Farragut Square and Dupont Circle that would allow demonstrations larger than 25 persons to occur without a permit. The NPS has determined that the maximum number of persons that can participate in an event without the need for a medical station with advanced life support is 2,500 for each location. This number represents the outer limit of how many people could demonstrate in each location without a permit in order to maintain public safety. If the NPS raises the maximum numbers of persons that may demonstrate in Franklin Park, McPherson Square, Farragut Square, or Dupont Circle without a permit, these numbers would be less than 2,500 in order to maintain public order, health, and safety, and mitigate impacts to park resources. The NPS seeks comment, however, on whether the numbers could be raised in a manner that better aligns the current limits with sizes and locations of the designated areas in order to increase opportunities for spontaneous demonstrations.

Alternatively, the NPS seeks comment on whether it should lower the numbers of persons that may demonstrate in Franklin Park, McPherson Square, U.S. Reservation No. 31, and Rock Creek and Potomac Parkway without a permit. The NPS would not lower those numbers below 25 persons which is consistent the small group exception. Lowering those numbers would allow the NPS to better manage and anticipate demonstrations occurring on NPS-administered lands.

5. Require a Permit for the Erection of Structures During a Special Event or Demonstration Regardless of the Number of Participants

The NPS proposes to require a permit in order to erect structures, other than small lecterns or speakers' platforms, during any demonstration or special event—even those demonstrations that would not otherwise require a permit because of their small size or location. Current regulations generally require a permit to hold a demonstration or special event in the NCR. These regulations allow a permit-holder to erect structures to meet messaging and logistical needs. In some circumstances, NPS regulations allow smaller demonstrations to occur without a permit.

Demonstrations involving 25 or less participants fall under the ''small group exception'' and do not require a permit. Except for Lafayette Park (where only speakers' platforms are allowed in accordance with a permit) and the White House Sidewalk (where no structures are allowed), current regulations state that demonstrations falling under the small group exception may not erect structures other than small lecterns or speakers' platforms. This proposed rule would further define the types of structures that small groups may erect without a permit by stating that speakers' platforms must be no larger than three (3) feet in length, three (3) feet in width, and three (3) feet in height. This size limitation is consistent with existing regulations that allow the NPS to issue a permit for ''soapbox'' speakers' platforms in Lafayette Park if the size of the demonstration is less than 100 persons. The proposed rule would also clarify that individuals and groups of less than 25 may erect other structures, including larger speakers' platforms, if they obtain a permit.

In five park areas within the NCR, current regulations allow for larger demonstrations to occur without a permit, provided the demonstrations involve less than a maximum number of participants. These five parks are Franklin Park (500 person limit), McPherson Square (500 person limit), U.S. Reservation No. 31 at 18th Street and H Street NW (100 person limit), Rock Creek and Potomac Parkway west of 23rd Street and south of P Street NW (1,000 person limit), and U.S. Reservation No. 46 at 8th and D Streets, SE (25 person limit). Unlike the regulations for demonstrations falling under the small group exception, the regulations establishing the permit exception areas at Franklin Park, McPherson Square, U.S. Reservation No. 31, Rock Creek and Potomac Parkway, and U.S. Reservation No. 46 do not prohibit the use of structures. As a result, demonstrations involving the use of structures are allowed without a permit in these five areas if they fall under the size limits.

The NPS has determined that the absence of a permit requirement before erecting a structure in these five parks poses a negative impact to park resources and visitor safety. Without a permit, demonstrators erecting structures are not aware of the location of any underground water lines in turf areas, or when and what type of matting may be necessary to protect turf, marble, or granite, or ensure that the structure is safe.

There was a long-term demonstration at McPherson Square in 2012, where among other actions, demonstrators attempted to erect a large and unsafe barn-like structure made up of a wooden frame of boards and planks. A permit was not required because the size of the demonstration was less than 500 people. Construction was stopped when U.S. Park Police officers observed the situation and consulted local safety officials who condemned the structure as unsafe. The same demonstration involved a large number of tents of various sizes, including dome, A-frame, and outfitter tents, that covered a

majority of the Square. Demonstrators used these tents for sleeping, meetings, as a library, as temporary restroom facilities (with buckets), and as a mess hall (with propane), These tents and the individuals using them created a public health nuisance that detracted from health and well-being. NPS personnel and participants reported human waste found around tents or in trash receptacles. Rodent burrows were observed and rodents were reported seen at night. Flammable liquids were observed outside of tents. Ultimately the NPS was able to remove these structures, after receiving many complaints from surrounding residents and businesses, and documentation of unsafe and unhygienic conditions at McPherson Square. The U.S. Park Police requested and spent approximately $480,000 for emergency operations to maintain law and order in connection with this event. This amount does not include additional funds that the NPS spent to restore and rehabilitate the condition of the park after the event. This incident revealed that requiring a permit would better protect park resources and keep visitors safe when structures are erected—no matter the size of the demonstration.

Without a permit requirement, NPS managers are less informed about the presence of structures and therefore in many cases are unable to ensure public safety, address traffic concerns, and protect park resources. Requiring a permit for structures—no matter the size of the demonstration—would allow NPS staff to work with permit applicants regarding their proposed structure and address legitimate concerns about visitor safety and resource protection. A permit would not be required for small lecterns, speakers' platforms, portable signs, or banners because these items do not raise the same concerns about public health, safety, and resource protection. A permit would not be required for individuals engaging in casual park use with objects such as small chairs, wheelchairs, picnic shelters, beach umbrellas, or small tables because this activity would not be considered an event under the regulations.

6. Consider Requiring Permit Applicants To Pay Fees To Allow the NPS To Recover Some of the Costs of Administering Permitted Activities That Contain Protected Speech

The NPS has the authority to recover all costs of providing necessary services associated with special use permits. 54 U.S.C. 103104. This authority allows the NPS to recover all costs incurred by the NPS in receiving, writing, and issuing the permit, monitoring the permitted use, restoring park areas, or otherwise supporting a special park use. Under current NPS policy, the NPS does not charge cost recovery if the proposed activity is an exercise of a right, such as a demonstration. In current practice, the NPS recovers costs associated with special events, but not demonstrations. The NPS recovers an application processing fee and is in the process of developing a more robust cost recovery program that would allow the NPS to recover additional costs associated with special events, including administrative, equipment, and monitoring costs.

Demonstrations can have substantial impacts on resources, resulting in a financial burden to the federal government, particularly where structures are involved. The NPS specifically seeks comment on the merits of recovering costs associated with permitted demonstrations, and on how any cost recovery should be done. The NPS seeks comment on how it could establish a set of clearly defined, objective categories and criteria in advance for what costs would be recovered. These categories could include direct costs associated with event management (other than costs for law enforcement personnel and activities), set up and take down of structures; material and supply costs such as barricades and fencing needed for permitted activities; costs for the restoration, rehabilitation, and clean-up of a permitted area such as sanitation and trash removal; permit application costs; and costs associated with resource damage such as harm to turf, benches, poles, and walkways. The NPS requests comment on whether it should establish an indigency waiver for permittees who cannot afford to pay cost recovery, and how this waiver program could be implemented to safeguard the financial information of permittees. The NPS is interested only in how this waiver could be applied to permitted demonstrations, not special events. The NPS seeks comment on how it could implement protocols to ensure that costs recovered from administering permits associated with demonstrations are documented and assessed to permittees in a uniform and appropriate manner. If the NPS decides to recover some costs associated with permit applications for demonstrations, it requests comment on how it could provide reasonable advance notice to permittees about the types and amounts of costs that could be recovered.

7. Establish Permanent Security Zones at President's Park Where Public Access is Prohibited

Section 7.96(g)(3)(i) allows the NPS to issue permits for demonstrations on the White House sidewalk, Lafayette Park, and the Ellipse. Permits may not be issued for special events in these locations, except for the Ellipse and for annual commemorative wreath-laying ceremonies related to statues in Lafayette Park. Although the regulations allow for demonstrations and special events in some of these locations, the NPS has temporarily closed to general public access certain park areas in the vicinity of the south fence line of the White House and in and around First Division Memorial Park and Sherman Park. The United States Secret Service requested these closures to ensure necessary security and safety for the adjacent White House complex, its occupants, and the public. The NPS proposes to close these areas in the manner requested by the United States Secret Service by adding closure language to section 7.96.

For the areas in the vicinity of the south fence line, the Secret Service determined that their location, visibility, and public access present a significant potential area of risk for individuals attempting to penetrate the secure perimeter of the White House Complex and gain unlawful access onto the grounds of the White House. Restricting public access to the south fence line would not only serve to lessen the possibility of individuals unlawfully accessing the White House grounds, but will also create a clear visual break to enable Secret Service personnel to identify any individuals attempting to scale the White House fence. The NPS implemented this closure on a temporary basis in April 2017 under its authority in 36 CFR 1.5.

For the areas in and around the First Division Memorial Park and Sherman Park, the Secret Service determined that parts of these areas must be kept clear for security reasons. The First Division area has been subject to closures on a temporary and recurring basis since August 11, 2004. The Sherman Park area has been subject to closures on a temporary and recurring basis since December 4, 2009. Neither demonstrations nor special events are currently allowed in these areas, so this rule change would not remove these areas from the public forum. State Place and Hamilton Place have been closed to general vehicle traffic for some time. Even with these closures in place, the public can continue to see the White House's south façade from the Ellipse.

The closures would not adversely affect the park's natural, aesthetic, or cultural values given the existing and ongoing public safety and security measures and alerts in Washington, DC since the September 11, 2001, terrorist attacks.

8. Establish Additional Restricted Zones at Memorials on the National Mall Where Special Events and Demonstrations Are Not Allowed in Order To Preserve an Atmosphere of Contemplation

Memorial Restricted Areas

This rule would create restricted areas at the World War II Memorial, the Korean War Veterans Memorial, and the Martin Luther King, Jr. Memorial. Demonstrations and special events would be prohibited in these restricted areas, except for official commemorative ceremonies. These restricted areas are similar to the restricted areas at the Lincoln Memorial, the Thomas Jefferson Memorial, the Washington Monument, and the Vietnam Veterans Memorial, which were established decades ago and are intended to help maintain an appropriate atmosphere of calm, tranquility, and reverence in these memorial areas, while allowing designated official commemorative ceremonies. NPS regulations establishing the restricted area at the Thomas Jefferson Memorial were upheld in *Oberwetter* v. *Hilliard,* 639 F.3d 545 (D.C. Cir. 2011). This rule would also expand the restricted area at the Washington Monument to account for the area around the Monument's base that has been substantially landscaped with granite pavers and marble benches up to its circle of flags. The rule would also include clearer maps of the existing restricted areas at the White House, the Lincoln Memorial, and the Thomas Jefferson Memorial. The updated map of the restricted areas at the White House would depict the proposed security closures discussed in the prior section.

These restrictions further the NPS's interest in securing these memorials and maintaining the intended atmosphere of calm, tranquility, and reverence, and in providing the contemplative visitor experience intended for the memorials. The restrictions in this rule are limited and apply only to those areas necessary to further the interests identified above. At each location, there are several other nearby areas available for a more full range of free expression, including demonstrations and special events. Maps showing the location of restricted areas would be available online at *https://home.nps.gov/nama/learn/management/index.htm* and at National Mall and Memorial Parks headquarters at 900 Ohio Drive SW, Washington, DC 20024.

The rule would make slight modifications to the restricted area at the Vietnam Veterans Memorial in order to help the NPS manage events. These modifications would slightly scale back the areas where sound and stage equipment are currently not allowed. This would allow for other groups to walk on the exterior pathways and place equipment along the reflecting pool for larger events. In addition, the striped restricted areas—where demonstrations and special events are currently prohibited—would be scaled back to the inside of the north and west sidewalks on the top of the wall.

World War II Memorial

Authorized by an Act of Congress at 107 Stat. 90 (1993), the World War II Memorial honors the service of sixteen million members of the Armed Forces of the United States of America, the support of millions of others on the homefront, and the ultimate sacrifice of more than 400,000 Americans. Dedicated on May 29, 2004, the World War II Memorial serves as a tribute to the legacy of ''The Greatest Generation.'' The granite, bronze, and water elements of the Memorial harmoniously blend with the lawns, trees, and shrubbery of the surrounding landscape on the National Mall.

The 24 bronze bas-relief panels that flank the Memorial's Ceremonial Entrance offer glimpses into the human experience at home and at war. Fifty-six granite columns, split between two half-circles framing the rebuilt Rainbow Pool with its celebratory fountains, symbolize the unprecedented wartime unity among the forty-eight states, seven federal territories, and the District of Columbia. Bronze ropes tie the columns together, while bronze oak and wheat wreaths represent the nation's industrial and agricultural strengths. Two 43-foot tall pavilions proclaim American victory on the Atlantic and Pacific fronts.

At the center of the World War II Memorial is the Freedom Wall Plaza. The Freedom Wall is located on the west side of the Plaza. The Wall contains 4,048 Gold Stars, each of which represents 100 American military deaths. During World War II, when a man or woman went off to serve in the war, his or her family often displayed a blue star on a white field with a red border in their window. If the family member died in the war effort, the family would replace the blue star with a gold star that revealed that family's sacrifice. Beneath the gold stars on the Freedom Wall appears the simple but poignant engraved message: ''Here We Mark the Price of Freedom,'' which pays silent and solemn tribute to those who paid the ultimate sacrifice. Much like a formal gathering where the guest or place of honor is at center, the Freedom Wall with its gold stars is the Memorial's place of honor, which symbolizes the number of American dead and missing from World War II. The restricted area would be located in front of the Freedom Wall and extend to the western edge of the Rainbow Pool.

Korean War Veterans Memorial

Authorized by an Act of Congress at 110 Stat. 3226 (1986), the Korean War Veterans Memorial honors members of the Armed Forces of the United States who served in the Korean War. Dedicated on July 27, 1995, the Memorial is located on the National Mall just south of the Lincoln Reflecting Pool. Viewed from above, the Korean War Veterans Memorial is a circle intersected by a triangle. Visitors approaching from the east first come to the triangular Field of Service, where a group of 19 stainless-steel statues depicts a squad on patrol. Strips of granite and scrubby juniper bushes suggest the rugged Korean terrain, while the statues' windblown ponchos recall the harsh weather. This symbolic patrol represents soldiers from a variety of ethnic backgrounds in the U.S. Air Force, Army, Coast Guard, Navy, and Marines.

On the north side of the statues is a granite curb which lists the 22 countries that sent troops or gave medical support in defense of South Korea. On the south side is a black granite wall, whose polished surface mirrors the statues, intermingling the reflected images with faces etched into the granite. The mural is based on actual photographs of unidentified American soldiers, sailors, airmen, and marines. Walking past the Field of Service, visitors approach the circular Pool of Remembrance. The Pool is encircled by a grove of trees and provides a quiet setting for contemplation. The numbers of those killed, wounded, missing in action, and held prisoner-of-war are etched nearby in stone. Opposite this counting of the war's toll is another granite wall which bears a simple but poignant engraved message inlaid in silver: ''Freedom Is Not Free.'' The restricted area would encompass most of the Memorial. The perimeter of the restricted area would be marked by the exterior walkways and by the placement of ground-level markers to mark its eastern boundary, similar to markers identifying the eastern

boundary of the restricted areas at the Vietnam Veterans Memorial.

Martin Luther King, Jr. Memorial

Authorized by an Act of Congress at 110 Stat. 4157 (1986), the Martin Luther King, Jr. Memorial was dedicated on October 16, 2011. The Memorial helps preserve the memory of Dr. King as a visionary, a faith leader and public intellectual, an unwavering advocate of social justice, and a martyr to peace, equality, and justice. On the steps of the nearby Lincoln Memorial, a clear symbol of freedom, Dr. King delivered his first national address, ''Give Us the Ballot'' in 1957. He returned to the Lincoln Memorial as a key figure supporting the 1963 March on Washington. There, in the defining moment of his leadership in the movement for civil rights, Dr. King delivered his immortal ''I Have a Dream'' speech.

The Memorial is located on the banks of the Tidal Basin between the Lincoln and Thomas Jefferson Memorials and accentuates Dr. King's story within the larger narrative of the nation. The Memorial encompasses four acres, and comprises elements of architecture, water features, sculpture and inscriptions, that together create a sense of place and a setting for remembrance and celebration. At the north entry portal, the Mountain of Despair's two stones are parted and the Stone of Hope is pushed forward toward the horizon; the missing piece of what was once a single boulder. The emergent Stone of Hope represents the struggle felt by Dr. King whose image is carved in it and gazes over the Tidal Basin toward a future society of justice and equality.

The quotations chosen for the plaza's Inscription Walls represent Dr. King's messages of justice, democracy, hope, and love. Fourteen of Dr. King's quotes are engraved on a 450-foot crescent shaped granite wall. These quotes span his involvement with the Montgomery bus boycotts in Alabama in 1955 to his last sermon delivered at the National Cathedral in Washington, DC, in 1968, four days before his assassination. The restricted area would encompass almost all of the plaza in the Memorial that begins when the visitor emerges from the portal through the Mountain of Despair.

Washington Monument

The Washington Monument honors both the nation's first President and his legacy. Built between 1848 and 1884, the Monument is the nation's foremost memorial to President Washington and the tallest masonry structure in the world at approximately 555 feet tall. Dedicated in 1884, the Washington Monument shows the enduring gratitude and respect held by the citizens of the United States for President Washington and his contributions to the fight for independence and founding of our Nation. The Washington Monument is surrounded by a circular colonnade of 50 aluminum flagpoles that display American flags. These flags represent the 50 states and are displayed at all times during the day and night to symbolize our enduring freedom.

In 2014, the Washington Monument plaza and its marble benches were rehabilitated with the installation of granite pavers that extend from the Monument to the circle of flags. From the Washington Monument plaza, visitors can also see grand vistas south to the Thomas Jefferson Memorial, east to the Capitol, north to the White House, and west to the Lincoln Memorial.

When the current restricted area for the Washington Monument was established, there was an inner circle surrounding the base of the Monument that was encircled by a roadway. The restricted area included the inner circle and extended to the roadway. This took advantage of an obvious physical boundary to mark the edge of the restricted area. The roadway was removed in 2001 and is now covered by the granite plaza that was completed in 2014. This granite plaza extends from the Monument beyond the old location of the roadway out to the circle of flags. In order to provide certainty to the public about the extent of the restricted area, and to allow more visitors to experience the grand vistas south to the Thomas Jefferson Memorial, east to the Capitol, north to the White House, and west to the Lincoln Memorial, the NPS proposes to expand the restricted area outward approximately 48 feet to include the entire granite plaza that surrounds the Monument out to the circle of flags. Visitors would thus be able to readily identify the expanded restricted area because it is delineated by the circle of flags which is marked by a post and chain fence that surrounds the plaza. The granite plaza is also a different material than the concrete sidewalks that lead to it. The NPS believes it is important to reserve the entire granite plaza as a place where an atmosphere of calm, tranquility and reverence is maintained, so that visitors may contemplate the meaning of the Monument and of George Washington, while leaving ample space nearby for demonstrations and special events. For many people, standing in the granite plaza or sitting on one of its marble benches will be as close as they get to the Monument because of the obelisk's limited occupant capacity and hours of operation.

9. Modify Regulations Explaining How the NPS Processes Permit Applications for Demonstrations and Special Events

Sections 7.96(g)(3) and (4) describe how the public can submit a permit application to the NPS for a demonstration or special event, and how the NPS will process that application. The NPS proposes to make several changes to these regulations in order to provide greater clarity and certainty to the public about how the NPS processes permit applications. Applying for a commercial filming permit at the National Mall and Memorial Parks and President's Park is governed by regulations in 43 CFR part 5, which are not affected by this proposed rule.

Waiver of 48-Hour Permit Application Deadline

Section 7.96(g)(3) requires that applicants submit permit applications at least 48 hours in advance of any demonstration or special event. Under existing regulations, this requirement can be waived by the Regional Director if the size and nature of the activity will not reasonably require the commitment of park resources or personnel in excess of that which are normally available or which can reasonably be made available within the necessary time period. The NPS proposes to replace this waiver language by stating that notwithstanding the 48-hour requirement, the Regional Director will reasonably seek to accommodate spontaneous demonstrations, subject to all limitations and restrictions applicable to the requested location, provided such demonstrations do not include structures and provided the NPS has the resources and personnel available to manage the activity. Reactions to specific or imminent occurrences, including but not limited to a presidential action, congressional vote, or Supreme Court decision, often result in requests for spontaneous demonstrations. Adding this statement would provide more flexibility for spontaneous demonstrations, while allowing the Regional Director to ensure that the NPS and the U.S. Park Police have the law enforcement capacity to safely manage events that are requested with less than 48-hours notice. The proposed language would clarify for the public that structures may not be used for events that are not requested at least 48 hours in advance. This is the minimum amount of time the NPS needs to evaluate the safety concerns

and resource impacts associated with the use of structures.

Removal of 24-Hour Deemed Granted Status for Demonstrations

Section 7.96(g)(3) states that applications for demonstrations are deemed granted, subject to all limitations and restrictions applicable to the park area, unless denied within 24 hours of receipt. Permit applications that are ''deemed granted'' after this 24-hour period remain subject to terms and conditions that are negotiated between the applicant and the NPS. This negotiation can result in the permit application being denied, partially denied, or modified by the NPS as it receives more information from the permittee about the requested event. This is particularly the case when applicants request permits for large and complex demonstrations with structures that raise resource and public safety concerns. In some cases, the NPS receives information from the applicant in the weeks or days before the event begins. This can result in the NPS imposing permit terms and conditions just before the event in order to mitigate concerns related to park resources and public order and safety. The result is that permit applications that have been ''deemed granted'' are often times subject to a lengthy review process that can be confusing for permit applicants. The NPS proposes to remove the ''deemed granted'' language in section 7.96(g)(3) and replace it with language in section 7.96(g)(4) that better reflects how the NPS processes permit applications. These changes are discussed below.

Timeline To Respond to an Application

Section 7.96(g)(4)(1) states that the NPS processes permit applications for demonstrations and special events in order of receipt. This regulation also states that the NPS will not accept applications more than one year in advance of a proposed event (including set-up time). An application is considered received at the time and date stamped on the application by a staff member of the NPS Permits Management Division. Applications are only stamped if they contain basic information about the requested event. At minimum, an application must provide the location, purpose and plan for the event, time and date, number of people who will participate, and contact information. Instead of the 24-hour ''deemed granted'' provision, the NPS proposes that it will provide an initial response for all permit applications for demonstrations within three business days of receipt. Within that time frame, the NPS would notify the applicant that the permit application has been characterized in one of three ways: Approved, Provisionally Reserved, or Denied. The NPS anticipates that this notification will be in the form of an electronic communication (*e.g.* text message, email) indicating the category of disposition and—if the application is provisionally reserved—stating that the NPS will follow-up with the applicant for more information. If the NPS fails to send the electronic communication to the permit applicant within three business days of receiving the application, then the permit application will be approved. The NPS anticipates that it will use electronic communication with applicants in order to provide more rapid and timely information. The NPS proposes to clarify in the regulations that only those applications that contain basic information about the event (location, time and date, purpose and plan for the event, number of people who will participate, and contact information) will be subject to the three-business day initial response period. Applications that do not contain this information prevent the NPS from making an initial determination about their status. The NPS would notify applicants if their applications do not contain enough information to make an initial determination and would identify the information that must be provided.

Applications for special events will not be subject to this requirement and therefore will not be considered approved after any specified period of time. The NPS will respond to applications for special events as soon as practicable given the workload and available resources in the Division of Permits Management when the application is received. The NPS will provide an opportunity for the applicant to characterize the event as either a demonstration or a special event. The NPS, however, will apply the definitions of demonstration and special event to determine the type of activity requested by a permit application for purposes of whether an initial response must be provided within three business days. For events that contain elements of both demonstrations and special events, only the demonstration elements will be approved if the NPS fails to notify the applicant that those elements are either provisionally reserved or denied within three business days.

The NPS believes that the increased volume and complexity of applications for events necessitates an increase in the amount of time it has to provide information back to the applicant about the status of a particular request. Under existing regulations, an application for a demonstration is deemed granted, based on language in the decision in Quaker Action IV, 516 F.2d 717 (1975), unless the NPS denies the application within 24 hours. In this way, permit applicants can understand the status of their application for a demonstration within 24 hours, although applications that are deemed granted remain ''subject to all limitations and restrictions applicable to said park area.'' The NPS proposes to extend the timeframe for either denying an application for a demonstration or providing an applicant a reservation of space from 24 hours to three business days. This would account for the substantial increase in the volume and complexity of permit applications over time. In 1975, for example, the NPS processed 705 permit applications for demonstrations and events located within NPS units subject to section 7.96. In 1976, the NPS processed 876 applications. By comparison, the NPS processed 2,986 permit applications in 2016, plus an additional 800 commercial filming permits for television and motion pictures. In 2017, the NPS processed 4,658 permit applications for demonstrations, special events, and commercial filming. In the last ten years, the NPS processed an average of almost 3,000 permits per year, including demonstrations, special events, and commercial filming. Requested events have become more complex with advancements in staging, structures, and audio-visual technology. The increased complexity of events is reflected in the personnel services costs necessary to manage them. On average, permit processing activities require more than five full time employees at a cost of $700,000 per year. Events such as running and bicycle races cost the United States Park Police an average of $40,000 per event. More complex events are much more expensive. For example, the United States Park Police spent approximately $500,000 to manage the opening of the National Museum of African American History and Culture. The United States Park Police and the National Mall and Memorial Parks staff spent approximately $730,000 to manage the HBO Concert for Valor in November 2014 and approximately $350,000 to manage the Landmark Music Festival in September 2015.

Categories for the Disposition of Permit Applications

The NPS proposes that applications for demonstrations and special events would be initially categorized in one of three ways: Approved, Provisionally Reserved, or Denied. The NPS proposes to process applications in each category

differently, as described below. The NPS believes that these categories will provide more information to the public about the status of their applications than is provided by the existing regulations.

If the NPS approves a permit application, the NPS would send a permit to the applicant for the specific event requested as soon as practicable. The permit would contain terms and conditions that would not be subject to change or negotiation. The permit could contain conditions reasonably consistent with the requirements of public health and safety and protection of park resources. The permit could also contain reasonable limitations on the equipment used and the time and area within which the event is allowed. A permit for a special event could also require the applicant to file a cost recovery deposit in an amount adequate to cover costs such as restoration, rehabilitation, and clean-up of the area used, and other costs resulting from the event. In addition, a permit for a special event may require the acquisition of liability insurance in which the United States is named as co-insured in an amount necessary to protect the United States. The NPS would reasonably seek to accommodate requests from the applicant for changes to the permitted event after the permit application has been approved. Minor changes may not require the establishment of new permit conditions. The NPS may require the applicant to agree to new permit conditions in order to accommodate material changes such as changes to the nature and purpose of the event, the location of the event, the type and number of structures involved, or the number or notoriety of participants.

Existing regulations allow the ranking U.S. Park Police supervisory official in charge to revoke a permit or part of a permit for a demonstration if continuation of the event presents a clear and present danger to the public safety, good order or health or for any violation of applicable law or regulation. Existing regulations allow the Regional Director to exercise reasonable discretion to revoke a permit for a special event at any time. The NPS is replacing these two standards of revocation with one, uniform standard that applies to both demonstrations and special events. This will give permit holders more certainty about the validity of their permit and the conditions that could result in its revocation. The NPS proposes to allow the Regional Director or the ranking U.S. Park Police supervisory official in charge to revoke a permit or part of a permit for any violation of its terms or conditions, or if the event presents a clear and present danger to the public safety, good order, or health, or for any violation of applicable law or regulation. Any such revocation shall be in writing. The NPS exercises discretion when faced with minor violations of permit conditions and seeks to work with permittees to resolve such violations prior to revoking a permit. The NPS seeks comment on whether the regulations should state that it may only revoke a permit for ''material'' violations of permit conditions.

If the NPS categorizes a permit application as provisionally reserved, the NPS would reserve the requested location, date, and time for the applicant, but would not approve the application and issue a permit until it receives additional information. During the provisionally reserved stage, the NPS would work diligently to resolve all outstanding questions in order to determine whether the request can be approved or denied. If the NPS receives an application more than 60 days prior to the requested event, the NPS would provide the applicant with an initial, comprehensive list of outstanding issues and requested information no later than 40 days prior to the requested event. If not provided on the initial application, the NPS would likely ask for information about equipment and facilities to be used, and whether there is any reason to believe that there will be an attempt to disrupt, protest, or prevent the event. The NPS could request additional information from the applicant based upon the applicant's response to the initial list. This exchange of information could occur through written correspondence, or through one or more logistical meetings among the NPS and the applicant. The NPS would make all reasonable efforts to approve or deny a permit application at least 30 days in advance of a requested event. Permit applicants would be required to provide the NPS with all requested information before the NPS approves or denies an application.

If the NPS denies a permit application, it would notify the applicant in writing that it is unable to accommodate the requested event. The NPS would notify the applicant if the application could be approved or provisionally reserved if certain aspects of the request are modified. If the applicant notifies the NPS that it would consider modifying its application for the requested event, the NPS would work with the applicant to modify the application in a manner that it could be approved or provisionally reserved. Modifications could include fewer participants, less staging, a different footprint for the event, different structures incident to it, a different date or time of day or the order of the event, or an alternative location that could accommodate the requested event. In this case, the applicant would not be required to submit a new application. The modified application would be processed based upon the date it was initially received by the NPS. If the applicant is not willing to modify its application in a manner and with enough advance notice that would allow the NPS to accommodate the event, the application would be denied.

10. Adopt Criteria in 36 CFR Part 2 for Reviewing Permit Applications That Apply to Other NPS Areas. Remove Redundant Criteria in 7.96

Sections 7.96(g)(4)(vii) and (5)(v) contain criteria that the Regional Director can use to approve or deny permit applications for events within the NCR. Sections 2.50(a) and 2.51(f) contain criteria that park superintendents can use to approve or deny permit applications for events in other units of the National Park System. Several of the criteria in parts 2 and 7 are similar to each other. In order to simplify and streamline its regulations, the NPS proposes to remove criteria from section 7.96 and instead refer to similar criteria stated in sections 2.50 and 2.51. In some circumstances, however, the NPS would maintain the criteria in section 7.96 if those criteria address particular management issues associated with the NCR. The rule would clarify that even where the criteria in section 2.50 and 2.51 are adopted in section 7.96, the Regional Director—not the park superintendent—has the authority to approve or deny permit applications for units that are subject to section 7.96. This authority is currently delegated to the Permits Management Division at the National Mall and Memorial Parks. The table below indicates the criteria that would apply to special events and demonstrations within the NCR and the citation where those criteria are located in existing regulations. These criteria help the NPS address the management issues indicated in the table.

Criterion	Existing citation	Management issue
Demonstrations and Special Events		
A fully executed prior application for the same time and place has been received, and a permit has been or will be granted authorizing activities which do not reasonably permit multiple occupancy of the particular area.	7.96(g)(4)(vii)(A)	Multiple Occupancy.
The event is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for; the Regional Director shall reasonably take into account possible damage to the park, including trees, shrubbery, other plantings, park installations and statues.	7.96(g)(4)(vii)(C)	Site Capacity and Suitability.
The application proposes activities contrary to any of the provisions of this section or other applicable law or regulation.	7.96(g)(4)(vii)(D)	Conformity with Laws and Regulations.
Present a clear and present danger to the public health and safety	2.50(a)(5)	Public Health and Safety.
Special Events Only		
Cause injury or damage to park resources	2.50(a)(1)	Resource Impairment.
Be contrary to the purposes for which the natural, historic, development and special use zones were established; or unreasonably impair the atmosphere of peace and tranquility maintained in wilderness, natural, historic, or commemorative zones.	2.50(a)(2)	Value Impairment.
Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the NPS.	2.50(a)(3)	Conflict with Park Operations.
Substantially impair the operation of public use facilities or services of NPS concessioners or contractors.	2.50(a)(4)	Conflict with Concessionaire or Contractor Operations.
Result in significant conflict with other existing uses	2.50(a)(6)	Conflict with Other Uses.
Whether the objectives and purposes of the proposed special event relate to and are within the basic mission and responsibilities of the National Capital Region, National Park Service.	7.96(g)(5)(v)(A)	Mission Alignment.
Whether the park area requested is reasonably suited in terms of accessibility, size, and nature of the proposed event.	7.96(g)(5)(v)(B)	Site Capability and Suitability.

The NPS proposes to remove two criteria in section 7.96 that apply only to special events and are no longer needed for the reasons stated in the table below.

SPECIAL EVENTS ONLY

Criterion	Existing citation	Reason for removal
Whether the proposed special event can be permitted within a reasonable budgetary allocation of National Park Service funds considering the event's public appeal, and the anticipated participation of the general public therein.	7.96(g)(5)(v)(C)	The NPS seeks full cost recovery for special events and should not bear costs associated with permitting, monitoring, and supporting special event activities, other than those sponsored by the NPS.
Whether the proposed event is duplicative of events previously offered in National Capital Region or elsewhere in or about Washington, DC.	7.96(g)(5)(v)(D)	The described area is too broad to consider when determining whether an event is duplicative of another event. This criteria does not account for events that are similar but held at different times. Applicants may request to have separate events in different locations with the NCR that commemorate the same figure or occasion.

11. Establish a Maximum Permit Period of 30 Days, Plus a Reasonable Amount of Time Needed for Set Up and Take Down of Structures Before and After the Event

Section 7.96(g)(4)(vi) states that the NPS will issue permits authorizing demonstrations or special events for seven days in the White House area (except the Ellipse) and for four months in the Ellipse and all other park areas. The permit validity period is different for activities related to inaugural events. In the White House area (except the Ellipse), the permit validity period for inaugural activities is October 24 through April 1 for reasonable and necessary set-up and take-down activities for the White House Sidewalk and Lafayette Park. In the Ellipse and all other park areas, the permit validity period for inaugural activities is December 7–February 10 for reasonable and necessary set up and take down activities for Pennsylvania Avenue National Historic Site and Sherman Park.

The NPS proposes to adjust the permit validity period to an amount of time not to exceed 30 days, plus a reasonable amount of time necessary for set-up and take down of structures associated with an event. The NPS will determine a reasonable amount of time for set-up and take down of structures based upon information provided by the permit applicant. If a permit application requests the use of structures such as tents or stages, the NPS would consult the Turf Management and Event Operations Guide for the Mall, Lincoln Memorial, Washington Monument, and Thomas Jefferson Memorial to assess potential impacts to park resources. The NPS could limit the amount of time a structure may be allowed on turf to a period less than maximum period duration, including for events presented by the NPS, in order to mitigate adverse impacts to the resources identified in the Guide. Upon request, the Regional Director could renew a permit for additional, consecutive periods of 30 days or less. Permittees would be required to submit requests for renewals to the NPS at least 10 days prior to the

expiration of an existing permit. This would provide enough time for the NPS to check the availability of the location and issue the permit. Consistent with the applicable resource management policies, the NPS proposes to require events with structures to move to a different location after the expiration of a permit in order to mitigate impacts to resources such as turf and irrigation systems and historic and cultural vistas within the NCR. The NPS could require, in its discretion, events without structures to be moved to a different location if necessary to mitigate the same impacts.

The proposed change to the maximum permit duration would establish a uniform regulatory scheme for all park areas subject to section 7.96. The 30 day permit duration period would apply to all events, even those that do not have structures. This would simplify the regulatory framework and provide greater clarity to the public about the duration of permits. Reducing the maximum permit duration period from four months to 30 days (plus time needed to setup and breakdown structures) would also create more opportunities for applicants to apply for certain dates and locations within the National Mall and Memorial Parks and President's Park. The NPS expects the number of permit applications to continue to increase over time. The proposed change in maximum period duration would increase opportunities for a variety of groups and individuals to use the areas within the National Mall and Memorial Parks and President's Park for demonstrations and special events.

Section 7.96(g)(5)(vi)(D) states that any structures used in a demonstration extending beyond the maximum duration of a permit must be capable of being removed upon 24 hours notice and the site restored, or, the structure shall be secured in a fashion so as not to interfere unreasonably with the use of the park area by other permittees. The NPS proposes to remove this paragraph because it would no longer be necessary if the maximum permit duration period is revised to include time for take down of structures. If a structure poses a safety risk during a permitted event, the NPS would have the authority to revoke the portion of the permit allowing for the structure under paragraph (g)(6).

12. Identify Locations Where Structures May Not Be Used, and Restrict the Height, Weight, Equipment, and Materials of Structures When They Are Permitted During Special Events and Demonstrations

Significance of the Viewshed

The NPS administers some of the most spectacular and historically significant landscapes in the country. Visual characteristics are often central to a park area's management and visitor experience, and visitors consistently identify scenic views as major reason for visiting parks. The National Mall Historic District and the Washington Monument and Grounds Historic District are both listed in the National Register of Historic Places at the national level of significance. The nominations for these Districts emphasize how scenic views and vistas contribute to the significance of these historic properties. These include planned views along the principal north-south and east-west axes of the National Mall, reciprocal views between major memorial sites, extended views along contributing streets and avenues, multidirectional views across component landscapes, and periodic views of resources from circulation routes, among others.

Pierre Charles L'Enfant developed his 1791 plan for the city of Washington with keen attention to visual relationships among the sites he dedicated to public buildings and monuments. Nowhere was that concept more important than along the National Mall, where views west from the U.S. Capitol and south from the White House intersected at a proposed equestrian statue of George Washington. The primary vista west from the U.S. Capitol along L'Enfant's ''Grand Avenue'' to the site for a proposed equestrian statue of George Washington intersected with views south from the White House. L'Enfant's planned views also extended beyond the statue to the Potomac River. The L'Enfant Plan is itself listed in the National Register of Historic Places.

The McMillan (Senate Park) Commission Plan of 1901–02 also focused on visual relationships, adapting L'Enfant's visual corridor as the basis for their planning for the Mall and advancing it to take in new memorial sites. The McMillan Commission conceived of sites ultimately occupied by the Lincoln and Thomas Jefferson Memorials as the termination of principal views from the U.S. Capitol and the White House, respectively—creating the great cross axis of today's National Mall. The McMillan Plan also established a setback for new buildings to ensure that views along the east-west axis remained unimpeded, and subsequent development honored the National Mall's principal views.

The construction of the Washington Monument itself established significant new views across the Mall, the city of Washington, and the developing region, and became the focus of important views from beyond the Mall. Other significant views were established as the landscape developed and incorporated into the principal view sheds or developed as new monuments, memorials, and buildings were constructed.

Congress has recognized the significance of the viewshed within the National Mall and Memorial Parks and President's Park. The Commemorative Works Act of 1986 (CWA) prohibits the construction of commemorative works within an areas designated as the ''Reserve'' unless they are approved by the National Capital Memorial Advisory Commission. The ''Reserve includes the great cross-axis of the National Mall, extending from the United States Capitol to the Lincoln Memorial, and from the White House to the Thomas Jefferson Memorial. In 2003, Congress amended the CWA and stated as one of its findings that the Reserve ''is a substantially completed work of civic art'' and that its integrity should be preserved.

In 2018, the NPS conducted a visual impact analysis to assess the visual impacts of structures in various locations within the National Mall and Memorial Parks and President's Park. The purpose of the study was to better understand the impact of structures associated with demonstrations and events have upon the historical and significant viewshed within the National Mall and Memorial Parks and President's Park. Visual impacts were assessed using Geographic Information Systems (GIS) and were depicted in both map form (viewshed analysis) and ground-level scenes (3D visualizations) that included a simple block, virtual structure at specified locations and standing heights. The viewshed analysis was used to demonstrate on maps certain visitor view points from which a proposed structure may be seen. The 3D visualizations simulated potential observable, actual surroundings with a proposed structure included. The goal of the visual impact analysis was to better understand how structures associated with demonstrations and special events within the National Mall and Memorial Parks and President's Park could adversely impact the historic and cultural viewshed. The NPS made

the following key conclusions from the study:

- The map analysis reinforces the linear (north-south and east-west) nature of the dominant views within and through the National Mall.
- The map analysis demonstrates how topography and vegetation influence visibility.
- There is a limited correlation between visual impacts and selected viewing points and structure points.
- Viewable area maps reveal local versus broad/diffuse impacts to views.
- Analysis reveals that structures close to memorials and within primary view corridors detract from the visitor experience and alter the perception of the historically significant characteristics of the landscapes of the National Mall and President's Park.
- Structures set back from major Memorials and substantially offset from primary views and vistas are less disruptive to the characteristics that make the National Mall and individual memorials significant.

The study suggests that locations that are especially vulnerable to impacts from the introduction of structures include (1) locations in close proximity to major monuments and memorials; (2) locations directly aligned with either of the two primary east-west and north-south axes; and (3) elevated and open locations. The study suggests that there are a number of potential structure locations that would result in only limited localized impacts. These include (1) the area south of the Reflecting Pool and its associated elm walks; (2) select locations within Constitution Gardens; and (3) the quadrants of the Ellipse outside of the 150-foot north-south vista between the White House and the Thomas Jefferson Memorial. The proposed height restrictions for structures in this rule are based upon the NPS's evaluation of the visual impact analysis and are intended to allow the public to use these open forums in a manner that mitigates impacts to the significant viewsheds.

Proposed Height Restrictions

Section 7.96(g)(5)(vi) contains limitations regarding the use of structures in connection with permitted demonstrations and special events. As discussed above, the NPS proposes to require a permit in order to erect structures, other than small lecterns or speakers' platforms that would be allowed without a permit in most locations, during any demonstration or special event—even if those demonstrations would not otherwise require a permit because of their small size.

The NPS also proposes to establish areas where structures would not be allowed and other areas where structures would be allowed but subject to maximum height restrictions. These proposed restrictions are based upon an evaluation of the visual impact analysis explained above. This evaluation and the visual impact analysis are available online at *https://home.nps.gov/nama/learn/management/index.htm.* A table explaining the proposed restrictions and a map identifying the restricted areas are found in the proposed rule. This table relates solely to the use of structures at locations and times where events may be permitted under section 7.96. Structures are not allowed at any location if the requested event is not allowed at that location.

In addition to the restrictions in the table, the rule would prohibit the use of structures within the drip line of any tree located in Lafayette Park or the Ellipse. This restriction is a long-standing administrative practice of the NPS and is designed to protect the trees in these locations, which have cultural and historic value. The drip line of a tree indicates the outer extent of the tree root system.

The Turf Resource at the National Mall and Memorial Parks

On January 24, 2013, Secretary of the Interior Salazar issued Secretarial Order 3326, ''Management and Protection of the National Mall and its Historic Landscape.'' Order 3326 recognizes the National Mall as one of the most important landscapes in the United States and acknowledges that it experiences extreme and increasing levels of use. The Order sets forth a strategy for maintaining sustainable use of the National Mall in lights of the volume of requests to use this area. Part of this strategy prioritizes (1) increasing non-turf areas to better accommodate the use of temporary structures for appropriate permitted activities; (2) developing a professional turf management staff to identify and implement best practices for turf management and to develop permits that take those turf management concerns into consideration; and (3) updating permit conditions to require the use of best practices that ensure resource protection by addressing permit conditions for the expected level of attendance, duration of events, use of turf areas, the size and layout of temporary structures, and the location of structures on durable non-turf areas.

As part of the NPS's implementation of the Order, the NPS completed a Turf Management and Event Operations Guide for the Mall, Lincoln Memorial, Washington Monument, and Thomas Jefferson Memorial in 2015. This Guide is used by the NPS when it considers the potential impacts of tents or temporary structures on turf areas within the National Mall and Memorial Parks. The Guide identifies non-turf areas such as walkways and hardscape panels as the preferred location for events of all types, particularly events using structures. The Guide allows the NPS to permit structures on turf panels, but subject to limitations stated in the Guide to protect the turf and promote public safety. Limitations include restrictions about duration, weight, equipment (*e.g.* stakes), and materials used for structures. The NPS consults the Guide and implements appropriate limitations on structures in the conditions of a permit.

Existing NPS regulations in section 7.96(g)(5)(vi)(C) allow the Regional Director to impose reasonable restrictions upon the use of temporary structures in the interest of protecting the park areas involved, traffic and public safety considerations, and other legitimate park value concerns. In order to provide more clarity to the public about the types of restrictions that may be imposed, the proposed rule would state that these restrictions may include permit conditions regarding structures that are consistent with the turf management and event operations guidance related to duration, weight, equipment, and materials used.

13. Apply Existing Sign Restrictions (e.g. Supports, Dimensions) in President's Park to Other Locations Within the National Mall and Memorial Parks and President's Park

Sections 7.96(g)(5)(vii) and (ix) contain restrictions on the use of signs or placards on the White House Sidewalk and in Lafayette Park. These restrictions promote public safety, help secure sensitive locations, and mitigate adverse impacts to cultural and historical resources. The NPS proposes to apply these restrictions to events that plan to move from any location that is subject to the regulations in this section 7.96 to the White House Sidewalk or Lafayette Park, and events that plan to move or do in fact move from the White House Sidewalk or Lafayette Park to another location that is subject to the regulations in this section 7.96, even when those events are located outside of the White House Sidewalk or Lafayette Park. Applying these restrictions outside of the White House sidewalk and Lafayette Park in these circumstances would create a more uniform regulatory scheme for the public that will promote public safety

and simplify event planning. People participating in demonstrations often begin in one park area where their signs are compliant with existing regulations and then move onto the White House sidewalk or into Lafayette Park where their signs are no longer compliant. This often results in negative interactions with law enforcement, who are then required to enforce regulations that were not applicable earlier in the event. These restrictions would apply to all groups participating in a demonstration or special event, including those who are not required to obtain a permit based upon their group size and/or location.

14. Minor Changes to 36 CFR 7.96

This rule would make a minor change to paragraph (e) in Section 7.96 to clarify the circumstances under which bathing, swimming, or wading is allowed. This provision clarifies that bathing, swimming, or wading in any fountain, pool, the Tidal Basin, the Chesapeake and Ohio Canal, Rock Creek, or Constitution Gardens Pond is prohibited except where officially authorized or for the purpose of saving a drowning person. This rule would replace all references to the ''Jefferson Memorial'' in section 7.96 with the phrase ''Thomas Jefferson Memorial'' which is the actual name of the memorial. This rule would reorganize the defined terms in section 7.96(g)(1) in alphabetical order and remove the paragraph designations (i) through (x), in conformance with the **Federal Register** Document Drafting Handbook.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. It directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on information contained in a report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Special Regulations, Areas of the National Park System, National Capital Region, Special Events and Demonstrations'' that is available online at *https://home.nps.gov/nama/learn/management/index.htm.*

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2) of the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. This rule will not result in direct expenditure by State, local, or tribal governments. This rule addresses public use of NPS lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. This rule does not regulate uses of private property. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule only affects use of NPS-administered lands and imposes no requirements on other agencies or governments. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the information collection requirements associated with NPS Special Park Use Permits and has assigned OMB Control Number 1024–0021 (expires 08/31/20). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act of 1969 (NEPA)

The NPS does not expect this rule to constitute a major Federal action significantly affecting the quality of the human environment. The NPS does not expect that a detailed statement under the NEPA would be required because the rule would likely be covered by a categorical exclusion. Categorical exclusion A.8 of Section 3.3 of the National Park Service NEPA Handbook (2015) would likely apply because the rule would modify an existing regulation in a manner that does not ''increase public use to the extent of compromising the nature and character of the area or causing physical damage to it, introduce non-compatible uses that might compromise the nature and characteristics of the area or cause physical damage to it, conflict with adjacent ownerships or land uses, or cause a nuisance to adjacent owners or occupants.'' The NPS also expects that the rule would not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of This Rule

We are required by Executive Orders 12866 and 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and D.C. Code 50–2201.07.

■ 2. Amend § 7.96 by:

■ a. Removing the phrase ''Jefferson Memorial'' where it appears and adding, in its place, the phrase ''Thomas Jefferson Memorial''.

■ b. Revising paragraphs (a), (e), and (g)(1), (g)(2) introductory text, (g)(3) introductory text, (g)(3)(i), (g)(3)(ii) introductory text, (g)(3)(ii)(A) through C), (g)(3)(ii)(E) through (H), (g)(4)(i), (g)(4)(iv).

■ c. Removing and reserving paragraph (g)(4)(v).

■ d. Revising paragraphs (g)(4)(vi), (g)(4)(vii) introductory text, (g)(4)(vii)(A) and (B), (g)(5), and (g)(6).

The revisions to read as follows:

§ 7.96 National Capital Region.

(a) *Applicability of regulations.* (1) This section applies to all park areas administered by the National Park Service located in the District of Columbia, the portion of the George Washington Memorial Parkway located in the Commonwealth of Virginia, the portion of the National Capital Parks-East located in the State of Maryland, the portion of Chesapeake and Ohio Canal National Historical Park located in Montgomery County, and to other federal reservations in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the act of March 17, 1948 (62 Stat. 81).

(2) Paragraph (e) of this section also applies to the portion of Chesapeake and Ohio Canal National Historical Park located in Maryland outside of Montgomery County.

* * * * *

(e) *Bathing, Swimming, Wading*—(1) Bathing, swimming, or wading in the following locations, except where officially authorized or for the purpose of saving a drowning person, is prohibited: Any fountain or pool, the Tidal Basin, the Chesapeake and Ohio Canal, Rock Creek, and Constitution Gardens Pond.

(2) Entering the Potomac River, the Anacostia River, the Washington Channel, or the Georgetown Channel from any park area identified in paragraph (a) of this section, except for the purpose of saving a drowning person, is prohibited.

* * * * *

(g) *Demonstrations and special events*—(1) *Definitions.*

Attended means that a responsible individual remains within three feet of an object.

Demonstration has the meaning given in § 2.51(a) of this chapter.

Ellipse means the park areas, including sidewalks adjacent thereto, within these bounds: On the south, Constitution Avenue NW; on the north, E Street NW; on the west, 17th Street NW; and on the east, 15th Street NW.

Event means a demonstration or special event, including events presented by the National Park Service. This term does not include casual park use by visitors or tourists that is not reasonably likely to attract a crowd or onlookers.

Korean War Veterans Memorial means the area within the plaza's exterior sidewalks.

Lafayette Park means the park areas, including sidewalks adjacent thereto, within these bounds: On the south, Pennsylvania Avenue NW; on the north, H Street NW; on the east, Madison Place NW; and on the west, Jackson Place NW.

Lincoln Memorial means that portion of the park area which is on the same level or above the base of the large marble columns surrounding the structure, and the single series of marble stairs immediately adjacent to and below that level.

Martin Luther King, Jr. Memorial means most of the interior plaza facing the Inscription Wall, Mountain of Despair and Stone of Hope.

National celebration event means an annual recurring special event regularly scheduled by the National Capital Region, which are listed in paragraph (g)(4)(ii) of this section.

Other park areas means all areas, including sidewalks adjacent thereto, other than the White House area, administered by the National Capital Region.

Regional Director means the official in charge of the National Capital Region, National Park Service, U.S. Department of the Interior, or an authorized representative thereof.

Special event means the activities listed in section 2.50(a) of this chapter before the text ''are allowed . . . ''.

Structure means:

(i) Except as discussed in paragraph (ii) of this definition, a structure is any object that is not intended to be carried

by permittees including, but not limited to:

(A) Props and displays, such as coffins, crates, crosses, theaters, cages, and statues;

(B) Furniture and furnishings, such as desks, chairs, tables, bookcases, cabinets, platforms, podiums, and lecterns;

(C) Shelters, such as tents, boxes, trailers, and other enclosures;

(D) Wagons and carts;

(E) Jumbotrons, light towers, delay towers, portable restrooms, mobile stages; and

(F) All other similar types of property that may tend to harm park resources, including aesthetic interests.

(ii) It does not include hand-carried signs; bicycles, baby carriages and baby strollers lawfully in a park area that are temporarily placed in, or are being moved across, the park area, and that are attended at all times while in the park area; and wheelchairs and other devices in use by individuals with a disability.

Thomas Jefferson Memorial means the circular portion of the Thomas Jefferson Memorial enclosed by the outermost series of columns, and all portions on the same levels or above the base of these columns.

Vietnam Veterans Memorial means the East and West Walls, Three Servicemen Statue, Vietnam Veterans Women's Memorial, Agent Orange Plaque and adjacent areas extending to and bounded by the furthermost curved pedestrian walkways on the north, west, and south, and a line drawn perpendicular to Constitution Avenue one hundred seventy-five (175) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

Washington Monument and Plaza means the granite plaza from the circle of flags to the Monument and its interior.

White House area means all park areas, including sidewalks adjacent thereto, within these bounds; on the south, Constitution Avenue NW; on the north, H Street NW; on the east, 15th Street, NW; and on the west, 17th Street NW.

White House sidewalk means the south sidewalk of Pennsylvania Avenue NW, between East and West Executive Avenues NW.

World War II Memorial Freedom Wall Plaza means the area from the Field of Stars to the Rainbow Pool.

(2) *Permit requirements.* Events may be held only pursuant to a permit issued in accordance with the provisions of this section. The following exceptions apply unless the demonstration involves the use of a structure, other than small lecterns or speakers' platforms that are no larger than three (3) feet in length, three (3) feet in width, and three (3) feet in height, in which case a permit is required:

* * * * *

(3) *Permit applications.* Permit applications may be obtained at the Division of Permits Management, National Mall and Memorial Parks, or online at *www.nps.gov/nama.* Applicants shall submit permit applications in writing on a form provided by the National Park Service so as to be received by the Regional Director at the Division of Permits Management at least 48 business hours in advance of any proposed event. Notwithstanding the 48-business hours requirement, the Regional Director will reasonably seek to accommodate spontaneous demonstrations, subject to all limitations and restrictions applicable to the requested location, provided such demonstrations do not include structures and provided the NPS has the resources and personnel available to manage the activity. The Regional Director will accept permit applications only during the hours of 8 a.m.–4 p.m., Monday through Friday, holidays excepted.

(i) *White House area.* No permit may be issued authorizing demonstrations in the White House area, except for locations at the White House sidewalk, Lafayette Park and the Ellipse that are not closed to public access under paragraphs (g)(3)(i)(A)–(D) of this section. No permit may be issued authorizing special events, except for locations at the Ellipse and except for annual commemorative wreath-laying ceremonies relating to the statues in Lafayette Park that are not closed to public access under paragraphs (g)(3)(i)(A)–(D) of this section.

(A) Public access is not allowed on the north and east exterior portions of First Division Memorial Park, including West Executive Avenue and State Place NW with adjacent roadways and sidewalks: from northwest corner of State Place and 17th Street NW; to include all areas of West Executive Avenue along the South fence Line of the White House Complex and across E Street, NW; to include the south sidewalk adjacent to the First Division Memorial Park; and all of E Street NW, from 17th Street NW east to the pedestrian walkway through First Division Memorial Park, except that the pedestrian walkway through First Division Memorial Park and the north sidewalk of E Street NW to the west pedestrian crosswalk on E Street NW will be accessible to pedestrians, unless protective measures or special events dictate otherwise.

(B) Public access is not allowed on the north, south, and west exterior portions of the William T. Sherman Monument and Park, including East Executive Avenue and Alexander Hamilton Place NW, with adjacent roadways and sidewalks: From northeast corner of the park at Alexander Hamilton Place and 15th Street NW, running west on Alexander Hamilton Place NW to East Executive Avenue NW; to include all of Alexander Hamilton Place NW with adjacent north and south sidewalks; from southwest corner of E Street NW and East Executive Avenue NW running to the corner of E and 15th Streets NW; to include all of E Street NW, with the adjacent north sidewalk; from northwest comer of the park at Alexander Hamilton Place and East Executive Avenue NW running to the southwest comer of East Executive Avenue NW and across E Street NW; this includes all areas of East Executive Avenue along the south fence line and across E Street to the east pedestrian crosswalk. Notwithstanding the preceding closures, the center monument area and the sole pedestrian walkway between the northeast and southwest corners of the park and the north sidewalk of E Street NW to the east pedestrian crosswalk on E Street NW will be accessible to the public from 7:00 a.m. to 7:00 p.m., unless protective measures or special events dictate otherwise.

(C) Public access is not allowed on E Street NW from the west crosswalk just east of West Executive Avenue NW to the east crosswalk just west East Executive Avenue NW, including the sidewalk and all areas adjacent to the South Fence Line of the White House Complex.

(D) Public access is not allowed on the south sidewalk of Pennsylvania Avenue NW, adjacent to the North Fence Line of the White House Complex, from the security post located just north of West Executive Avenue NW to the security post located just north of East Executive Avenue NW. The area of sidewalk to be closed shall consist of a twenty (20′) foot portion of the sidewalk, extending out from the North Fence Line, leaving a five (5′) foot portion of the sidewalk for pedestrian access.

(E) The closures described in paragraphs (g)(3)(i)(A)–(D) of this section are identified in the following

map and as further delineated with fencing in the park areas themselves. Exceptions for the pedestrian walkway at First Division Memorial Park and the center monument area and pedestrian walkway at William T. Sherman Monument and Park are not displayed in the map because they are subject to closure at any time for protective measures or special events.

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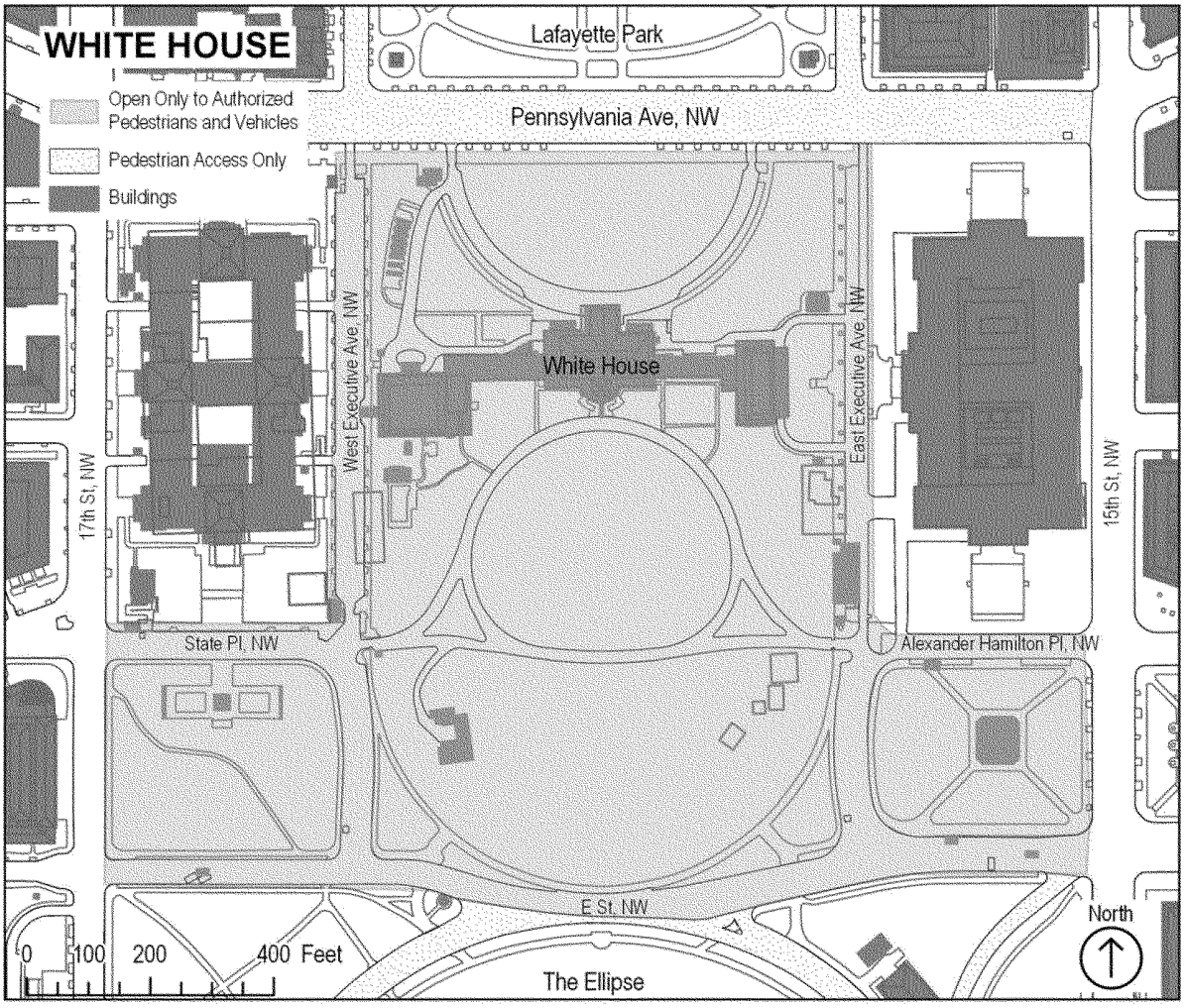


(ii) *Other park areas.* Events are not allowed in the following other park areas:

(A) The Washington Monument and Plaza, except for the official annual commemorative Washington birthday ceremony.

(B) The Lincoln Memorial, except for the official annual commemorative Lincoln birthday ceremony.

(C) The Thomas Jefferson Memorial, except for the official annual commemorative Thomas Jefferson birthday ceremony.

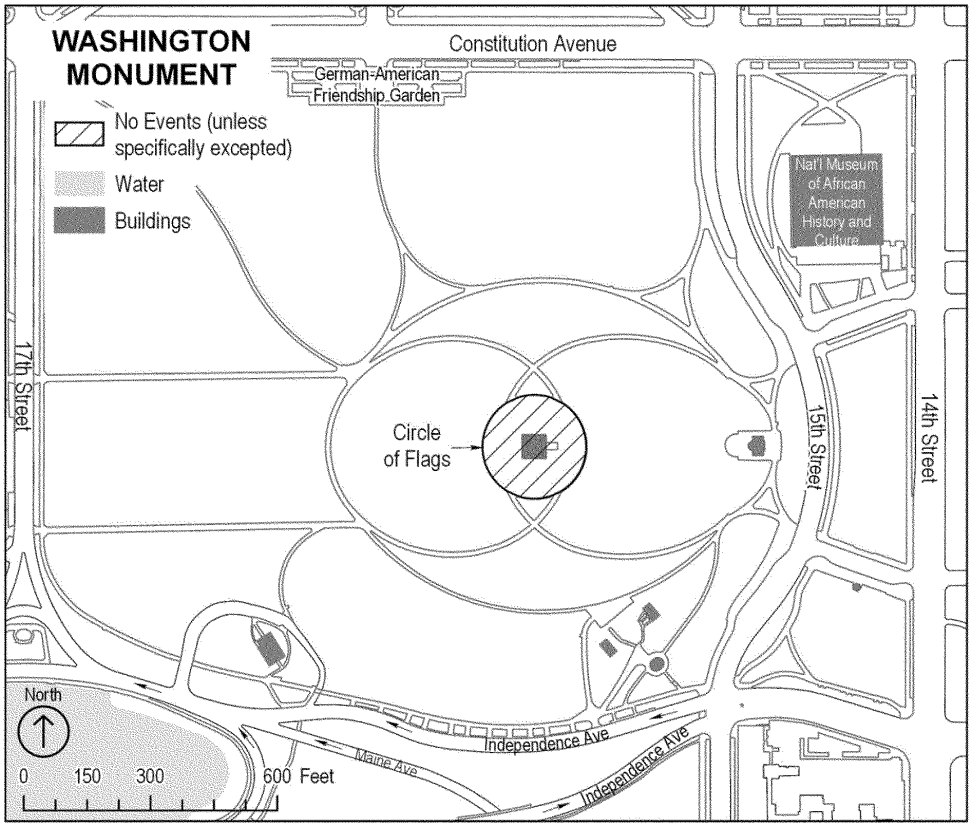
* * * * *

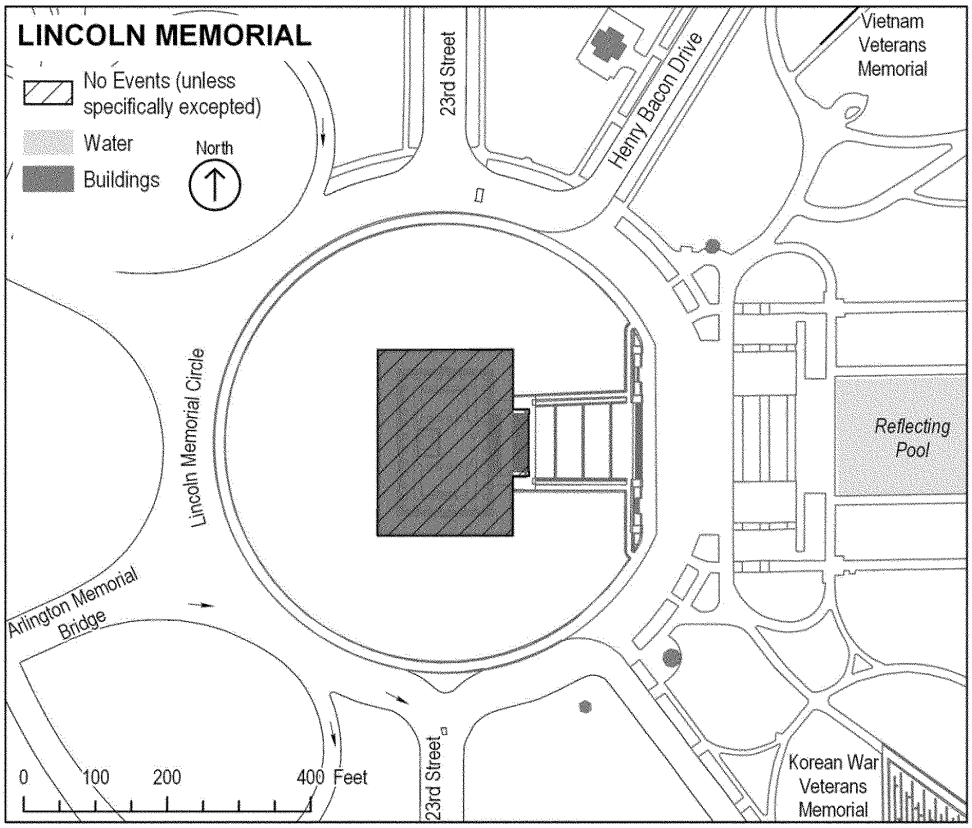
(E) The World War II Memorial Freedom Wall Plaza, except for official annual commemorative ceremonies on Memorial Day, Veterans Day, Pearl Harbor Day, Victory over Europe Day, and Victory over Japan Day.

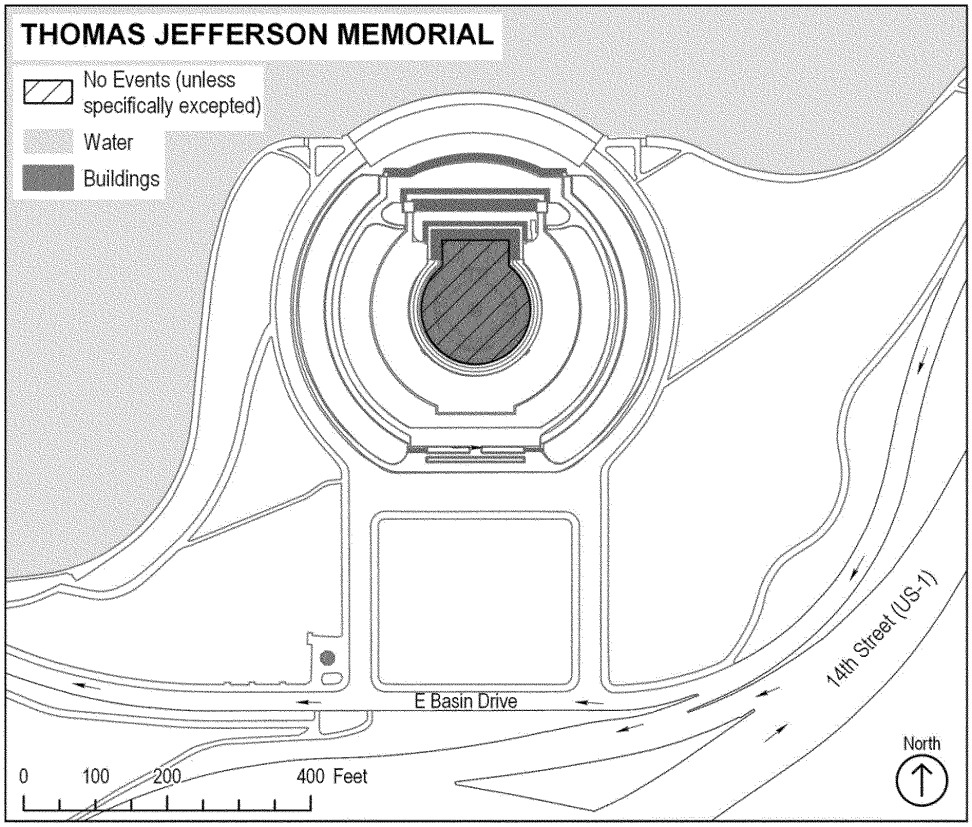
(F) The Korean War Veterans Memorial, except for official annual commemorative ceremonies on Memorial Day, Veterans Day, Invasion Day, and Armistice Day.

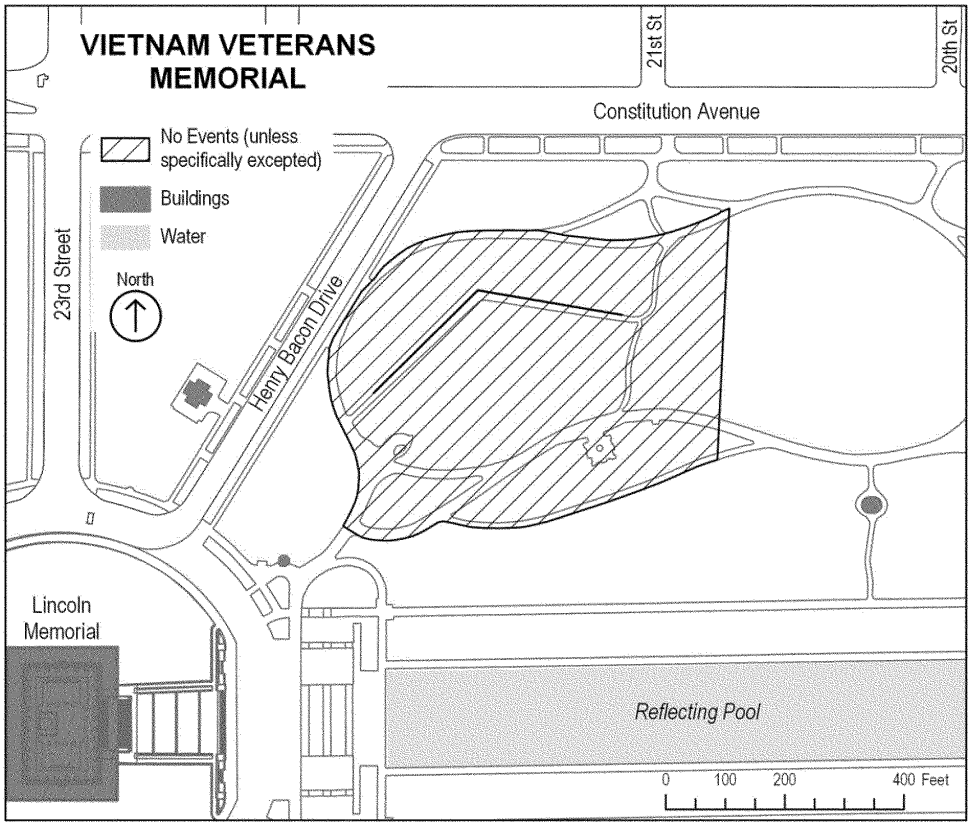
(G) The Martin Luther King Jr. Memorial, except for the Forecourt area and except for official annual commemorative ceremonies for Dr. King's birthday and death, and the March On Washington for Jobs and Freedom.

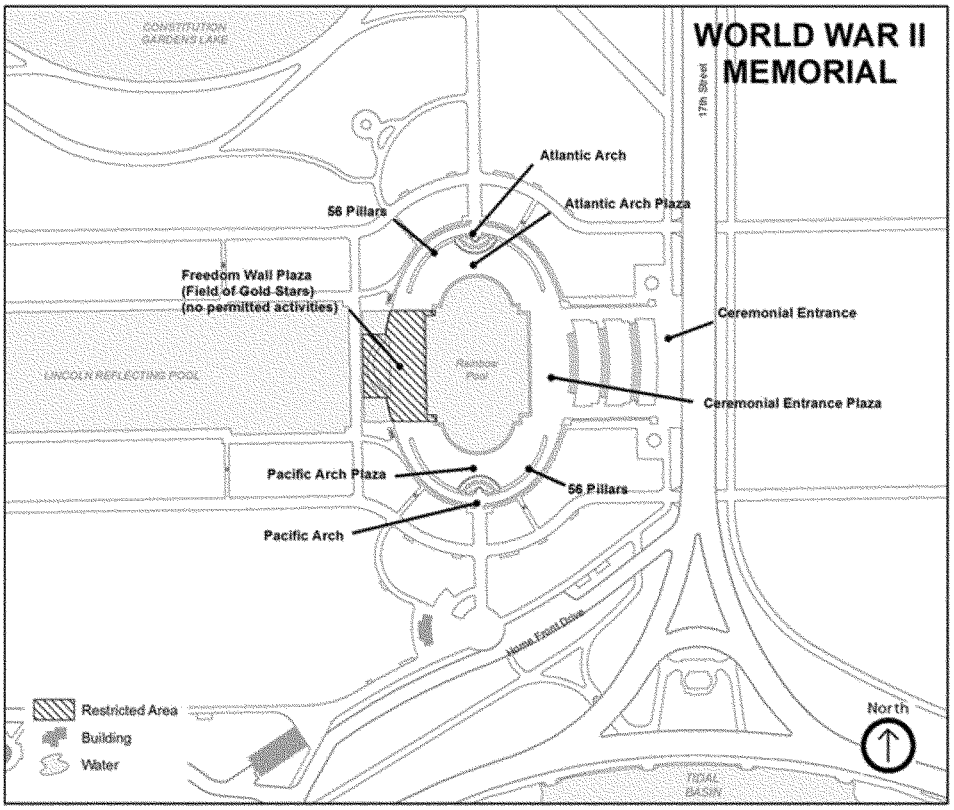
(H) Maps of the restricted areas designated in this paragraph (g)(3)(ii) of this section are as follows. The diagonal-lined portions of the maps show the areas where events are prohibited unless specifically excepted by this rule.

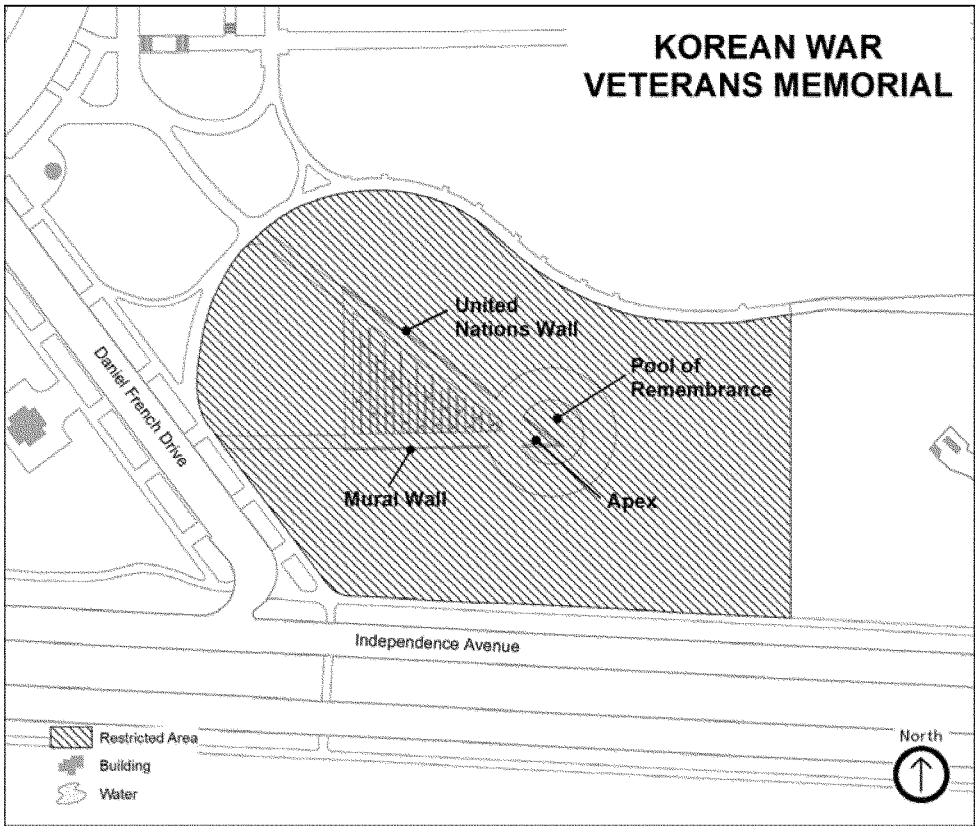

WASHINGTON MONUMENT
Constitution Avenue
German-American Friendship Garden
No Events (unless specifically excepted)
Water
Buildings
Nat'l Museum of African American History and Culture
17th Street
Circle of Flags
15th Street
14th Street
North
0 150 300 600 Feet
Maine Ave
Independence Ave
Independence Ave


LINCOLN MEMORIAL
No Events (unless specifically excepted)
Water
Buildings
North
23rd Street
Henry Bacon Drive
Vietnam Veterans Memorial
Lincoln Memorial Circle
Reflecting Pool
Arlington Memorial Bridge
0 100 200 400 Feet
23rd Street
Korean War Veterans Memorial


THOMAS JEFFERSON MEMORIAL
No Events (unless specifically excepted)
Water
Buildings
E Basin Drive
14th Street (US-1)
North
0
100
200
400 Feet


VIETNAM VETERANS MEMORIAL
21st St
20th St
Constitution Avenue
No Events (unless specifically excepted)
Buildings
Water
North
23rd Street
Henry Bacon Drive
Lincoln Memorial
Reflecting Pool
0
100
200
400 Feet


WORLD WAR II MEMORIAL
CONSTITUTION GARDENS LAKE
17th Street
Atlantic Arch
Atlantic Arch Plaza
56 Pillars
Freedom Wall Plaza (Field of Gold Stars) (no permitted activities)
Ceremonial Entrance
LINCOLN REFLECTING POOL
Rainbow Pool
Ceremonial Entrance Plaza
Pacific Arch Plaza
56 Pillars
Pacific Arch
Home Front Drive
Restricted Area
Building
Water
North
TIDAL BASIN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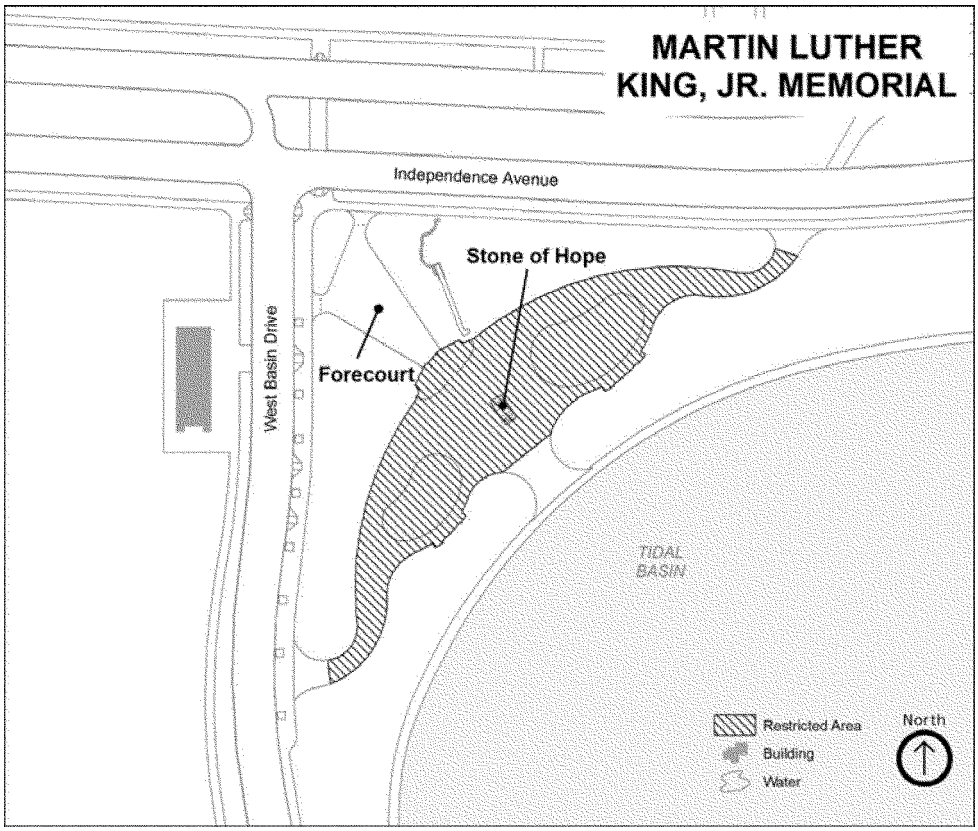

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(4) *Permit processing.* (i) NPS processes permit applications for events in order of receipt, subject to the exceptions for priority use in paragraphs (g)(4)(ii) and (iii) of this section. The use of a particular area is allocated in order of receipt of the permit application. NPS will not accept applications more than one year in advance of a proposed event (including set-up time, if any). NPS will categorize permit applications in one of three ways: Approved, Provisionally Reserved, or Denied. Permit applications for demonstrations that are not acted on in the manner described above within three business days from the date of receipt by the NPS are approved, except those seeking waiver of numerical limitations applicable to Lafayette Park (paragraph (g)(5)(ii) of this section). NPS will consider an application to be received if it contains the following basic information about the proposed event: Location, purpose and plan for the event, time and date, estimated number of participants, and contact information. For purposes of this paragraph, NPS will have acted upon a permit application as of the time and date an electronic communication is sent to the applicant.

(A) *Approved permit applications.* If the NPS is able to accommodate the requested event without receiving additional information, it will notify the applicant that the application is approved. Within a reasonable time after the initial notice of approval, the NPS will send a permit to the applicant for the requested event. The permit may contain conditions reasonably consistent with the requirements of public health and safety, protection of park resources, and the use of the park area. The permit may also contain reasonable limitations on the structures and equipment used and the time and area where the event is allowed. The NPS may revoke a permit only for the reasons stated in paragraph (g)(6) of this section.

(B) *Provisionally reserved permit applications.* The NPS may notify the applicant that the NPS has reserved the requested location, date, and time, but that it will not approve the application and issue a permit until it receives additional information. During this approval stage, the NPS will work diligently to resolve all outstanding questions in order to determine whether the request can be approved or denied. If the NPS receives an application more than 60 days prior to the requested event, the NPS will provide the applicant with an initial, comprehensive list of outstanding issues and requested information no later than 40 days prior to the requested event. The NPS will make all reasonable efforts to approve or deny a permit application at least 30 days in advance of a requested event. Permit applicants must provide the NPS with all requested information before the NPS will approve or deny an application.

(C) *Denied permit application.* The NPS will notify the applicant in writing if it is unable to accommodate the requested event. This notice will state that the applicant may inform the NPS that it would consider modifying its application for the requested event. If the NPS receives notice from the applicant that it is willing to modify its application, the NPS will work with the applicant to modify the application in a manner that it could be approved or provisionally reserved. If the applicant and the NPS cannot agree on modifications to the application that would allow it to be approved or provisionally reserved, or if the applicant does not inform the NPS that it is willing to modify its application with enough advance notice prior to the event, then the NPS will notify the applicant in writing that the application has been denied.

* * * * *

(iv) Other events are permitted in park areas under permit for the National Celebration Events listed in paragraph (g)(4)(ii) of this section to the extent that

they do not significantly interfere with the National Celebration Events.

(v) [Reserved]

(vi) The Regional Director may issue permits for a maximum duration of 30 days. For an event that includes structures, the Regional Director may extend the maximum permit duration by an amount of time that may be needed for setup and breakdown of the structures. Upon request, the Regional Director may renew a permit for additional, consecutive periods of 30 days or less. Requests for renewals must be submitted to the NPS at least 10 days prior to the expiration of an existing permit. The Regional Director may deny a request for a permit renewal if another applicant has requested use of the same location and the location cannot reasonably accommodate multiple occupancy. As a condition of renewing a permit, the Regional Director shall require events with structures to move to a different location. The Regional Director may require events without structures to be moved to a different location if necessary to protect park resources and values.

(vii) A permit for an event may be denied in writing by the Regional Director upon the following grounds:

(A) A fully executed prior application for the same time and place has been received, and a permit has been or will be granted authorizing activities which do not reasonably permit multiple occupancy of the particular area.

(B) The proposed event will present a clear and present danger to the public health and safety.

* * * * *

(5) *Permit limitations.* The issuance of a permit is subject to the following limitations:

(i) The Regional Director may restrict events on weekdays (except holidays) between the hours of 7:00 to 9:30 a.m. and 4:00 to 6:30 p.m. if it reasonably appears necessary to avoid unreasonable interference with rush-hour traffic.

(ii) Special events are not permitted unless approved by the Regional Director. In determining whether to approve a proposed special event, the Regional Director will consider and base the determination upon the criteria in § 2.50(a)(1)–(6) of this chapter and the following criteria:

(A) Whether the objectives and purposes of the proposed special event relate to and are within the basic mission and responsibilities of the National Capital Region, National Park Service.

(B) Whether the park area requested is reasonably suited in terms of accessibility, size, and nature of the proposed special event.

(iii) Prior notice must be provided to the Regional Director before erecting any structure. Structures are allowed in connection with permitted events for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities, lost children areas, or the provision of shelter for electrical and other sensitive equipment or displays, provided that:

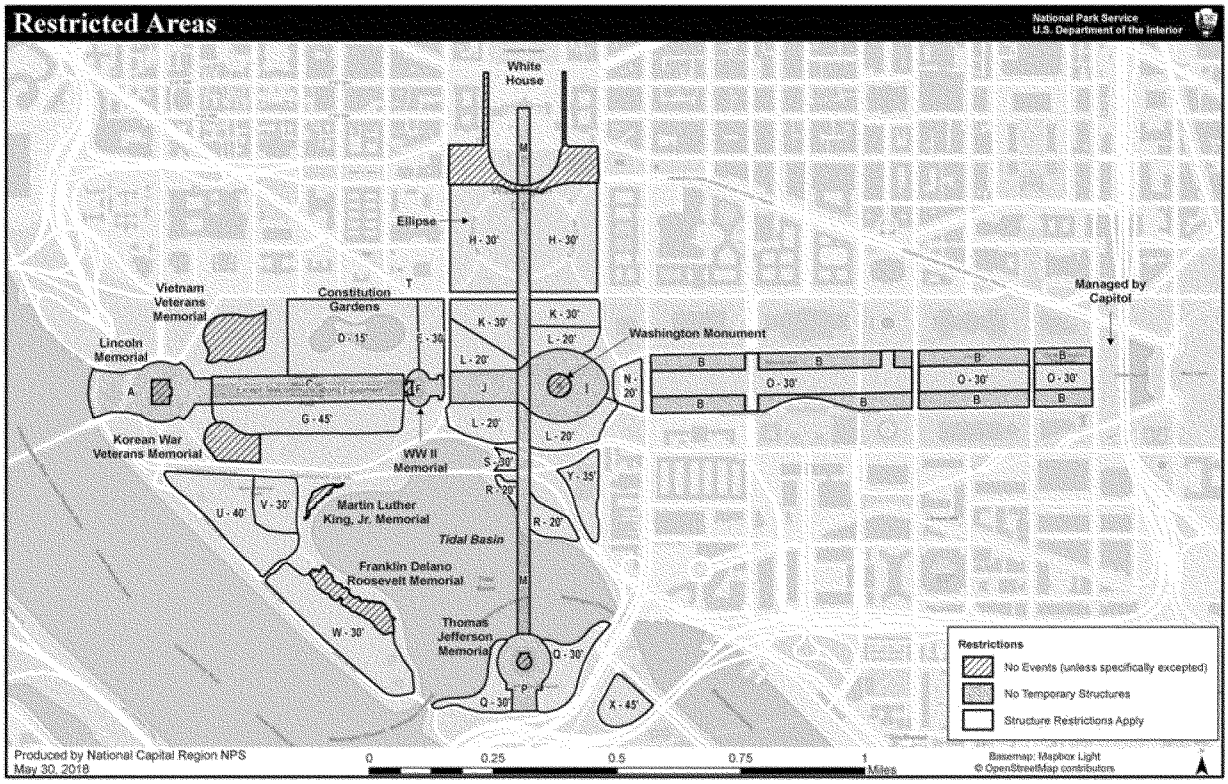
(A) Structures are subject to the restrictions listed in the table below. Maps of the restricted areas follow the table.

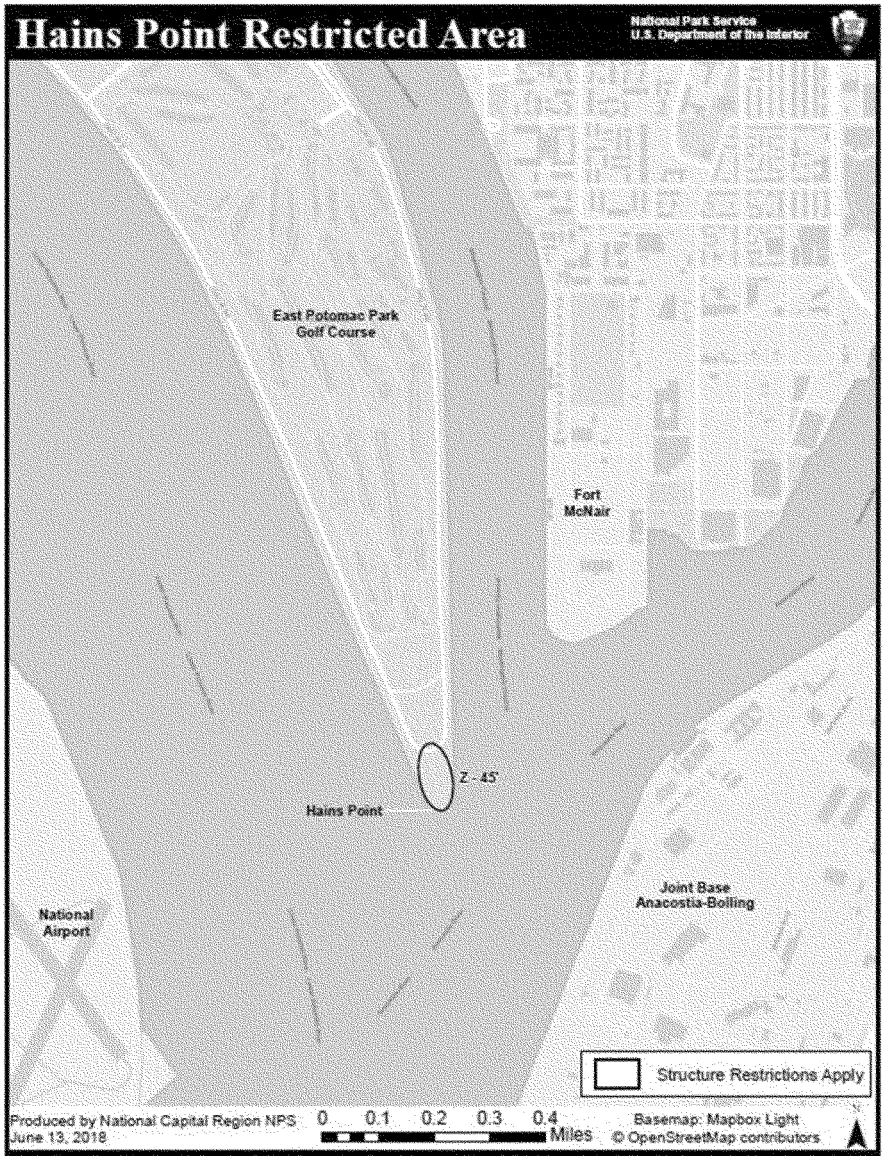
STRUCTURE RESTRICTIONS

Map area	Location	Restriction	Exceptions
A	Lincoln Memorial	Structures are prohibited	Podiums, tables, chairs, lighting and sound equipment.
B	Elm Trees Panels—3rd Street to 14th Street.	Structures are prohibited	None.
C	Reflecting Pool and Walks on North and South.	Structures are prohibited	Telecommunications equipment.
D	Constitution Gardens—West	Structures may not exceed 15 feet in height.	None.
E	Constitution Gardens—East	Structures may not exceed 30 feet in height and may not disrupt the viewshed from Virginia Ave NW to the Washington Monument.	None.
F	World War II Memorial	Structures are prohibited	Podiums, tables, chairs, sound equipment, and shade tents.
G	JFK Hockey Fields	Structures may not exceed 45 feet in height.	None.
H	Ellipse	Structures may not exceed 30 feet in height.	Stages, bleachers, and telecommunications equipment during the National Christmas Tree Lighting Ceremony may exceed 30 feet in height.
I	Washington Monument—Security Perimeter.	Structures are prohibited	None.
J	Washington Monument Grounds—Central Panel West.	Structures are prohibited	None.
K	Washington Monument Grounds—Northwest and Northeast Corners.	Structures may not exceed 30 feet in height.	None.
L	Washington Monument Grounds—First Tier Outside Restricted Area.	Structures may not exceed 20 feet in height.	None.
M	North-South 150-foot-wide Corridor	Structures are prohibited	None.
N	East of Washington Monument Grounds—Central East.	Structures may not exceed 20 feet in height.	None.
O	National Mall—3rd St. to 14th St. and Hardscape Between Elm Tree Panels.	Structures may not exceed 30 feet in height.	No height restriction for telecommunications equipment.
P	Thomas Jefferson Memorial	Structures are prohibited	Podiums, chairs, and sound equipment.
Q	Thomas Jefferson Memorial—East and West Precincts.	Structures may not exceed 30 feet in height.	None.
R	Tidal Basin	Structures may not exceed 20 feet in height.	None.

STRUCTURE RESTRICTIONS—Continued

Map area	Location	Restriction	Exceptions
S	Independence Ave. Staging Area	Structures may not exceed 30 feet in height.	None.
T	Virginia Ave. (View to Washington Monument).	Structures are prohibited	None.
U	Polo Fields—near Ohio Drive	Structures may not exceed 40 feet in height.	None.
V	Polo Fields—near West Basin Drive	Structures may not exceed 30 feet in height.	None.
W	Ohio Drive—Ballfields between West Basin Drive and Inlet Bridge.	Structures may not exceed 30 feet in height.	None.
X	Ohio Drive—Ballfield near National Mall and Memorial Park Headquarters.	Structures may not exceed 45 feet in height.	None.
Y	Recreation Field South of Washington Monument; West of Holocaust Museum.	Structures may not exceed 35 feet in height.	None.
Z	Hains Point—Southernmost Point within East Potomac Park.	Structures may not exceed 45 feet in height.	None.





(B) All such structures shall be erected in such a manner so as not to harm park resources unreasonably and shall be removed as soon as practicable after the conclusion of the permitted event.

(C) The Regional Director may impose reasonable restrictions upon the use of structures in the interest of protecting the park areas involved, traffic and public safety considerations, and other legitimate park value concerns. These restrictions may include limitations consistent with turf management and event operations guidance related to duration, weight, equipment, and materials used.

(D) Structures may not be used outside designated camping areas for living accommodation activities such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

(E) Individuals or groups of 25 persons or fewer demonstrating under the small group permit exception of paragraph (g)(2)(i) of this section, or individuals or groups demonstrating under the large group permit exceptions at the five parks designated in paragraph (g)(2)(ii) of this section, are not allowed to use structures other than small lecterns or speakers' platforms, except for Lafayette Park (where only speakers' platforms are allowed in accordance with a permit) and the White House Sidewalk (where no structures are allowed). This provision does not restrict the use of portable signs or banners or preclude such individuals or groups from obtaining a permit in order to erect structures.

(F) Structures are not permitted within the drip line of trees located within the White House area.

(iv) Sound amplification equipment is allowed in connection with permitted demonstrations or special events, provided prior notice has been given to the Regional Director, except that the Regional Director reserves the right to limit the sound amplification equipment so that it will not unreasonably disturb nonparticipating persons in, or in the vicinity of, the area.

(v) Events that plan to move from any location that is subject to the regulations in this section 7.96 to the White House Sidewalk or Lafayette Park, and events that plan to move from the White House Sidewalk or Lafayette Park to another location that is subject to the regulations in this section 7.96, must comply with the restrictions on signs placards set forth in paragraphs (g)(5)(ix)(C) and (g)(5)(x)(C) of this section for the duration of the event, even when it is located outside of the White House Sidewalk or Lafayette Park.

(vi) A permit may contain additional reasonable conditions and additional time limitations, consistent with this section, in the interest of protecting park resources, the use of nearby areas by other persons, and other legitimate park value concerns.

(vii) A permit issued under this section does not authorize activities outside of areas administered by the National Park Service. Applicants may also be required to obtain a permit from the District of Columbia or other appropriate governmental entity for demonstrations or special events sought to be conducted either wholly or in part in areas not administered by the National Park Service.

(viii) The activities contemplated for the proposed event must conform with all applicable laws and regulations.

(ix) In addition to the general limitations in this paragraph (g)(5), the following restrictions apply to the White House Sidewalk:

(A) No more than 750 persons are permitted to conduct a demonstration on the White House sidewalk at any one time. The Regional Director may waive the 750 person limitation for the White House Sidewalk upon a showing by the applicant that good faith efforts will be made to plan and marshal the demonstration in such a fashion so as to render unlikely any substantial risk of unreasonable disruption or violence. In making a waiver determination, the Regional Director shall consider and the applicant shall furnish at least ten days in advance of the proposed demonstration, the functions the marshals will perform, the means by which they will be identified, and their method of communication with each other and the crowd. This requirement will be satisfied by completion and submission of the same form referred to in paragraph (g)(3) of this section.

(B) Structures are not permitted.

(C) No signs or placards shall be permitted on the White House sidewalk except those made of cardboard, posterboard or cloth having dimensions no greater than three feet in width, twenty feet in length, and one-quarter inch in thickness. No supports shall be permitted for signs or placards except those made of wood having cross-sectional dimensions no greater than three-quarter of an inch by three-quarter of an inch. Stationary signs or placards shall be no closer than three feet from the White House sidewalk fence. All signs and placards shall be attended at all times that they remain on the White House sidewalk. Signs or placards shall be considered to be attended only when they are in physical contact with a person. No signs or placards shall be tied, fastened, or otherwise attached to or leaned against the White House fence, lamp posts or other structures on the White House sidewalk. No signs or placards shall be held, placed or set down on the center portion of the White House sidewalk, comprising ten yards on either side of the center point on the sidewalk; *Provided, however,* that individuals may demonstrate while carrying signs on that portion of the sidewalk if they continue to move along the sidewalk.

(D) No parcel, container, package, bundle or other property shall be placed or stored on the White House sidewalk or on the west sidewalk of East Executive Avenue NW, between Pennsylvania Avenue NW, and E Street NW, or on the north sidewalk of E Street NW, between East and West Executive Avenues NW; *Provided, however,* that such property, except structures, may be momentarily placed or set down in the immediate presence of the owner on those sidewalks.

(E) Sound amplification equipment may not be used on the White House sidewalk, other than hand-portable sound amplification equipment which the Regional Director determines is necessary for crowd-control purposes.

(x) In addition to the general limitations in this paragraph (g)(5), the following restrictions apply to Lafayette Park:

(A) No more than 3,000 persons are permitted to conduct a demonstration in Lafayette Park at any one time. The Regional Director may waive the 3,000 person limitation for Lafayette Park upon a showing by the applicant that good faith efforts will be made to plan and marshal the demonstration in such a fashion so as to render unlikely any substantial risk of unreasonable disruption or violence. In making a waiver determination, the Regional Director shall consider and the applicant shall furnish at least ten days in advance of the proposed demonstration, the functions the marshals will perform, the means by which they will be identified, and their method of communication with each other and the crowd. This requirement will be satisfied by completion and submission of the same form referred to in paragraph (g)(3) of this section.

(B) The erection, placement or use of structures of any kind are prohibited except for the following:

(*1*) When one hundred (100) or more persons are participating in a demonstration in the Park, a speakers' platform as is reasonably required to serve the demonstration participants is allowed as long as such platform is being erected, dismantled or used, provided that only one speakers' platform is allowed per demonstrating group, and provided further that such speakers' platform is authorized by a permit issued pursuant to paragraph (g) of this section.

(*2*) When less than one hundred (100) persons are participating in a demonstration in the Park, a ''soapbox'' speakers' platform is allowed as long as such platform is being erected, dismantled or used, providing that only one speakers' platform is allowed per demonstrating group, and provided further that the speakers' platform is no larger than three (3) feet in length, three (3) feet in width, and three (3) feet in height, and provided further that such speakers' platform is authorized by a permit issued pursuant to paragraph (g) of this section.

(C) The use of signs is prohibited except for the following:

(*1*) Hand-carried signs are allowed regardless of size.

(*2*) Signs that are not being hand-carried and that are no larger than four (4) feet in length, four (4) feet in width and one-quarter (¼) inch in thickness (exclusive of braces that are reasonably required to meet support and safety requirements and that are not used so as to form an enclosure of two (2) or more sides) may be used in Lafayette Park, provided that no individual may have more than two (2) such signs in the Park at any one time, and provided further that such signs must be attended at all times, and provided further that such signs may not be elevated in a manner so as to exceed a height of six (6) feet above the ground at their highest point, may not be arranged or combined in a manner so as to exceed the size limitations set forth in this paragraph, and may not be arranged in such a fashion as to form an enclosure of two (2) or more sides. For example, under this provision, two four-feet by four-feet signs may not be combined so as to create a sign eight feet long and four feet wide, and three such signs may not be arranged to create a sign four feet long and twelve feet wide, and two or more signs of any size may not be leaned or

otherwise placed together so as to form an enclosure of two or more sides, etc.

(xi) No permit will be issued for a demonstration on the White House Sidewalk and in Lafayette Park at the same time except when the organization, group, or other sponsor of such demonstration undertakes in good faith all reasonable action, including the provision of sufficient marshals, to insure good order and self-discipline in conducting such demonstration and any necessary movement of persons, so that the numerical limitations and waiver provisions described in paragraphs (g)(5)(ix) and (x) of this section are observed.

(xii) In addition to the general limitations in this paragraph (g)(5), sound systems shall be directed away from the Vietnam Veterans Memorial at all times.

(6) *Permit revocation.* The Regional Director or the ranking U.S. Park Police supervisory official in charge may revoke a permit or part of a permit for any violation of its terms or conditions, or if the event presents a clear and present danger to the public safety, good order, or health, or for any violation of applicable law or regulation. Any such revocation shall be in writing.

* * * * *

David L. Bernhardt,

Deputy Secretary.

[FR Doc. 2018–17386 Filed 8–14–18; 8:45 am]

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POSTAL REGULATORY COMMISSION

39 CFR Part 3010

[Docket No. RM2018–11; Order No. 4750]

Mail Preparation Changes

AGENCY: Postal Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is initiating a review to determine when a mail preparation change is a rate change. This document informs the public of the docket's initiation, invites public comment, and takes other administrative steps.

DATES: *Comments are due on or before* October 15, 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 initiates this advance notice of proposed rulemaking (ANPR) to seek proposals for a standard and process to determine when a mail preparation change is a ''changes in rates'' under 39 U.S.C. 3622 in accordance with the recent decision in *United States Postal Serv.* v. *Postal Reg. Comm'n,* 886 F.3d 1253 (D.C. Cir. 2018) (*IMb Opinion*).

II. Background

The Commission continues to maintain that certain mail preparation changes are rate changes, and those changes should be regulated under 39 U.S.C. 3622. As participants in past associated dockets are aware, the issues involved in regulating mail preparation changes as ''changes in rates'' under 39 U.S.C. 3622 are varied and complex. The process involved in crafting a workable standard for regulating mail preparation changes under the price cap has been difficult and time-consuming. However, this difficulty does not necessarily render the efforts to create a standard futile. Accordingly, the Commission issues this ANPR requesting proposals from commenters for a standard and process to determine when an individual mail preparation change is a ''change in rates'' under 39 U.S.C. 3622 that is consistent with the recent guidance set forth in the *IMb Opinion.*

In Docket No. R2013–10R, the Commission determined that a change to the Intelligent Mail barcoding (IMb) requirements was a rate change requiring compliance with the price cap under 39 U.S.C. 3622.[1] The Postal Service appealed the Commission's determination to the United States Court of Appeals for the District of Columbia (the Court). In *United States Postal Serv.* v. *Postal Reg. Comm'n,* 785 F.3d 740, 751 (D.C. Cir. 2015), the Court affirmed the Commission's conclusion that ''changes in rates'' under 39 U.S.C. 3622 could include changes to mail preparation requirements and were not limited to ''only changes to the official posted prices of each product.'' However, the Court remanded the matter to the Commission so that it could articulate an intelligible standard to determine when a mail preparation change was a ''change in rates'' subject to the price cap. *Id.* at 744.

In response to the Court's remand, the Commission initiated proceedings to establish a standard to be used for the regulation of mail preparation changes as ''changes in rates.''[2] As a result of those proceedings, the Commission issued Order No. 3047, which set forth a standard to determine when a mail preparation change requires compliance with the price cap. The standard established in Order No. 3047 provided that a mail preparation change could have a rate effect when it resulted in the deletion or redefinition of rate cells as set forth by § 3010.23(d)(2).

In establishing the standard set forth in Order No. 3047, the Commission used its regulation, § 3010.23(d)(2), to provide the framework. Section 3010.23(d)(2) provides that a classification change will have a rate effect when it results in the introduction, deletion, or redefinition of a rate cell. Under the Commission's rules, the Postal Service must include the effects of those classification changes in its calculation of the percentage change in rates under the price cap. 39 CFR 3010.23(d)(2). The standard in Order No. 3047 defined when a mail preparation change would be considered a classification change with rate effects under § 3010.23(d)(2). The standard set forth that deletion of a rate cell occurs when a mail preparation change caused the elimination of a rate, or the functional equivalent of an elimination of a rate by making the rate cell inaccessible to mailers. Order No. 3047 at 15. The standard defined redefinition of a rate cell to occur when a mail preparation change caused a significant change to a basic characteristic of a mailing, effectively changing the nature of the rate cell. For redefinition, the Commission stated that it would apply a significance analysis to determine at what point on the spectrum a mail preparation change caused a rate cell to be redefined under § 3010.23(d)(2). *Id.*

[1] Docket No. R2013–10, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 21, 2013, at 5–35 (Order No. 1890). In this docket, the Commission briefly sets out the relevant history supporting the request for comment. For a complete history of the Commission proceedings leading up to this docket, please see Order No. 1890; Docket No. R2013–10R, Order Resolving Issues on Remand, January 22, 2016 (Order No. 3047); Docket No. R2013–10R, Order Resolving Motion for Reconsideration of Commission Order No. 3047, July 20, 2016 (Order No. 3441).

[2] Docket No. R2013–10R, Order Establishing Procedures on Remand and Requesting Public Comment, July 15, 2015 (Order No. 2586).

at 16–17. Using these parameters, when a mail preparation change caused a rate cell to be deleted or redefined, it would constitute a rate change requiring compliance with the price cap.[3]

After Order No. 3047 was issued, the Postal Service requested the Commission reconsider its decision.[4] In response, the Commission issued Order No. 3441 resolving the Postal Service's request for reconsideration and maintaining the standard as articulated in Order No. 3047. The Postal Service then petitioned the Court for review of the revised standard set forth in Order Nos. 3047 and 3441.[5]

The Court issued its decision and vacated the Commission's standard in Order Nos. 3047 and 3441. *IMb Opinion* at 1255. In its decision, the Court concluded that the Commission's standard to determine when a mail preparation change was a rate change rested on an unreasonable interpretation of ''changes in rates'' under 39 U.S.C. 3622 that went beyond the meaning of the statute. *Id.*

In its opinion, the Court referred to its previous decision in 2015 to remand the matter to the Commission, stating that this decision ''laid down a marker for what might qualify as rates and 'changes in rates.' Time and again [it] tied 'rates' to payments by mailers to the Postal Service, and 'changes in rates' to changes in those payments.'' *Id.* at 1256. The Court explained that its 2015 decision affirmed the Commission's authority to regulate changes in posted prices and changes in mail preparation requirements because both could cause a change in rates paid by the mailer. *Id.* However, the Court vacated the Commission's standard set forth in Order No. 3047 because it viewed the standard as improperly regulating changes to mailers' costs as opposed to the price mailers pay. The Court stated that the standard cannot look ''solely to mailer costs . . . without comparing those costs to the additional payment a mailer would *avoid* by making the mail preparation change'' in order to predict whether mailers will pay a higher rate. *Id.* at 1260 (emphasis in original).

Although the Court's *IMb Opinion* vacated the standard set forth by the Commission, it did not abrogate the Commission's authority to regulate mail preparation as ''changes in rates'' under the statute. Rather, the Court disagreed with the Commission's approach and found that the Commission's standard did not answer the question of whether a change to a mail preparation change would cause a mailer to pay a higher rate. The Court did not endorse any particular method to determine when a mail preparation change is a ''change in rates'' under 39 U.S.C. 3622, but provided its views on approaches that could potentially conform to the statute.

In order to find that a mail preparation change is a rate change under 39 U.S.C. 3622, the Court indicated that the standard should be able to ''single out mail preparation changes that induce mailers to shift to a higher-priced service.'' *Id.* at 1259. The Court suggested that the Commission could have ''tried to integrate mail preparation requirements into its authority over 'changes in rates' with the following argument: Where an increase in mail preparation requirements for one cell will *drive* mailers to use a *higher-priced cell,* the resulting increase in volume in the latter should count against the rate cap.'' *IMb Opinion* at 1256 (emphasis in original). The Court qualified this opinion by stating that it identified ''this approach not in order to offer any final judgment on it but to indicate how treating a change in mail preparation requirements as a rate change might, as a matter of arithmetic, be integrated with the Commission's system of volumetric assessment.'' *Id.*

As suggested by the Court, the standard must look to predict mailer behavior in response to the mail preparation change in order to ''single out mail preparation changes that induce mailers to shift to a higher-priced service.'' *Id.* at 1259. To do so, the Court indicated that the Commission would have to compare mailers' compliance costs with the offsetting rate benefit in order to determine whether mailers would be driven to a higher rate cell and pay a higher rate. *Id.* at 1260. The Court acknowledged the complexity of this potential approach, especially where the mailer ''costs (however estimated) would have to be compared with a benchmark—the rate increment faced by mailers—that would be quite precise.'' *Id.*

In response to the *IMb Opinion,* the Commission is continuing to explore whether a workable standard can be developed in order to determine when a mail preparation change is a rate change. The Commission seeks comment on the possibility of crafting a standard that would not only comport with the Court's decision but also be workable in the context of the Commission's proceedings.

III. Request for Comments

The Commission requests comments from interested parties to propose a standard and process to determine when a mail preparation change is a rate change under 39 U.S.C. 3622 that comports with the *IMb Opinion.* In proposing a new standard, commenters should respond to the parameters and guidance set forth by the Court in the recent *IMb Opinion* and explain how the suggested standard is consistent with those parameters. Specifically, commenters should propose a standard that could be used to predict ''possible mailer migration to higher-priced products'' to determine when a mail preparation change results in a ''change in rates'' under 39 U.S.C. 3622. In addition to comments proposing a standard in line with the *IMb Opinion,* commenters should propose a practical process for the Commission to determine and resolve disputes over whether a mail preparation change is a rate change.

In creating a new docket for this proceeding, the Commission acknowledges that although the issue before the Commission centered on the Postal Service's change to the IMb requirements in Docket No. R2013–10, the standard eventually adopted by the Commission will apply to all future mail preparation changes. The Commission appreciates the complex nature of this issue and the input provided by commenters in previous attempts to establish a workable standard to regulate mail preparation changes as rate changes.

Initial comments are due no later than 60 days after the date of publication of this document in the **Federal Register**. After reviewing the initial comments, the Commission will decide if reply comments are necessary. Commission rules require that comments (including reply comments) be filed online according to the process outlined at 39 CFR 3001.9(a), unless a waiver is

[3] In conjunction with Order No. 3047, the Commission initiated a separate rulemaking proceeding to develop a procedural rule that would ensure the Postal Service properly accounted for the rate effects of mail preparation changes in accordance with the Commission's standard articulated in Order No. 3047. Docket No. RM2016–6, Notice of Proposed Rulemaking on Motions Concerning Mail Preparation Changes, January 22, 2016, at 1–2 (Order No. 3048). The Notice of Proposed Rulemaking on Motions Concerning Mail Preparation Changes was published in the **Federal Register** on February 1, 2016. *See* 81 FR 5085 (February 1, 2016). The rulemaking resulted in a final procedural rule concerning mail preparation changes. *See* Docket No. RM2016–6, Order Adopting Final Procedural Rule for Mail Preparation Changes, at 22–23, January 25, 2018 (Order No. 4393). The Order Adopting Final Procedural Rule for Mail Preparation Changes was published in the **Federal Register** on March 5, 2018. *See* 83 FR 4585 (March 5, 2018). That rule is being revised as a result of the *IMb Opinion.*

[4] Docket No. R2013–10R, Motion for Reconsideration of Order No. 3047, February 22, 2016.

[5] Petition for Review, *United States Postal Serv.* v. *Postal Reg. Comm'n,* 886 F.3d 1253 (D.C. Cir. 2018).

obtained. Additional information regarding how to submit comments online can be found at: *http://www.prc.gov/how-to-participate.* All comments accepted will be made available on the Commission's website, *http://www.prc.gov.*

Pursuant to 39 U.S.C. 505, Kenneth E. Richardson is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

It is ordered:

1. Interested persons may submit initial comments no later than 60 days from the date of the publication of this document in the **Federal Register**.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

3. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–17498 Filed 8–14–18; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2015–0700; FRL–9982–28—Region 5]

Air Plan Approval; Indiana; Attainment Plan for Indianapolis, Southwest Indiana, and Terre Haute SO_2 Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve as a State Implementation Plan (SIP) revision an Indiana submission to EPA dated October 2, 2015. The submission addresses attainment of the 2010 sulfur dioxide (SO_2) national ambient air quality standard (NAAQS) for the Indianapolis (Marion County), Southwest Indiana (Daviess and Pike Counties), and Terre Haute (Vigo County) areas. Indiana also submitted a SIP revision request for the Morgan County area. In this proposed action, EPA is not addressing the Morgan County portion of the SIP revision request, and will address it separately in a future action. This plan (herein called a ''nonattainment plan'') includes Indiana's attainment demonstration and other elements required under the Clean Air Act (CAA). In addition to an attainment demonstration, the nonattainment plan addresses the requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACM/RACT), base-year and projection-year emission inventories, enforceable emissions limitations and control measures, and contingency measures. EPA proposes to conclude that Indiana has appropriately demonstrated that the plan provisions provide for attainment of the 2010 SO_2 NAAQS in the Indianapolis, Southwest Indiana, and Terre Haute areas by the applicable attainment date and that the plan meets the other applicable requirements under the CAA.

DATES: Comments must be received on or before September 14, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0700 at *http://www.regulations.gov,* or via email to *aburano.douglas@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: Michelle Becker, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3901, *becker.michelle@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

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I. Why was Indiana required to submit an SO_2 plan for Indianapolis, Southwest Indiana, and Terre Haute?

On June 22, 2010, EPA promulgated a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a)–(b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 SO_2 NAAQS, including the Indianapolis (Marion County), Morgan County, Southwest Indiana (Daviess and Pike Counties), and Terre Haute (Vigo County) areas within Indiana. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These area designations were effective October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the SO_2 NAAQS to EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015 in this case. Under CAA section 192(a), the states are required to

demonstrate that their respective areas will attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, which is October 4, 2018.

In response to the requirement for SO_2 nonattainment plan submittals, Indiana submitted nonattainment plans for the Indianapolis, Morgan County, Southwest Indiana, and Terre Haute areas on October 2, 2015. EPA will address the Morgan County portion of the submittal in a future action. The remainder of this preamble describes the requirements that such plans must meet in order to obtain EPA approval, provides a review of the state's plans with respect to these requirements, and describes EPA's proposed action on the plans.

II. Requirements for SO_2 Nonattainment Area Plans

Nonattainment SIPs must meet the applicable requirements of the CAA, specifically CAA sections 110, 172, 191 and 192. 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 57 FR 13545–13549, 13567–13568. On April 23, 2014, EPA issued guidance for meeting the statutory requirements in SO_2 SIPs submitted under the 2010 NAAQS, in a document entitled, ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' available at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.* In this guidance EPA described the statutory requirements for a complete nonattainment area SO_2 SIP, which includes: An accurate emissions inventory of current emissions for all sources of SO_2 within the nonattainment area; an attainment demonstration; demonstration of RFP; implementation of RACM (including RACT); new source review (NSR); enforceable emissions limitations and control measures; and adequate contingency measures for the affected area. 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 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, 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.

III. Requirements for Attainment Demonstrations and Longer-Term Averaging

CAA sections 172(c)(1), 172(c)(6) and 192(a) direct states with SO_2 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 (*i.e.,* a specific amount of emission reduction can be ascribed to the measures), fully enforceable (specifying clear, unambiguous and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are sufficiently specific and non-subjective 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 April 2014 guidance recommends that the emission limits 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 guidance, pp. 22 to 39. The guidance recommends that—should states and sources utilize longer averaging times—the longer-term 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 April 2014 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 use of 30-day average limits on the prospects for attaining the standard, and carefully reviewed how best to achieve an appropriate balance among the various factors that warrant consideration in judging whether a state's plan provides for attainment. *Id.* at pp. 22 to 39. *See* also *id.* at Appendices B, C, and D.

As specified in 40 CFR 50.17(b), the 1-hour primary SO_2 NAAQS is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 parts per billion. 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 hourly exceedance of the 75 ppb level 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 hourly 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 three-year average of the annual fourth highest daily maximum hourly value will be at or below 75 ppb. A synopsis of how EPA judges 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 plans for SO_2 based on 1-hour emission limits, the standard approach is to conduct modeling using fixed emission rates. The maximum emission rate that would be modeled to result in attainment (*i.e.,* in an ''average year'' [1] shows three, not four days with maximum hourly levels exceeding 75 ppb) is labeled the ''critical emission value.'' The modeling process for identifying this critical emissions 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 emissions 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 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,'' 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 well below the critical emission value), so a source complying with an appropriately set longer term limit is likely to have lower emissions at critical times than would be the case if the source were emitting as allowed with a 1-hour limit.

As a hypothetical example to illustrate these points, suppose a source that always emits 1000 pounds of SO_2 per hour, which results in air quality at the level of the NAAQS (*i.e.,* results in a design value of 75 ppb). Suppose further that in an ''average year,'' these emissions cause the 5 highest maximum daily 1-hour average concentrations to be 100 ppb, 90 ppb, 80 ppb, 75 ppb, and 70 ppb. Then suppose that the source becomes subject to a 30-day average emission limit of 700 pounds per hour (lbs/hour). It is theoretically possible for a source meeting this limit to have emissions that occasionally exceed 1000 lbs/hour, but with a typical emissions profile emissions would much more commonly be between 600 and 800 lbs/hour. In this simplified example, assume a zero background concentration, which allows one to assume a linear relationship between emissions and air quality. (A nonzero background concentration would make the mathematics more difficult but would give similar results.) Air quality will depend on what emissions happen on what critical hours, but suppose that emissions at the relevant times on these 5 days are 800 pounds/hour, 1,100 lbs/hour, 500 lbs/hour, 900 lbs/hour, and 1,200 lbs/hour, respectively. (This is a conservative example because the average of these emissions, 900 lbs/hour, is well over the 30-day average emission limit.) These emissions would result in daily maximum 1-hour concentrations of 80 ppb, 99 ppb, 40 ppb, 67.5 ppb, and 84 ppb. In this example, the fifth day would have an exceedance that would not otherwise have occurred, but the third day would not have an exceedance that otherwise would have occurred, and the fourth day would have had a concentration below, rather than at 75 ppb. In this example, the fourth highest maximum daily concentration under the 30-day average would be 67.5 ppb.

This simplified example illustrates the findings of a more complicated statistical analysis that EPA conducted using a range of scenarios using actual plant data. As described in Appendix B of EPA's April 2014 SO_2 nonattainment planning guidance, EPA found that the requirement for lower average emissions is highly likely to yield better air quality than is required with a comparably stringent 1-hour limit. Based on analyses described in appendix B of its 2014 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.

[1] 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 values (*e.g.,* the fourth highest maximum daily 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.

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 sections 110(a)(1), 172(c)(1), 172(c)(6) and 192(a) for SIPs to contain emissions limitations and control measures to ''provide for attainment'' of the NAAQS. For SO_2, as for other pollutants, it is generally impossible to design a nonattainment plan in the present that will guarantee that attainment will occur in the future. A variety of factors can cause a well-designed 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 weigh in judging whether a plan provides a reasonable degree of confidence that the plan will lead to attainment. Based on these considerations, especially given the high likelihood that a continuously enforceable limit averaged over as long as 30 days, determined in accordance with EPA's 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 April 2014 guidance offers specific recommendations for determining an appropriate longer-term average limit. The recommended method starts with determination of the 1-hour emission limit that would provide for attainment (*i.e.,* the 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. 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 to determine a longer term average emission limit that may be considered comparably stringent.[2] The guidance also addresses a variety of related topics, such as the potential utility of setting supplemental emission limits, such as mass-based limits, to reduce the likelihood and/or magnitude of elevated emission levels that might occur under the longer term emission rate limit.

Preferred air quality models for use in regulatory applications are described in Appendix A of EPA's *Guideline on Air Quality Models* (40 CFR part 51, appendix W).[3] In 2005, EPA promulgated AERMOD as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO_2 concentrations) in all types of terrain based on extensive developmental and performance evaluation. Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 standard is provided in appendix A to the April 23, 2014 SO_2 nonattainment area SIP guidance document referenced above. 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 SO_2 NAAQS must demonstrate future attainment and maintenance of the NAAQS in the entire area designated as nonattainment (*i.e.,* not just at the violating monitor) by using air quality dispersion modeling (*see* appendix W to 40 CFR part 51) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO_2 NAAQS. For a short-term (*i.e.,* 1-hour) standard, EPA 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'' (EPA, 2010a).

IV. Review of Indiana's Modeled Attainment Plans

The following discussion evaluates various features of the modeling that Indiana used in its attainment demonstrations.

A. Model Selection

Indiana's attainment demonstrations used AERMOD, the preferred model for these applications as identified in appendix W to CFR part 51. Indiana used version 14134 of this model, utilizing the regulatory default mode for all air quality modeling runs. This version of AERMOD was the most recent version at the time the state conducted its nonattainment planning; and, in any case, the results of this version are likely to be similar to those that more recent versions would provide. Therefore, EPA finds the use of this version of AERMOD acceptable.

[2] 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.

[3] EPA published revisions to the *Guideline on Air Quality Models* (40 CFR part 51, appendix W) on January 17, 2017.

The receptor grids and modeling domain followed the recommended approaches from appendix W, Guidelines on Air Quality Models. Receptor spacing for each modeled facility fence line was every 50 meters with 100-meter spacing of receptors out to a distance of 500 meters beyond each facility. The distances between modeled facilities contained receptors which were spaced at 100-meter intervals. The 100-meter spacing receptor grid contained in excess of several thousand receptors for each modeled nonattainment area. The above receptor spacing and facility fence line receptors brought the total modeled receptors for Marion County to 17,925 receptors, including two additional receptors placed at the Marion County SO_2 monitor locations; Vigo County to 7,111 receptors, including two receptors at each of the Vigo County SO_2 monitors; and Daviess and Pike to 5,354 receptors, including two located at Daviess and Pike County SO_2 monitors.

Indiana did not assess impacts within any one facility's property from the emissions from other facilities. EPA reviewed Indiana's modeling results to assess whether any further modeling was warranted to evaluate impacts within of other facilities on any plant's property. For Southwest Indiana, peak impacts from the two facilities were well off any plant property, and therefore insufficient to cause a violation within each other's property. For the Terre Haute area, since the Duke Wabash River Power Plant and sgSolutions sources were adjacent, EPA conducted additional modeling that demonstrated that neither plant contributed to a violation within the other plant's property. Finally, in Indianapolis, EPA conducted additional modeling for the Vertellus and Rolls Royce facilities due to their proximity to one another and due to peak concentrations for both facilities occurring at their property boundaries. The analysis showed that collective impacts at on-property receptors from the other source and from other sources in Marion County were below the NAAQS. Further description of EPA's review is provided in the technical support document available in the docket for this rulemaking.[4] EPA finds that Indiana's receptor grids, supplemented with the results of EPA's additional analysis, are adequate for assessing whether the adopted limits provide for attainment throughout the respective areas.

The appropriate rural or urban land classifications were selected by Indiana, with only the Indianapolis SO_2 area being classified as urban. The remaining 1-hour SO_2 nonattainment areas addressed in this action, in Southwest Indiana and Terre Haute, were modeled as rural. While Indiana's submittal does not discuss the rationale for these determinations, EPA agrees that these selections appropriately characterize these areas. The Indianapolis area has historically been modeled using ''urban dispersion.'' This combined statistical area includes 2.3 million people, including Marion County, with just under 1 million people. The population density for Marion County is 917 people per square kilometer, and the modeled area is a relatively urban portion of the county, thus meeting the criterion in appendix W that areas with at least 750 people per square kilometer may be treated as urban. Conversely, Vigo, Pike, and Daviess Counties have population densities of 102, 13, and 42 people per square mile, respectively. Examination of satellite imagery for these areas confirms that a land use analysis of these areas would be expected to yield the same character of Indianapolis as urban and the other areas as rural. For Indianapolis, a population of 1,000,000 (reflecting the approximate population of Marion County) was used in AERMOD to characterize the strength of the urban heat island effect. The use of urban dispersion with a 1,000,000 population is appropriate for this modeling. For these reasons, EPA finds it appropriate to model these areas using the land classifications identified by Indiana.

B. Meteorological Data

Indiana used the Indianapolis National Weather Service (NWS) surface data and the Lincoln, Illinois upper air station (WBAN#048233) data for Indianapolis and Terre Haute, and the Evansville NWS for surface data and the Lincoln upper air station data for Southwest Indiana. These are the closest National Weather Service surface stations to each respective area. The State determined these stations to be the most representative for the respective modeling domains. The upper air stations were chosen on the basis of regional representativeness. EPA finds Indiana's choices of surface and upper air meteorological stations appropriate based on: (1) The suitability of meteorological data for the study area; and (2) the actual similarity of surface conditions and surroundings at the emissions source/receptor impact area compared to the locations of the meteorological instrumentation towers.

C. Emissions Data

Indiana modeled 14 sources in the three nonattainment areas of Indianapolis (6 sources), Southwest Indiana (2 sources), and Terre Haute (6 sources). The sources were physically located within the nonattainment area; Indiana excluded facilities that emitted less than ten tons per year, and Indiana found no sources outside the nonattainment areas with sufficient likely concentration gradient in the modeled area to warrant modeling explicitly. The emission limits used for the model for 12 of the sources correspond to the revised sulfur dioxide limitations on a 1-hour basis and are found in Indiana Administrative Code (IAC) Part 326, Article 7, and have been included by Indiana in this submission for SIP approval. The applicable emission limits for sgSolutions in Vigo County (Terre Haute) and IPL—Petersburg in Daviess County (Southwest Indiana) are established on a 30-day average basis and are lower than the modeled 1-hour attainment emission rates (the critical emission values) by virtue of application of adjustment factors determined and applied in accordance with the 2014 SO_2 Guidance. These limits are established and made enforceable in 326 IAC 7. EPA finds Indiana's choice of included sources appropriate, and finds that the modeled emission levels appropriately correspond to the limits given in 326 IAC 7, in the case of IPL—Petersburg and sgSolutions by modeling the 1-hour emission level that corresponds (before adjustment) to the 30-day average limit established in 326 IAC 7. Further discussion of the 30-day average limits is provided below.

D. Emission Limits

An important prerequisite for approval of an attainment plan is that the emission limits that provide for attainment be quantifiable, fully enforceable, replicable, and accountable. See General Preamble at 13567–68. Some of the limits that Indiana's plan relies on are expressed as 30-day average limits. Therefore, part of the review of Indiana's attainment plan must address the use of these limits, both with respect to the general suitability of using such limits for this purpose and with respect to whether the particular limits included in the plan have been suitably demonstrated to provide for attainment. The first subsection that follows addresses the enforceability of the limits in the plan,

[4] June 27, 2018 Technical Support Document—''Evaluation of Concentrations on Facility Property Attributable to Nearby Sources''.

and the second subsection that follows addresses the 30-day average limits.

1. Enforceability

In preparing its plans, Indiana adopted revisions to a previously approved state regulation governing emissions of SO_2. These rule revisions were adopted by the Indiana Environmental Rules Board following established, appropriate public review procedures. In addition, the rule revisions provide unambiguous, permanent emission limits, expressed in lbs/hour of allowable SO_2 emissions, that, if exceeded by a source, would be clear grounds for an enforcement action.

The revised limits for significant contributing sources have a compliance date of January 1, 2017 and are codified in 326 IAC 7, titled ''Sulfur Dioxide Rules.'' Specifically, the list of rules is ''Compliance date'' (326 IAC 7–1.1–3), ''Reporting requirements; methods to determine compliance'' (7–2–1), ''Marion County sulfur dioxide emission limitations'' (7–4–2.1), ''Vigo County sulfur dioxide emission limitations'' (7–4–3.1), and ''Pike County sulfur dioxide emission limitations'' (7–4–15). The rules also include associated monitoring, testing, and recordkeeping and reporting requirements. For example, continuous emission monitoring will be conducted for assessing compliance with the 30-day average limits. Specifically, 326 IAC 7–1–9 is being replaced by 7–4–2.1 for Marion County and 326 IAC 7–1–10.1 is being replaced by 326 IAC 7–4–15 for Vigo County. EPA finds these limits to be enforceable. A summary of the limits is shown in Table 1.

As shown in this table, the emission limits for sgSolutions Tail Gas Incinerator Stack EP1 and IPL-Petersburg Units 1–4 are expressed as 30-day average limits. Other limits in the rule are expressed as 1-hour average limits. The limits are expressed as lbs/hour or pounds per million British Thermal Units (MMBTU). EPA's review of Indiana's nonattainment plan addresses the use of these limits, both with respect to the general suitability of using such limits in attainment demonstrations, and whether Indiana has demonstrated that the particular limits included in the plan provide for attainment. EPA addresses Indiana's use of a 30-day average emission limits below.

TABLE 1—EMISSION LIMITS IN SUBMITTED INDIANA RULES

Source	Emission unit description	Emission limit (lbs/hour) or other requirements	Emission limit (lbs/MMBTU)
Marion County sulfur dioxide emission limitations 326 IAC 7–4–2.1			
Citizens Thermal—Perry K Source ID No. 00034.	(A) Boiler 11	73.6	0.2
	(B) Boiler 13	80.6	0.2
	(C) Boiler 14	80.6	0.2
	(D) Boilers 12, 15, and 16	Burn natural gas	
	(E) Boiler 17	72.6	0.3
	(F) Boiler 18	72.6	0.3
Belmont Advanced Wastewater Treatment Plant Source ID No. 00032.	Incinerator 1, Incinerator 2, Incinerator 3, and Incinerator 4.	Comply with SO_2 limit in 40 CFR 60, subpart MMMM * or 40 CFR 60, subpart LLLL *.	
Rolls-Royce Source ID No. 00311	(A) Boiler 0070–58	0.07	0.0015
	(B) Boiler 0070–59	0.07	0.0015
	(C) Boiler 0070–62	0.37	0.0015
	(D) Boiler 0070–63	0.37	0.0015
	(E) Boilers 0070–64	Burn natural gas or landfill gas	0.01
	(F) Boiler 0070–65	Burn natural gas or landfill gas	0.01
	(G) Generating Turbine 0070–80	Burn natural gas or landfill gas	0.01
	(H) 2 Gas Turbine Engines 0070–66		0.1
	(I) 12 Gas Turbine Engines 0070–67		0.05
	(J) 3 Gas Turbine Engines 0070–68c, 0070–68d, and 0070–68e.		0.05
	(K) 2 Gas Turbine Engines 0070–68a and 0070–68b.	Burn natural gas	
	(L) 3 Gas Turbine Engines 0070–69		0.05
	(M) Three Shack Heaters 0070–70	Burn natural gas	
	(N) Rental Generators		0.0015
	(O) Engine Test Cells Plant 5		0.05
	(P) Engine Test Cell Plant 8		0.1
	(Q) Engine Test Cell N20	18 foot vertical stack, if operating	
	(R) Engine Test Cell N21	20 foot vertical stack, if operating	
	(S) Engine Test Cell N23	30 foot vertical stack, if operating	
	(T) Engine Test Cell N24	20 foot vertical stack, if operating	
Vertellus Agriculture and Nutrition Specialties Source ID No. 00315.	(A) 70K Boiler 70–2722W	18.4	0.20
	(B) 30K Boiler 30–2726S	9.8	0.25
	(C) 28K Boiler 28–186N	9.9	0.27
	(D) Boiler CB–70K	Burn natural gas	
	(E) BM Furnace BM2724W	1.1	0.05
	(F) Box Furnace BX2707V	0.8	0.05
	(G) DAB Furnace 732714	2.8	0.05
	(H) Born Heater 722804	0.34	0.05
	(I) Born Heater Furnace BXS2706Q	0.3	0.05
	(J) EP Furnace EP2729Q	0.15	0.05
	(K) CB20 CB600–300 Boiler	2.3	0.09
	(L) 50K CN5–400 Boiler	5.5	0.09
	(M) BD Furnace BD2714V	0.75	0.05

TABLE 1—EMISSION LIMITS IN SUBMITTED INDIANA RULES—Continued

Source	Emission unit description	Emission limit (lbs/hour) or other requirements	Emission limit (lbs/MMBTU)
	(N) Heater BS2740Q	0.3	0.05
	(O) Heater BT2728S	0.3	0.05
	(P) Furnace HW–925.001	12.25	1.25
	(Q) CS Kettle Born Heater	Burn natural gas	
	(R) CS Still Born Heater	Burn natural gas	
	(S) Born Hot Oil Furnace (Process Heater) Unit 2607T.	Burn natural gas	
Quemetco Source ID No. 00079	WESP Stack	52.0	
Indianapolis Power & Light Co.—Harding Street Generating Station Source ID No. 00033.	(A) Boiler 9	Do not operate	
	(B) Boiler 10	Do not operate	
	(C) Boiler 50	Burn natural gas	
	(D) Boiler 60	Burn natural gas	
	(E) Boiler 70	Burn natural gas	
	(F) Gas Turbine 1	29.9	0.1
	(G) Gas Turbine 2	29.9	0.1
	(H) Gas Turbine 4	87.5	0.1
	(I) Gas Turbine 5	86.7	0.1
	(J) Gas Turbine 6	Burn natural gas	
	(K) Emergency Generator	500 hour calendar year operating limit	
Vigo County sulfur dioxide limitations (326 IAC 7–4–3.1)			
Wabash River Combined Cycle Source ID No. 00147.	Combustion Turbine Unit 1A	333.76	0.195
sgSolutions Source ID No. 00091	(A) Tail Gas Incinerator Stack EP1	230.6 *	
	(B) Process Flare Unit 2	500 hour calendar year operating limit on coal/syngas.	
SONY Digital Audio Disc Source ID No. 00032.	(A) #1 Kewanee Boiler		0.05
	(B) #2 Kewanee Boiler		0.05
	(C) Unit 3 Burnham Boiler		0.05
	(D) Unit 4 Burnham Boiler		0.05
	(E) Unit 5 Superior Boiler		0.05
	(F) Unit 6 Superior Boiler		0.05
	(G) Unit 18 Boiler		0.05
Taghleef Industries Source ID No. 00045	(A) Clayton Boiler (Standby)	0.03	0.0015
	(B) Nebraska Boiler	0.05	0.0015
	(C) Nebraska-D Boiler	Burn natural gas	
Terre Haute Regional Hospital Source ID No. 00046.	(A) #1 Boiler		0.45
	(B) New #2 Boiler		0.45
Union Hospital Source ID No. 00047	2 Keeler Boilers		0.36
Duke Energy—Wabash River Generating Station Source ID No. 00021.	(A) Boiler 6	1,499.5	0.5
	(B) Diesel Generators 7A, 7B, and 7C	500 hour calendar year operating limit (each).	0.05
Pike County sulfur dioxide limitations (326 IAC 7–4–15)			
Hoosier Energy—Ratts Source ID No. 00001.	(A) Boiler 1	58	0.05
	(B) Boiler 2	58	0.05
	(C) No. 2 Auxiliary Boiler	1.0	0.05
Indianapolis Power & Light—Petersburg Generating Station Source ID No. 00002.	(A) Unit 1	263.0 *	0.12 *
	(B) Unit 2	495.4 *	0.12 *
	(C) Unit 3	1,633.7 *	0.29 *
	(D) Unit 4	1,548.2 *	0.28 *
	(E) Diesel Generators PB–2, PB–3, and PB–4.	500 hour calendar year operating limit (each).	
Indianapolis Power & Light—Petersburg Generating Station Source ID No. 00002.	(A) Unit 1	330.0	0.15
	(B) Unit 2	621.6	0.15
	(C) Unit 3	2,049.8	0.37
	(D) Unit 4	1,942.5	0.35
	(E) Diesel Generators PB–2, PB–3, and PB–4.	500 hour calendar year operating limit (each).	

* Indicates emission limit for the unit is expressed as a 30-day average limit.

2. Longer Term Average Limits

As noted above, the 2014 SO_2 Guidance discusses the option to establish limits with averaging times up to 30 days in length that are comparably stringent to the 1-hour average limit that would otherwise have been set, and recommends a detailed procedure for determining such a comparably stringent limit. The Guidance also notes that it might be appropriate to establish supplemental limits in order to limit the

magnitude and/or frequency of elevated emissions, as a means of further reducing the likelihood of elevated emissions occurring on those occasions when the meteorology is conducive to high concentrations of SO_2.

For both IPL-Petersburg and sgSolutions, Indiana closely followed the six-step recommendation of the 2014 SO_2 Guidance in determining an appropriate level for the 30-day average limits. As a first step in each case, Indiana conducted modeling which determined the 1-hour emission limit that would provide for attainment. Indiana conducted a series of modeling runs identifying baseline allowable air quality (in absence of emission reductions), evaluating the air quality consequences of feasible emission reductions, and ultimately identifying a set of reduced allowable emission levels that would provide for attainment. For IPL-Petersburg, these quantities were expressed in lbs/MMBTU, and may be termed the critical emissions rates. The critical emission rates were 0.15, 0.15, 0.37, and 0.35 lbs/MMBTU, for IPL-Petersburg Units 1–4 respectively. For sgSolutions, Indiana determined a critical emission level of 527 lbs/hour.

For the second step of the process, for IPL-Petersburg, Indiana compiled representative emissions data sets from the IPL-Petersburg Unit 2 Flue Gas Desulfurization stack, which is the same control technology IPL-Petersburg will use for Units 1,3, and 4 in order to meet the emission limits associated with attaining the 2010 SO_2 NAAQS. Indiana used data compiled from 2006–2010 for the stack. For sgSolutions, Indiana used the data from the Tail Gas Incinerator from 2009–2014 scaled to fewer operating hours to create the emissions data set.

The third step was calculating the 30-day rolling averages. The analysis for IPL-Petersburg assessed the variability of the emission rate. The 30-day average rate was calculated by summing the pounds SO_2 per hour values over the previous 720 hours (30 days) and dividing by the sum of the MMBTU per hour over the past 720 hours, yielding a separate 30-day average pounds of SO_2 per MMBTU for each successive ending hour. Using this calculation ensured that any hours showing zero emissions did not affect the calculations. This calculation is consistent with the procedures used in determining compliance with the Mercury and Air Toxics Standard (MATS) rule, as recommended in appendix C of the 2014 EPA SO_2 Guidance. The analysis for sgSolutions used statistics on the hourly mass emission rate and the corresponding 720-hour average hourly emission rate.

The fourth step determined 99th percentile values for the 1-hour values and 30-day average values. The 1-hour values were determined by compiling the values in step 2 over the five-year period. The result for the 99th percentile 30-day average was determined from the calculations in step 3. For IPL-Petersburg, the 99th percentile of 1-hour values was 0.233 lbs/MMBTU, and the 99th percentile of 30-day average values was 0.185 lbs/MMBTU. For sgSolutions, the 99th percentile values were 139 and 60.7 lbs/hour among 1-hour and 30-day average values, respectively. In the fifth step the ratio of the values was calculated by dividing the 99th percentile values for the 30-day rolling data and the 1-hour data identified in the fourth step. For IPL-Petersburg the result was an adjustment factor of 79.7 percent, and for sgSolutions the result was an adjustment factor of 43.6 percent. The final step multiplied the modeled critical emissions values calculated in the first step by the adjustment factors calculated in the fifth step. This resulted in 30-day average limits of 0.12, 0.12, 0.29, and 0.35 lbs/MMBTU for IPL-Petersburg Units 1–4 respectively and 230.6 lbs/hr for sgSolutions.

Based on a review of the state's submittal, these limits provide a reasonable alternative to establishing a per hour 1-hour average emission limit for this source. The state used an appropriate database and then applied an appropriate adjustment, yielding an emission limit that has comparable stringency to the 1-hour average limit that the state determined would otherwise have been necessary to provide for attainment. While the 30-day average limit allows for occasions in which emissions are higher than the level that would be allowed under the 1-hour limit, the state's limit compensates by requiring average emissions to be lower than the level that would otherwise have been required by a 1-hour average limit.

As noted above, the April 2014 Guidance recommends that 30-day average limits be accompanied by supplemental limits that help serve to minimize the frequency and/or magnitude of occasions with elevated emissions. Indiana did not use supplemental limits. Therefore, EPA examined available emissions data at IPL-Petersburg and at sgSolutions to evaluate the likely frequency and magnitude of spikes in emissions above the critical emission value while nevertheless complying with the 30-day average limit. The most pertinent data for IPL-Petersburg are for Unit 2, addressing a five-year time period before the relevant limit became effective. Approximately seven percent of available 30-day average values in this data set exceeded the 30-day average limit of 0.12 lbs/MMBTU. In this data set, approximately six percent of the hourly emissions values exceeded the critical emission rate of 0.15 lbs/MMBTU; these elevated values on average were approximately 34 percent above 0.15 lbs/MMBTU. Reduction of emissions sufficient to meet the 0.12 lbs/MMBTU limit consistently would reduce the frequency and magnitude of hourly emissions values above the 0.15 lbs/MMBTU critical emissions rate, although the precise levels are difficult to predict. For sgSolutions, over a six-year period, in a data set with no exceedances of the 30-day average limit of 230.6 lbs/hour (in which, in fact, only one day had daily average emissions above 230.6 lbs/hour), only seven hours (approximately 0.02 percent of the hours) exceeded the critical emission value of 527 lbs/hour, and the magnitude of these exceedances on average was only nine percent above the critical emission value. Based on these data, EPA finds that the 30-day average limit without supplemental limits should suffice in these cases to provide adequate assurance of attainment.

For IPL-Petersburg, Indiana's rule identifies both a set of 30-day average limits and a corresponding set of 1-hour limits (the latter set at the critical emission value) for the four units of this facility. Indiana's rule specifies, ''Indianapolis Power & Light shall notify the department prior to [January 1, 2017] to indicate if compliance . . . will be determined using [the specified 1-hour limits or the specified 30-day average limits] and prior to switching [which set of limits applies].'' Given this potential under Indiana's rules for IPL to choose to switch back and forth between a set of 30-day average limits and a set of 1-hour limits, EPA conducted additional review of the enforceability of the limits and of whether the potential to switch limits might adversely affect the degree to which these limits assure attainment.

Regarding enforceability, the primary question is whether at any time the applicable requirements are unequivocally clear, such that the occurrence of emissions above the specified level unquestionably constitutes noncompliance. Since the limits themselves are clearly specified in Indiana's rule, the pertinent question is whether the choice of limits is clear, *i.e.* whether it is always clear whether the 30-day average limits or the 1-hour

limits apply. As noted above, Indiana's rule requires IPL-Petersburg to notify the state of its initial choice of applicable limits and to notify the state of any choice IPL makes to switch applicable limits. Thus, pursuant to the requirements of the rule, the applicable set of limits is always specified, Indiana always knows which set of limits applies, and this information is available to EPA and any other interested party upon request to Indiana.

EPA also evaluated whether the option to switch applicable limits might yield less air quality protection than permanently imposing 30-day average limits or permanently imposing 1-hour limits. At any given time, IPL is subject to a single set of limits; IPL cannot excuse noncompliance with the applicable limits even if it is meeting the alternative limits. Therefore, IPL does not have the option to choose limits contemporaneously according to a short-term judgment as to which set of limits is less stringent for that time period. Instead, IPL must design its control strategy to meet the limits with the chosen averaging time rather than to aim simply to meet whichever set of limits might be less stringent for any particular period.

A further question about switching limits is whether applying 1-hour limits for part of a year and longer-term limits for another part of the year provides as much air quality protection as applying a single set of limits for the entire year. Use of long term average limits creates the potential for periods with elevated emissions that may yield additional, unmodeled exceedances (*i.e.,* exceedances beyond those identified in modeling of constant emissions), but also creates a compensating likelihood of avoiding some of the modeled exceedances because the downward adjusted long-term average limit requires emissions to be lower most of the time. At issue here is the risk that in a year when both types of limits apply, the periods subject to 30-day average limits might have additional, unmodeled exceedances while the periods subject to 1-hour limits might not avoid any of the exceedances found in constant emissions modeling.

For several reasons, EPA believes that this concern does not apply in this case. Indiana's rule requires IPL to notify Indiana before any change in limits and, in the case of a switch from 30-day average limits to one-hour limits, to complete a 30-day period in compliance with the 30-day average limits before the one-hour limits take effect. IPL cannot change the applicable limits retroactively. While IPL may change the prospective applicable set of limits if it anticipates significant changes in operations, the experience to date is that IPL has made no switches in the selection since electing the 30-day average in January 2017, and nothing in the record suggests that IPL is likely to switch which limits apply in the future. For these reasons, EPA believes that Indiana's limits for IPL are an appropriate part of an attainment plan for Southwest Indiana that provide for attainment, most likely by requiring compliance with an appropriately adjusted set of 30-day average limits.

The issue of switching limits does not apply to sgSolutions; this source is permanently subject to a 30-day average limit. EPA believes that the 30-day average limits for IPL-Petersburg and sgSolutions are appropriate elements of Indiana's attainment plans for the applicable areas.

E. Background Concentrations

Indiana determined background concentrations by selecting the 99th percentile of a monitoring data set that excluded values from emission sources where the upwind SO_2 concentration exceeded 10 ppb. For Indianapolis, the background concentration was generated using the hourly concentrations from the Harding Street monitor (18–097–0057). At the time Indiana conducted its analysis this was the only suitable background monitor. The monitor is sited about four kilometers northeast of the Indianapolis Power and Light-Harding Station source. For the determination of a background value Harding Station Power Plant was considered a nearby source and was expressly included in the modeling analysis, and so Indiana determined the Indianapolis background concentration from a Harding Street data set that excluded values during hours with winds from the south and southwest. The resulting background concentration was 22.5 micrograms per cubic meter ($\mu g/m^3$) (8.6 ppb).

In the Southwest Indiana area there are two monitors, one located in each of Pike and Daviess counties. The monitor with the highest background concentration is the Arda Lane monitor located in Pike County (18–125–0005) with a value of 25.9 $\mu g/m^3$ (9.9 ppb). The monitor is sited about 1 kilometer to the south of IPL-Petersburg source and about 1.5 kilometers east of the Hoosier Plant. Indiana considered these two sources nearby, and determined a background concentration from a data set that excluded data when winds were from the northwest. There are two monitors located in the Terre Haute nonattainment area, both in Vigo County.

For the Vigo County analysis, the controlling monitor (*i.e.,* highest design value over the 2011–2013 period), Harrison Road monitor (18–125–0005) was used. The monitor is sited approximately 2.5 kilometers southeast of the Duke Energy-Wabash River facility, which Indiana considered nearby, so Indiana determined background concentrations from a data set that excluded data when winds were from the northwest. The result was a background concentration of 23.0 $\mu g/m^3$ (8.8 ppb). EPA has reviewed these background concentrations and finds these values appropriate as model inputs.

F. Comments Made During State Rulemaking

During the preparation of its nonattainment plans, Indiana received and responded to a number of comments by, among others, EPA and the Sierra Club that EPA believes warrant further discussion in this action.

The first comment from EPA to Indiana pertained to the IPL–Petersburg facility having a choice between hourly and 30-day average limits in the Pike county emission limit rules, and requesting that Indiana assure clarity as to which limits apply, by including explicit requirements for reporting and recordkeeping to which limits apply.

Indiana responded to the comment by adding language at 326 IAC 7–4–15(e) requiring the source to notify IDEM when switching from one set of limits to the other. For any switch from the 1-hour limits to the 30-day average limits, IDEM's final rule requires compliance with the 1-hour limit until the first 30-day average emission rate is calculated so that there is no gap in compliance. EPA agrees that this change in the rulemaking ensures clear compliance requirements and establishes the 30-day average limit (when applicable) in a manner (consistently requiring a reduced level of emissions) that provides the full protection against violations recommended in EPA's guidance.

Sierra Club expressed concerns about the Duke Energy facility in Gibson County (''Gibson''), commenting that Indiana should have modeled Gibson explicitly. Indiana responded that emissions reductions from the sources located within Pike and Daviess County nonattainment area were the most responsible for bringing the area into attainment. Other SO_2 sources in surrounding counties are accounted for within the representative 1-hour SO_2

background concentration. EPA notes that the criterion recommended in appendix W of 40 CFR 51 for sources to be modeled explicitly are those nearby sources that are not adequately represented by ambient monitoring data, such as sources that cause a significant concentration gradient in the vicinity of the area of interest. Gibson is about 46 kilometers southwest of the Southwest Indiana nonattainment area. At this distance, concentration gradients may be presumed to be quite small, and the impacts of Gibson may reasonably be considered accounted for in the background concentration for the Southwest Indiana nonattainment area. Thus, EPA agrees with Indiana's conclusion that any impact from Gibson on the Southwest Indiana nonattainment area is appropriately captured in the background concentration for the Southwest Indiana nonattainment area, such that explicit modeling of this facility is unnecessary.

In a related comment, Sierra Club commented that Indiana needed to impose SO_2 limits on the Duke Energy facility in order to ensure that the Southwest Indiana nonattainment area (Daviess and Pike counties) attained the standard. Indiana's attainment demonstration for the Southwest Indiana nonattainment area did not depend on emission limits for Gibson. Appendix W specifies the recommended consideration of emission limits for sources that are required to be explicitly modeled in the attainment demonstration. Sources such as Gibson that are accounted for as part of the monitored background concentration need not be modeled explicitly (as noted above) and in particular need not be considered on the basis of allowable emissions. That is, Appendix W advises consideration of distant sources such as Gibson on the basis of available monitoring data, irrespective of any limits on Gibson emissions that may apply. Indiana's modeling analysis, in accordance with appendix W, demonstrates that the Southwest Indiana nonattainment area can be expected to attain the standard without regard to whether emission limits for Gibson are established. Thus, Indiana's SIP submission is approvable without limits for Gibson.

Also, several utility groups commented that Indiana should use a compliance date of October 1, 2017, which would allow for twelve months of data to demonstrate attainment of the standard prior to the October 2018 attainment deadline. Indiana chose instead to adopt its proposed compliance date of January 1, 2017. This compliance date was recommended in the 2014 EPA Guidance because monitoring site data are certified annually on a calendar year, not a 12-month time span, so compliance by January 1, 2017 is recommended to provide for a calendar year of data for later informing whether timely attainment has occurred. EPA supports the decision made by Indiana to require compliance with the new limits by January 1, 2017.

G. Summary of Results

The final dispersion modeling results submitted by Indiana show design values, as provided in Table 2 below, that are less than 75 ppb. Therefore, Indiana's modeling analysis demonstrates attainment of the 2010 SO_2 NAAQS for the Indianapolis, Southwest Indiana, and Terre Haute areas. EPA believes that Indiana's modeling appropriately reflects allowable emissions in these areas, including, for sources subject to 30-day average limits, the 1-hour emission rates that upon appropriate adjustment correspond to the 30-day average limits that Indiana has adopted. EPA has reviewed Indiana's attainment demonstrations, agrees with Indiana's submitted results, and proposes to determine that the enforceable measures in Indiana's plans provide for attainment of the 2010 primary SO_2 NAAQS in the Indianapolis, Southwest Indiana, and Terre Haute nonattainment areas.

TABLE 2—1-HOUR SO_2 DISPERSION MODELING RESULTS

Area name	Indianapolis	Southwest Indiana	Terre Haute
Modeled Concentration (ppb)	64.4	64.9	63.8
Background Concentration (ppb)	8.6	9.9	8.8
Total Concentration (ppb)	73	74.8	72.6

V. Review of Other Plan Requirements

A. Emissions Inventory

The emissions inventory and source emission rate data for an area serve as the foundation for air quality modeling and other analyses that enable states to: (1) Estimate the degree to which different sources within a nonattainment area contribute to violations within the affected area; and (2) assess the expected improvement in air quality within the nonattainment area due to the adoption and implementation of control measures. As noted above, the state must develop and submit to EPA a comprehensive, accurate and current inventory of actual emissions from all sources of SO_2 emissions in each nonattainment area, as well as any sources located outside the nonattainment area which may affect attainment in the area. *See* CAA section 172(c)(3).

Indiana provided a comprehensive, accurate, and current inventory of SO_2 emissions for Marion (Indianapolis), Daviess and Pike (Southwest Indiana), and Vigo counties (Terre Haute). The following source categories were included: Electric-generating units (EGUs), non-EGUs (point), non-point (area), non-road, and on-road sources of SO_2 and are summarized in Table 3. Indiana uploads point source emissions to the National Emissions Inventory (NEI) annually. For the 2011 base year inventory, emissions from EGU and non-EGUs are actual reported emissions. Data for airport, area, non-road, and on-road emissions were compiled from the EPA Emissions Modeling Clearinghouse (SO_2 NAAQS Emissions Modeling platform 2007/2007v5) for the 2008 NEI and the 2018 projected inventory year. Data were interpolated between 2008 and 2014 to determine the airport, area, non-road, and on-road emissions 2011 inventory and between 2014–2020 for 2018. As noted above, these inventories addressed sources within each nonattainment county and can be found in appendix H of the submitted attainment demonstration. Indiana also provided modeling inputs that include a listing of the individual sources with sufficient proximity to and impact on the nonattainment areas to warrant being explicitly included in the modeling analysis.

TABLE 3—2011 ACTUAL EMISSIONS INVENTORY

	Marion (Indianapolis) (tpy)	Daviess (southwest Indiana) (tpy)	Pike (southwest Indiana) (tpy)	Vigo (Haute Terre) (tpy)
EGU	18,998.02	0	34,728.99	55,782.42
Point	4,582.46	8.39	2.74	102.79
Area	193.21	55.63	13.60	32.51
Non-road	125.37	1.23	1.38	9.42
On-road	121.88	3.14	1.85	13.72

By providing a comprehensive, accurate, and current inventory of SO_2 emissions for Marion, Pike, Daviess, and Vigo counties, Indiana has met the emission inventory requirement of CAA section 172(c)(3) for the Indianapolis, Southwest Indiana, and Terre Haute areas. This inventory represents emissions in 2011, a time when the areas were violating the standard. While section 172(c)(3) does not have a formal requirement for an attainment year inventory, the state did include allowable attainment year emissions in its modeling analysis.

B. RACM/RACT

In its submission, Indiana discusses its rationale for concluding that the nonattainment plans meet the RACM/RACT requirements in accordance with EPA guidance. For most criteria pollutants, RACT is control technology as needed to meet the NAAQS that is reasonably available considering technological and economic feasibility. However, Indiana cites EPA guidance that the definition of RACT for SO_2 is, simply, ''that control technology which is necessary to achieve the NAAQS (40 CFR 51.1 00(o))''. Indiana in fact requires the control technology that modeling shows to be necessary to ensure attainment of the SO_2 NAAQS by the applicable attainment date.

Additionally, the Indiana submission includes limits for the individual units in the nonattainment areas. The limits are established in the attainment demonstration, and made permanent and enforceable in SIP rule 326 IAC 7, Sulfur Dioxide Rules.

Indiana has determined that these measures suffice to provide for timely attainment. EPA concurs and proposes to conclude that the state has satisfied the requirements in sections 172(c)(1) and (6) to adopt and submit all RACT/RACM and emission limitations and control measures as needed to attain the standards as expeditiously as practicable.

C. New Source Review (NSR)

EPA approved Indiana's nonattainment new source review rules on October 7, 1994 (94 FR 24838). These rules provide for appropriate new source review for SO_2 sources undergoing construction or major modification in the Indianapolis, Southwest Indiana, and Terre Haute without need for modification of the approved rules. Therefore, EPA concludes that this requirement has already been met for these areas.

D. RFP

Indiana's adopted rules in 326 IAC 7 require that control measures be implemented no later than January 1, 2017. Indiana has concluded that this plan requires that affected sources implement appropriate control measures as expeditiously as practicable in order to ensure attainment of the standard by the applicable attainment date. Indiana concludes that this plan therefore provides for RFP in accordance with the approach to RFP described in EPA's guidance. EPA concurs and proposes to conclude that the plan provides for RFP.

E. Contingency Measures

In its November 15, 2017 clarification memo, Indiana explained its rationale for concluding that the plans met the requirement for contingency measures in accordance with EPA guidance. Specifically, Indiana relies on EPA's guidance, noting the special circumstances that apply to SO_2 (as discussed above), and explaining on that basis why the contingency requirement in CAA section 172(c)(9) is met for SO_2 by having a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement of applicable emissions limitations. Indiana stated that it has such an enforcement program as codified in Indiana Code Title 13, Articles 14 and 15, identifying violators and taking prompt, appropriate enforcement action. On this basis, EPA concludes that Indiana's nonattainment plans satisfy contingency measure requirements for the Indianapolis, Southwest Indiana, and Terre Haute nonattainment areas.

Indiana's rules also provide for additional contingency measures as necessary, following a review of any air quality problems that become identified and following a review of options for mitigating the problems that arise. However, Indiana is not relying on these provisions to satisfy the requirements for contingency measures.

VI. EPA's Proposed Action

EPA is proposing to approve Indiana's SIP submission, which the state submitted to EPA on October 2, 2015, for attaining the 2010 1-hour SO_2 NAAQS for the Indianapolis, Southwest Indiana, and Terre Haute areas.

These SO_2 nonattainment plans include Indiana's attainment demonstration for the Indianapolis, Southwest Indiana, and Terre Haute SO_2 nonattainment areas. These nonattainment plans also address requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Indiana has previously addressed requirements regarding nonattainment area NSR. EPA has determined that Indiana's SO_2 nonattainment plans for Indianapolis, Southwest Indiana, and Terre Haute meet the applicable requirements of CAA sections 110, 172, 191, and 192. EPA is taking no action at this time on Indiana's submittal with respect to Morgan County.

EPA is taking public comments for thirty days following the publication of this proposed action in the **Federal Register**. We will take all comments into consideration in our final action.

VII. Incorporation by Reference

In this 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 Indiana Administrative Code, Title 326, Article 7, ''Compliance date'' (326 IAC 7–1.1–3), ''Reporting requirements; methods to determine compliance'' (7–2–1), ''Marion County sulfur dioxide emission limitations'' (7–4–2.1), ''Vigo County sulfur dioxide emission

limitations'' (7–4–3.1), and ''Pike County sulfur dioxide emission limitations'' (7–4–15), effective January 1, 2107. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office. (Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information.)

VIII. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: August 2, 2018.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2018–17582 Filed 8–14–18; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 83, No. 158
Wednesday, August 15, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Senior Executive Service: Membership of Performance Review Board

ACTION: Notice.

SUMMARY: This notice lists approved candidates who will comprise a standing roster for service on the Agency's 2018 SES Performance Review Board. The Agency will use this roster to select SES Performance Review Board members. The standing roster is as follows:

Allen, Colleen
Bader, Harry
Broderick, Deborah
Buckley, Ruth
Chan, Carol
Crumbly, Angelique
Detherage, Maria
Ehmann, Claire
Feinstein, Barbara
Foley, Jason
Girod, Gayle
Jenkins, Robert
Johnson, Mark
Koek, Irene
Kuyumjian, Kent
Leavitt, William
Lennon, Stephen
Lewis, Kimberly
Longi, Maria
Mahanand, Vedjai
Miranda, Roberto
Mitchell, Reginald
Moore, David
Ohlweiler, John
Pascocello, Susan
Peters, James
Shelat, Neilesh
Sokolowski, Alexander
Staley, Kenneth
Steele, Gloria
Vera, Mauricio
Voorhees, John
Walther, Mark
Warren, Gordon
Whyche-Shaw, Oren

FOR FURTHER INFORMATION CONTACT: Maryclare Whitehead, 202–216–3489.

Dated: August 7, 2018.

Karen Baquedano,

Director, Center for Performance Excellence, Human Capital and Talent Management, U.S. Agency for International Development.

[FR Doc. 2018–17601 Filed 8–14–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Request for Nominations of Members for the National Agricultural Research, Extension, Education, and Economics Advisory Board, Specialty Crop Committee, and National Genetics Advisory Council

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, the U.S. Department of Agriculture (USDA) announces the opening of the solicitation for nominations to fill vacancies on the National Agricultural Research, Extension, Education, and Economic (NAREEE) Advisory Board and its subcommittees. There are eight vacancies on the NAREEE Advisory Board; three vacancies on the Specialty Crop Committee; six vacancies on the Citrus Disease Subcommittee; and two vacancies on the National Genetics Advisory Council.

Correction

In the **Federal Register** of July 20, 2018, FR Doc. No. 83, pages 34536–34537 on page one, under Date, should read as follows:

All nomination materials should be submitted in a single, complete package and received or postmarked by August 24, 2018.

Done at Washington, DC, this day of August 6, 2018.

Chavonda Jacobs-Young,

Acting Under Secretary, Research, Education, and Economics, Acting Chief Scientist.

[FR Doc. 2018–17537 Filed 8–14–18; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Request for Expression of Interest for Potential Sites for Headquarters Office Locations

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture (USDA) is exploring potential sites for a proposed new headquarters location for the National Institute of Food and Agriculture (NIFA) and the Economic Research Service (ERS). The need for a proposed NIFA facility would be approximately 90,000 square feet to house approximately 360 employees. The need for a proposed ERS facility would be up to 70,000 square feet to house up to 260 employees. Appropriations will dictate the ultimate size of the selection. USDA is requesting Expressions of Interest from State and Local governments, industry, academia, interested parties and organizations for potential locations that would accommodate the construction and/or lease and operation of a NIFA and/or ERS headquarters facility. USDA is interested in exploring options to house the headquarters of NIFA and ERS jointly or in separate locations.

DATES: Interested parties wishing to make an Expression of Interest should do so in writing by September 14, 2018.

ADDRESSES: Interested parties are invited to submit comments regarding this notice. All submissions must refer to ''Expression of Interest'' to ensure proper delivery.

- *Electronic Submission of Expression of Interest.* Interested persons may submit information electronically to the following email address *relocation@usda.gov.*
- *Submission of Comments by Mail, Hand delivery, or Courier.* Paper, disk, or CD–ROM submissions should be submitted to Donald K. Bice, Deputy Assistant Secretary, Office of the Assistant Secretary for Administration, USDA, Jamie L. Whitten Building, Room 240–W, 1400 Independence Ave. SW, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Donald K. Bice, Telephone Number: (202) 720–3291.

SUPPLEMENTARY INFORMATION: NIFA's mission is to invest in and advance

agricultural research, education, and extension to solve societal challenges. In collaboration with the Land-Grant Universities and other partners, NIFA supports the future of agriculture and the nation's well-being through its forward-thinking investments in critical science, education, and engagement efforts.

The mission of ERS is to inform and enhance public and private decision making on a broad range of economic and policy issues related to agriculture, food, natural resources, and rural America. The Agency's mission is to anticipate issues that are on the horizon, and to conduct sound, peer-reviewed economic research. ERS is also a primary source of statistical indicators that, among other things, gauge the health of the farm sector (including farm income estimates and projections), assess the current and expected performance of the agricultural sector (including trade), and provide measures of food security here and abroad. Most of the Agency's research is conducted by a highly trained staff of economists and social scientists through an intramural program of research, market outlook, and analysis.

The current headquarters facility for NIFA is in General Services Administration leased space in Washington DC That lease is expiring and the USDA and NIFA are interested in potential new sites for a headquarters facility. The current headquarters facility for ERS is in General Services Administration leased space in Washington DC This inquiry is intended to continue the implementation of Secretary Perdue's goal of ensuring USDA programs are delivered efficiently, effectively, and with integrity and a focus on customer service. With the expiration of the current lease for the NIFA headquarters facility and the ability of ERS to vacate its existing lease there is an opportunity for the agencies to be closer to its customers and facilitate economic development in Rural America.

Request for Expression of Interest: USDA requests Expressions of Interest from State and Local governments, industry, academia, interested parties and organizations to identify potential sites or locations for the NIFA and ERS headquarters facility. A consortium could be an appropriate respondent. All viable options will be evaluated for the location of the facility (*i.e.,* Federal government property, Federal research property, land deeded to the government, long-term lease, commercial site, etc.). USDA is interested in exploring options to house the headquarters of NIFA and ERS jointly or in separate locations.

This request for expression of interest, published in today's **Federal Register**, is the first step in the process to consider site options. USDA will evaluate each EOI submission using the four criteria in no particular order (transportation logistics, workforce, community/quality of life, and capital and operating costs) to determine if it should be further evaluated as part of the location selection process.

Logistics. Personnel travel and logistics needs are critically important. This includes being located within a reasonable distance of a commercial primary airport and the transportation infrastructure to have commuting options for employees.

Workforce. Locating NIFA and ERS headquarters in a community includes a significant opportunity to improve economic conditions and create employment opportunities. It is important that the potential site be in close proximity to a critical mass of intellectual capacity and potential employees to continue the high value and productive work of NIFA and ERS.

Community/Quality of Life. One of the most important resources of any USDA organization is its employees. Though the Washington DC area has many positive attributes, it routinely ranks as having some of the longest commute times and one of the highest costs of living in the Nation. USDA wants to locate the NIFA and ERS headquarters in a community where our employees will enjoy living, recreational opportunities, educational opportunities, and an overall high quality of life.

Capital and Operating Costs. The need to invest upfront capital costs and ongoing operational costs will be a factor in the site selection process. Lower costs and the potential of incentives to offset costs will be considered.

Information Technology infrastructure. While there is the need consider upfront investments in capital costs and ongoing operational costs in the site selection process; it is also important for the ERS location to offer enhanced IT security to meet the full requirements of handling and properly protecting confidential information at the new location. ERS, being a Federal statistical agency, will be required to maintain functional and physical separation of IT resources in order to meet the data protection requirements described in the Confidential Information Protection and Statistical Efficiency Act (44 U.S.C. 101) and in OMB's related implementation guidance. Moreover, ERS is an integral agency for the Office of the Chief Economist Office's World Agricultural Outlook Board activities. Therefore, the new location will be required to offer secure and confidential connectivity to the USDA's South Building to facilitate monthly teleconferences with the Interagency Commodity Estimates Committee meetings (*https://www.usda.gov/oce/commodity/wasde/prepared.htm*). The ability of the new location to offer those capabilities will be viewed as a prerequisite condition for a successful bid.

Expression of Interest Format: The length of the Expression of Interest should be no more than 5 pages using 12-point font. While the responder may determine how best to use the 5 pages, we recommend: SECTION 1—Summary; and SECTION 2 through SECTION 5 a description of location with specific reference to the 4 items requested by USDA below.

1. A description of your consortium/organization, and its capabilities to support the location of the NIFA and ERS headquarters at its recommended site (SECTION 2).

2. A description of how the potential site addressed the four site criteria categories (transportation logistics, workforce, community/quality of life, and capital and operating costs) described above (SECTION 3).

3. A map showing the location of the potential site, nearby (within 10 miles) political boundaries, demographics and characteristics of surrounding communities (within 10 miles) (SECTION 4).

4. A site description including ownership, total site acreage and acreage available for development; existing physical infrastructure including number of structures, their size, vintage and current use; current activities; on-site tenants (if applicable); and estimated costs as tenant (SECTION 5).

Proprietary Information: If the Expression of Interest contains information that the submitter believes is privileged or confidential, the appropriate portions of the submission should be marked ''Proprietary Information'' and will not be publicly released except as required by law. This restriction does not limit the Government's or its contractors' or agents' right to use data obtained without restriction from any source, including the respondent.

USDA is under no obligation to pay for any costs associated with the preparation or submission of Expressions of Interest in response to this notice. USDA reserves the right to

respond or not respond to any portion, all, or none of the Expressions of Interest submitted in response to this Notice. Responders whose submissions are deemed worthy of further consideration given the criteria expressed herein may be asked to provide additional information. USDA's further consideration of certain Responders' Expressions of Interest does not obligate USDA to provide funds to such Responders or to enter into contractual relationships with such Responders.

Dated: August 9, 2018.

Donald K. Bice,

Deputy Assistant Secretary for Administration.

[FR Doc. 2018–17555 Filed 8–14–18; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0009]

Retail Exemptions Adjusted Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the dollar limitations on the amount of meat and meat food products, poultry, and poultry products that a retail store can sell to hotels, restaurants, and similar institutions without disqualifying itself for exemption from Federal inspection requirements. In accordance with FSIS's regulations, for calendar year 2018, the value for the dollar limitation for meat and meat food products remains unchanged at $75,700. For calendar year 2018, the value for the dollar limitation for poultry and poultry products also remains unchanged at $56,600. FSIS reviews the dollar limitations on a yearly basis and makes adjustments based on price changes for these products evidenced by the Consumer Price Index.

FSIS is currently considering the retail dollar limitations for Siluriformes fish and fish products. FSIS intends to propose a methodology for setting the dollar limitations for Siluriformes fish and fish products in a separate **Federal Register** Notice.

DATES: *Applicable Date:* September 14, 2018.

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; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide a comprehensive statutory framework to ensure that meat, meat food products, poultry, and poultry products prepared for commerce are wholesome, not adulterated, and properly labeled and packaged. Statutory provisions requiring inspection of the processing of meat, meat food products, poultry, and poultry products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants in regard to products for sale to consumers in normal retail quantities (21 U.S.C. 661(c)(2) and 454(c)(2)). FSIS's regulations (9 CFR 303.1(d) and 381.10(d)) elaborate on the conditions under which requirements for inspection do not apply to retail operations involving the preparation of meat and meat food, and processing of poultry and poultry products.

Sales to Hotels, Restaurants, and Similar Institutions

Under these regulations, sales to hotels, restaurants, and similar institutions (other than household consumers) disqualify a retail store for exemption if the product sales exceed either of two maximum limits: 25 percent of the dollar value of total product sales or the calendar year dollar limitation set by the Administrator. The dollar limitation is adjusted automatically during the first quarter of the year if the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, shows an increase or decrease of more than $500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted dollar limitations in the **Federal Register**. (See 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*).)

The CPI for 2017 reveals an annual average price decrease for meat and meat food products at 0.583 percent and an annual average price increase for poultry and poultry products at 0.17 percent. When rounded to the nearest dollar, the dollar limitation for meat and meat food products decreased by $441 and the dollar limitation for poultry and poultry products increased by $96. In accordance with 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*), because the dollar limitation of meat and meat food products and poultry and poultry products did not increase or decrease by more than $500, FSIS is making no adjustment in the dollar limitations on sales to hotels, restaurants, and similar institutions. The dollar limitation for meat and meat food products remains unchanged at $75,700 and the dollar limitation for poultry and poultry products remains unchanged at $56,600 for calendar year 2018.

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 *Constituent 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. 2018–17546 Filed 8–14–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–26–2018]

Foreign-Trade Zone (FTZ) 38—Spartanburg, South Carolina; Authorization of Production Activity; AFL Telecommunications, LLC; (Optical Cable for Data Transfer); Duncan, South Carolina

On April 11, 2018, AFL Telecommunications, LLC submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 38, in Duncan, South Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 17790, April 24, 2018). On August 9, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14, and to a restriction requiring privileged foreign status (19 CFR 146.41) on admissions of aramid yarn, ripcord, binder string and water swellable yarn.

Dated: August 9, 2018.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2018–17561 Filed 8–14–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request; ''Clearance for the Collection of Qualitative Feedback on Agency Service Delivery''

The United States Patent and Trademark Office (USTPO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: United States Patent and Trademark Office, Commerce.

Title: Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0651–0080.

Form Number(s):

- None.

Type of Request: Regular.

Number of Respondents: 42,500 responses per year. This notice shows that an item (ForeSee Surveys) included in this collection during the 60 day notice has been removed from the collection; it is included in a newly proposed collection (USPTO Websites Customer Satisfaction Surveys).

Average Hours per Response: The USPTO estimates that it will take between 3 minutes (.05 hours) to 120 minutes (2 hours), depending upon the instrument used.

Burden Hours: 4,808.33 hours per year.

Cost Burden: $0.

Needs and Uses: The Agency will collect, analyze, and interpret information gathered to identify strengths and weaknesses of current services. Based on feedback received, the Agency will identify changes needed to improve programs and services. The solicitation of feedback will target areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. The USPTO is committed to hearing feedback from its customers. Responses will be assessed to identify service areas in need of improvement. If this information is not collected, then the Agency will miss opportunities to obtain vital feedback from their customers and stakeholders on ways to improve their program and services.

These information collections will not result in any new system of records and will not ask questions of a sensitive nature.

Affected Public: Individuals or households; Businesses or other for-profits; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0080 comment'' in the subject line of the message.
- *Mail:* Marcie Lovett, Director, Records and Information Governance Division, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before September 14, 2018 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Marcie Lovett,

Director, Records and Information Governance Division, Office of the Chief Technology Officer, United States Patent and Trademark Office.

[FR Doc. 2018–17510 Filed 8–14–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0084]

Agency Information Collection Activities; Comment Request; Common Core of Data (CCD) School-Level Finance Survey (SLFS) 2018–2020

AGENCY: National Center for Education Statistics, Department of Education.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 15, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0084. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Common Core of Data (CCD) School-Level Finance Survey (SLFS) 2018–2020.

OMB Control Number: 1850–0930.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 306.

Total Estimated Number of Annual Burden Hours: 4,938.

Abstract: The School-Level Finance Survey (SLFS) data collection is conducted annually by the National Center for Education Statistics (NCES), within the U.S. Department of Education (ED). SLFS complements two existing data collections conducted by NCES in collaboration with the U.S. Census Bureau (Census): The School District Finance Survey (F–33) and the state-level National Public Education Financial Survey (NPEFS). SLFS expands F–33 to include its finance variables at the school level. Beginning with FY18, the SEAs will report total current expenditures at the school level in the same manner as for the district level on F–33. This request is to conduct in 2019 through 2021 SLFS for fiscal years 2018 through 2020 (corresponding to school years 2017/18 through 2019/20) and to expand the collected data to be analogous to the current ESSA expenditures per pupil provision.

Dated: August 10, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–17523 Filed 8–14–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years an information collection request with the Office of Management and Budget (OMB). Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency; (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 respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before October 15, 2018. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Andrea Lachenmayr, U.S. Department of Energy, LPO–70, Room 4B–170, 1000 Independence Avenue SW, Washington, DC 20585 or by email to *LPO.PaperworkReduction Act.Comments@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Andrea Lachenmayr, *LPO.PaperworkReduction Act.Comments@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No.: 1910–5134; (2) Information Collection Request Title: DOE Loan Guarantees for Energy Projects; (3) Type of Request: Extension (4) Purpose: This information collection package covers collection of information necessary to evaluate applications for loan guarantees submitted under Title XVII of the Energy Policy Act of 2005, as amended, 16516 (Title XVII), 42 U.S.C. 16511, and under Section 2602(c) of the Energy Policy Act of 1992, as amended (TELGP), 25 U.S.C. 3502(c). Because the information collection package pertains to applications for loan guarantees under both Title XVII and TELGP (the latter of which does not require innovative technology), the Information Collection Request Title is being changed from its original title, ''10 CFR part 609—Loan Guarantees for Projects that Employ Innovative Technologies'' to its new title, ''DOE Loan Guarantees for Energy Projects.'' This title is more descriptive of the purpose of the Information Collection Request. Applications for loan guarantees submitted to DOE in response to a solicitation under Title XVII or TELGP must contain certain information. This information will be used to analyze whether a project is eligible for a loan guarantee and to evaluate the application under criteria specified in the final regulations implementing Title XVII, located at 10 CFR part 609, and adopted by DOE for purposes of TELGP, with certain

immaterial modifications and omissions. The collection of this information is critical to ensure that the government has sufficient information to determine whether applicants meet the eligibility requirements to qualify for a DOE loan guarantee under Title XVII or TELGP, as the case may be, and to provide DOE with sufficient information to evaluate an applicant's project using the criteria specified in 10 CFR part 609 (for Title XVII applications) or the applicable solicitation (for TELGP applications); (5) Annual Estimated Number of Respondents: 20 Applications; (6) Annual Estimated Number of Total Responses: It is estimated that the total number of annual responses will not exceed 20; (7) Annual Estimated Number of Burden Hours: 2,650 hours, most of which is likely to be time committed by firms that seek debt and/or equity financing for their projects, regardless of their intent to apply for a DOE loan guarantee; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: It is estimated that the annual estimated reporting and recordkeeping cost burden for applicants will not exceed $26,296 per annum, per applicant.

Authority: Title XVII and TELGP authorize the collection of information.

Signed in Washington, DC, on August 9, 2018.

John Sneed,

Executive Director, Department of Energy Loan Programs Office.

[FR Doc. 2018–17553 Filed 8–14–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years an information collection request with the Office of Management and Budget (OMB). Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency; (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 respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before October 15, 2018. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Andrea Lachenmayr, U.S. Department of Energy, LPO–70, Room 4B–170, 1000 Independence Avenue SW, Washington, DC 20585 or by email to *LPO.PaperworkReduction Act.Comments@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Andrea Lachenmayr, *LPO.PaperworkReduction Act.Comments@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No.: 1910–5130; (2) Information Collection Request Title: Application for Loans under the Advanced Technology Vehicles Manufacturing Incentive Program; (3) Type of Request: Extension; (4) Purpose: This information collection package covers collection of information necessary to evaluate applications for loans submitted under Section 136 of the Energy Independence and Security Act of 2007, as amended (EISA) (42 U.S.C. 17013). Applications for loans submitted to DOE under Section 136 of EISA must contain certain information. This information will be used to analyze whether a project is eligible for a loan and to evaluate the application under criteria specified in the interim final regulations implementing Section 136 of EISA, located at 10 CFR part 611. The collection of this information is critical to ensure that the government has sufficient information to determine whether applicants meet the eligibility requirements to qualify for a DOE loan and to provide DOE with sufficient information to evaluate an applicant's project using the criteria specified in 10 CFR part 611; (5) Annual Estimated Number of Respondents: 7 Applications; (6) Annual Estimated Number of Total Responses: It is estimated that the total number of annual responses will not exceed 7; (7) Annual Estimated Number of Burden Hours: 910 hours, most of which is likely to be time committed by firms that seek debt and/or equity financing for their projects, regardless of their intent to apply for a DOE loan; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: It is estimated that the annual estimated reporting and recordkeeping cost burden for applicants will not exceed $26,296 per annum, per applicant.

Authority: Section 136 of the EISA authorizes the collection of information.

Signed in Washington, DC on August 9, 2018.

John Sneed,

Executive Director, Department of Energy Loan Programs Office.

[FR Doc. 2018–17552 Filed 8–14–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2977–007.
Applicants: Mesquite Power, LLC.
Description: Notice of Non-Material Change in Status of Mesquite Power, LLC.
Filed Date: 8/7/18.
Accession Number: 20180807–5151.
Comments Due: 5 p.m. ET 8/28/18.

Docket Numbers: ER18–2182–000.
Applicants: Minco IV & V Interconnection, LLC.
Description: Baseline eTariff Filing: Minco IV & V Interconnection, LLC Application for Market-Based Rates to be effective 10/6/2018.
Filed Date: 8/7/18.
Accession Number: 20180807–5141.
Comments Due: 5 p.m. ET 8/28/18.

Docket Numbers: ER18–2183–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Amendment to Gila River Ownership Agreement to be effective 5/31/2018.
Filed Date: 8/8/18.
Accession Number: 20180808–5002.
Comments Due: 5 p.m. ET 8/29/18.

Docket Numbers: ER18–2184–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: MAIT submits three ECSAs, Service Agreement Nos. 5011, 5029 and 5117 to be effective 10/8/2018.
Filed Date: 8/8/18.
Accession Number: 20180808–5023.
Comments Due: 5 p.m. ET 8/29/18.

Docket Numbers: ER18–2185–000.
Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Pike Road Farm LGIA Filing to be effective 7/25/2018.

Filed Date: 8/8/18.

Accession Number: 20180808–5056.

Comments Due: 5 p.m. ET 8/29/18.

Docket Numbers: ER18–2186–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Interim ISA, SA No. 5151; Queue No. AB2–134 to be effective 7/23/2018.

Filed Date: 8/8/18.

Accession Number: 20180808–5083.

Comments Due: 5 p.m. ET 8/29/18.

Docket Numbers: ER18–2187–000.

Applicants: Public Service Company of Colorado.

Description: Compliance filing: 20180808_Joint Dispatch Agreement Notice of Succession of Black Hills COE to be effective N/A.

Filed Date: 8/8/18.

Accession Number: 20180808–5110.

Comments Due: 5 p.m. ET 8/29/18.

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: August 8, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17505 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–2182–000]

Minco IV & V Interconnection, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Minco IV & V Interconnection, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 28, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 8, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17508 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2641–010]

Erie Boulevard Hydropower, L.P.; Notice of Application Accepted for Filing, Soliciting Comments, Protests and Motions To Intervene

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Extension of License Term.

b. *Project No.:* P–2641–010.

c. *Date Filed:* March 6, 2018.

d. *Licensee:* Erie Boulevard Hydropower, L.P.

e. *Name and Location of Project:* Feeder Dam Transmission Line Project, located in the Town of Moreau, Saratoga County, New York.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Licensee Contact Information:* Mr. Steven P. Murphy, Director, U.S. Licensing, Brookfield Renewable, Erie Boulevard Hydropower, L.P., 33 West 1st Street South, Fulton, New York 13069, (315) 598–6130, *Steve.Murphy@BrookfieldRenewable.com.*

h. *FERC Contact:* Mr. Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov.*

i. Deadline for filing comments, motions to intervene and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2641–010.

j. *Description of Proceeding:* Erie Boulevard Hydropower, L.P., licensee for the Feeder Dam Transmission Line Project No. 2641, filed a request with the Commission to extend the term of the project license, from December 31, 2023 to August 31, 2042, which would

align its modified expiration date with that of the licensee's adjacent Feeder Dam Hydropower Project No. 2554, which has an expiration date of August 31, 2042. The sole purpose of the transmission line project is to transmit the net power produced by the 6.0-megawatt hydropower project located on the Hudson River. The licensee's request includes correspondence from the U.S. Fish and Wildlife Service and New York Department of Environmental Conservation supporting the extension of the license term.

k. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–2641–010) excluding the last three digits in the docket number field to access the notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the request to extend the license term. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: August 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17544 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–535–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

Take notice that on July 31, 2018, Southern Star Central Gas Pipeline, Inc. (Southern Star) 4700 State Highway 56, Owensboro, Kentucky 42301, filed in Docket No. CP18–535–000 a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), and Southern Star's blanket certificate issued in Docket No. CP82–479–000, to increase the maximum allowable operating pressure (MAOP) and maximum operating pressure (MOP) on Southern Star's QB Pipeline (Line QB) in Johnson County, Kansas.

Southern Star states that Line QB is a 26-inch pipeline that runs between the South Glavin Station and the Glavin Station in Johnson County, Kansas, serving the Kansas City Metropolitan area in Kansas and Missouri. Most of Line QB was installed in the late 1940's. Due to the age of the line, the MAOP of Line QB was established under the ''Grandfather Clause'' of the regulations of the United States Department of Transportation (U.S. DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA). The MAOP of Line QB established under the Grandfather Clause is 260 pounds per square inch gauge (psig). Southern Star avers that Line QB was unintentionally over-pressured due to the failure of a regulator. In response to the increase in pressure above the grandfathered MAOP, Southern Star conducted a hydrostatic pressure test meeting the requirements of PHMSA's regulations. The results of that pressure test support an MAOP of 280 psig, an increase from the 260 psig grandfathered MAOP. Southern Star requests to increase both the MAOP and the MOP of Line QB to 280 psig to match the new MAOP supported by the recent pressure test under PHMSA's regulations.

Southern Star asserts that, like Line QB, its 26-inch Line QC also begins at the South Glavin Station. Line QC has an MAOP/MOP of 280 psig, and both lines have a common source of gas, Southern Star's 26-inch Line Q. Therefore, uprating Line QB to match the pressure on Line QC will allow Southern Star to equalize pressure in Line QB and Line QC to share regulation and essentially be operated as one system and more efficiently.

Southern Star states that no increased capacity is expected to occur, and no additional costs are required to increase the MAOP/MOP of Southern Star's Line QB, 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Cindy Thompson, Manager, Regulatory, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, Kentucky 42301, by telephone at (270) 852–4655, or by email at *Cindy.C.Thompson@sscgp.com.*

Any person or the Commission's staff may, within 60 days after 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 and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), 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 filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time 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 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 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 commenters 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 commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, 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 seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: August 8, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17506 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–332–000]

El Paso Natural Gas Company, L.L.C.; Notice of Schedule for Environmental Review of the South Mainline Expansion Project

On April 26, 2018, El Paso Natural Gas Company L.L.C. (El Paso) filed an application in Docket No. CP18–332–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the South Mainline Expansion Project (Project), and would increase the design capacity on El Paso's South Mainline system by 321,000 dekatherms of natural gas per day to Arizona and California delivery points.

On May 9, 2018, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—November 14, 2018
90-day Federal Authorization Decision Deadline—February 12, 2019

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

EPNG has requested authorization to construct two new natural gas compressor stations on its existing South Mainline pipeline system in Luna County, New Mexico and Cochise County, Arizona; as well as a 17-mile-long, 30-inch-diameter loop line in El Paso and Hudspeth Counties, Texas.

Background

On June 7, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed South Mainline Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from the El Paso Water Company, White Mountain Apache Tribe, and the Ysleta Del Sur Pueblo Tribal Council. The primary issues raised by the commenters are the avoidance of impacts on public water system facilities and the need for consultation should any human remains or artifacts be unearthed during Project construction. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP18–332), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: August 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17542 Filed 8–14–18; 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 rate filings:

Docket Numbers: ER13–343–008; ER16–701–001; ER13–342–012; ER16–700–001.

Applicants: CPV Maryland, LLC, CPV Valley, LLC, CPV Shore, LLC, CPV Towantic, LLC.

Description: Amendment to July 23, 2017 Amendment to Market Power Update of CPV Maryland, LLC, et al.

Filed Date: 8/7/18.

Accession Number: 20180807–5162.

Comments Due: 5 p.m. ET 8/28/18.

Docket Numbers: ER18–1743–001.

Applicants: New York Independent System Operator, Inc.

Description: Tariff Amendment: NYISO response to deficiency letter on Alternate LCR to be effective 10/9/2018.

Filed Date: 8/9/18.

Accession Number: 20180809–5098.

Comments Due: 5 p.m. ET 8/30/18.

Docket Numbers: ER18–1872–002.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 1636R21 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 9/1/2018.

Filed Date: 8/8/18.

Accession Number: 20180808–5123.

Comments Due: 5 p.m. ET 8/29/18.

Docket Numbers: ER18–2188–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Cost Responsibility Agreement, Service Agreement No. 5157, NQ162 to be effective 7/10/2018.

Filed Date: 8/9/18.

Accession Number: 20180809–5048.

Comments Due: 5 p.m. ET 8/30/18.

Docket Numbers: ER18–2189–000.

Applicants: Sanford Energy Associates, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 8/10/2018.

Filed Date: 8/9/18.

Accession Number: 20180809–5051.

Comments Due: 5 p.m. ET 8/30/18.

Docket Numbers: ER18–2190–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 274—Notice of Succession of Black Hills Colorado Electric to be effective 7/10/2018.

Filed Date: 8/9/18.

Accession Number: 20180809–5053.

Comments Due: 5 p.m. ET 8/30/18.

Docket Numbers: ER18–2191–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI submits eight ECSAs, Service Agreement Nos. 4892, 4967, 4979, 4980, et al to be effective 10/9/2018.

Filed Date: 8/9/18.

Accession Number: 20180809–5055.

Comments Due: 5 p.m. ET 8/30/18.

Docket Numbers: ER18–2192–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 4592, Non-queue No. NQ144 to be effective 7/12/2018.

Filed Date: 8/9/18.

Accession Number: 20180809–5065.

Comments Due: 5 p.m. ET 8/30/18.

Docket Numbers: ER18–2193–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 20180809_Joint Dispatch Service Agreement Notice of Succession of Black Hills to be effective 7/10/2018.

Filed Date: 8/9/18.

Accession Number: 20180809–5093.

Comments Due: 5 p.m. ET 8/30/18.

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: August 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17540 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–2178–000]

Holloman Lessee, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Holloman Lessee, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 28, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 8, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17507 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD18–11–000]

Reliability Technical Conference; Notice Inviting Post-Technical Conference Comments

On Tuesday, July 31, 2018, the Federal Energy Regulatory Commission convened a Commissioner-led technical conference to discuss policy issues related to the reliability of the Bulk-Power System.

All interested persons are invited to file post-technical conference comments on the topics concerning the reliability of the Bulk-Power System discussed during the technical conference, including the questions listed in the Supplemental Notices issued in this proceeding on June 1, 2018 and July 17, 2018. Attached to this notice are the electric reliability topics and questions related to each Panel. Commenters need not respond to all questions asked. Commenters should organize responses consistent with the numbering of the attached questions and identify to what extent their responses are generally applicable. Commission staff reserves the right to post additional follow-up questions related to those panels if deemed necessary. In addition, commenters are encouraged, when possible, to provide specific examples and data in support of their answers. Comments must be submitted on or before 30 days from the date of this notice and should not exceed 30 pages.

For further information about this Notice, please contact: Lodie White, Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8453, *lodie.white@ferc.gov*; Robert Clark, Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8165, *robert.clark@ferc.gov*.

Dated: August 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17539 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF18–4–000]

Mountain Valley Pipeline, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Planned MVP Southgate Project, and Request for Comments on Environmental Issues, and Notice of Public Scoping Session

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the MVP Southgate Project (Project). The Project involves the construction and operation of facilities by Mountain Valley Pipeline, LLC (Mountain Valley), a joint venture between affiliates of EQT Corporation and NextEra Energy, Inc. in Virginia and North Carolina. The Commission will use this EIS in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the Project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5 p.m. Eastern Time on September 10, 2018.

You can make a difference by submitting your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues it needs to evaluate in the EIS. Commission staff will consider all filed comments during the preparation of the EIS.

If you sent comments on this Project to the Commission before the opening of this docket on May 15, 2018, or if you sent comments on this Project to the MVP mainline docket (CP16–10–000), you will need to file those comments in Docket No. PF18–4–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this planned Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a Mountain Valley representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC website (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and*

Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the Project docket number (PF18–4–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

(4) In lieu of sending written comments, the Commission invites you to attend one of the public scoping sessions its staff will conduct in the Project area, scheduled as follows:

FERC PUBLIC SCOPING MEETINGS—MVP SOUTHGATE PROJECT

Date and time	Location
Monday, August 20, 2018; 5–8 p.m.	Reidsville Event Center, 223 S. Scales Street, Reidsville, NC 27320.
Tuesday, August 21, 2018; 5–8 p.m.	Olde Dominion Agricultural Complex, 19783 US–29, Chatham, VA 24531.
Thursday, August 23, 2018; 5–8 p.m.	Vailtree Event and Conference Center, 1567 Bakatsias Lane, Haw River, NC 27258.

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the EIS. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

Each scoping session is scheduled from 5 p.m. to 8 p.m. EDT. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 8 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 7:30 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your scoping comments will be recorded by a court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see below for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of three (3) minutes may be implemented for each commentor.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided verbally at a scoping session. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process. Representatives from Mountain Valley will also be present to answer questions you may have about their Project.

Please note this is not your only public input opportunity; please refer to the review process flow chart in appendix 2.[1]

Summary of the Planned Project

The Project would involve the construction and operation of about 72 miles of 24-inch-diameter natural gas transmission pipeline in Pittsylvania County, Virginia and Rockingham and Alamance Counties, North Carolina. The Project would interconnect with and receive gas from the Mountain Valley Pipeline near Chatham, Virginia, and the East Tennessee Natural Gas mainline near Eden, North Carolina. The pipeline would extend about 72 miles to its planned terminus at an interconnect near Graham, North Carolina. The pipeline would be designed to deliver at least 300 million cubic feet of natural gas per day. Additional facilities would include new compressor stations in Pittsylvania County, Virginia and Rockingham County, North Carolina; four new meter stations; eight main line valves, and four pig[2] launchers and receivers.

The general location of the Project facilities is shown in appendix 3. Additional Project location information, including an interactive map, is available on the Mountain Valley's Project website: *www.mvpsouthgate.com.*

Project Alternatives

Mountain Valley is evaluating the following alternatives and route deviations listed below. Illustrations of these alternatives are provided in the figures in appendix 3.

Sandy Cross Road Alternative

To address concerns regarding the planned route's proximity to residences in Alamance County, North Carolina, the Sandy Cross Road Alternative would deviate from the planned route near milepost (MP) 65.5 and extend northeast and then south for about 2.0 miles before rejoining the planned route at MP 67.0.

Alamance Eastern Alternative

To address concerns regarding the planned route's proximity to residences in Alamance County, North Carolina, the Alamance Eastern Alternative would deviate from the planned route near MP 65.6 and extend east and then southwest for about 9.6 miles before rejoining the planned route at MP 70.4.

Alamance Southern Alternative

To address concerns regarding the planned route's proximity to residences in Alamance County, North Carolina, the Alamance Southern Alternative would deviate from the planned route near MP 71.4 and extend southeast, and then southwest for about 2.3 miles before rejoining the planned route at MP 72.5.

Duke Powerline Alternative

In order to increase the planned route's collocation with existing rights-of-way in Alamance County, North Carolina, the Duke Powerline Alternative would deviate from the planned route near MP 58.2 and extend south and then east for about 4.4 miles before rejoining the planned route at MP 62.0. This alternative route is collocated with the Duke Energy transmission line and other rights-of-way for about 3.8 miles.

Land Requirements for Construction

Construction of the planned facilities would disturb about 1,348 acres of land. Following construction, Mountain Valley would maintain about 449 acres for permanent operation of the Project's facilities, not including permanent access roads; the remaining acreage would be restored and revert to former uses. About 47 percent of the planned pipeline route parallels existing pipeline, utility, and road rights-of-way.

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] A ''pig'' is an internal tool that the pipeline company inserts into and pushes through the pipeline for cleaning, inspections, or other purposes.

The EIS Process

The EIS will discuss impacts that could occur as a result of the construction and operation of the planned Project under these general headings:

1. Geology and soils;
2. land use;
3. water resources, fisheries, and wetlands;
4. cultural resources;
5. vegetation and wildlife;
6. air quality and noise;
7. endangered and threatened species;
8. public safety;
9. socioeconomics; and
10. cumulative impacts.

Commission staff will also evaluate possible alternatives to the planned Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, Commission staff have already initiated a NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the Commission receives an application. As part of the pre-filing review, Commission staff will contact federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present Commission staffs' independent analysis of the issues. The Commission will publish and distribute the draft EIS for public comment. After the comment period, staff will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure Commission staff have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this Project to formally cooperate in the preparation of the EIS.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, the U.S. Army Corps of Engineers has expressed their intention to participate as a cooperating agency in the preparation of the EIS.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s) (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] Commission staff will define the Project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). The EIS for this Project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

Commission staff have already identified several issues that deserve attention based on a preliminary review of the planned facilities and the environmental information provided by Mountain Valley. This preliminary list of issues may change based on your comments and our analysis.

1. Domestic water sources, wells, springs, and waterbodies;
2. federally-listed threatened and endangered species, including mussels, fish, and bats;
3. residential developments and property values;
4. public safety;
5. environmental justice;
6. operational noise from planned compressor stations; and
7. alternatives and their potential impacts on a range of resources.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that information related to this environmental review is sent to all individuals, organizations, and government entities interested in and/or potentially affected by the planned Project.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of a CD version or would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 4).

Becoming an Intervenor

Once Mountain Valley files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Only intervenors have the right to seek rehearing of the Commission's decision and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (Title 18, Code of Federal Regulations, part 385.214). Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the Project, after which the Commission will issue a public notice that establishes an intervention deadline.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* PF18–4). Be sure you have selected an appropriate date range. For assistance,

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, part 1501.6.

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: August 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17545 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–2189–000]

Sanford Energy Associates, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding Sanford Energy Associates, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 29, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17543 Filed 8–14–18; 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: PR18–75–000.
Applicants: Atmos Pipeline-Texas.
Description: Tariff filing per 284.123(b), (e) + (g): APT TCJA Rate Change to be effective 8/1/2018.
Filed Date: 8/7/18.
Accession Number: 20180807–5111.
Comments Due: 5 p.m. ET 8/28/18.
284.123(g) Protests Due: 5 p.m. ET 10/9/18.

Docket Numbers: RP17–913–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Natural Gas Pipeline Company of America LLC submits tariff filing per: Informational Fuel Transparency Report (RP17–303 and RP17–913).
Filed Date: 8/1/18.
Accession Number: 20180801–5212.
Comments Due: 5 p.m. ET 8/13/18.

Docket Numbers: RP18–1049–000.
Applicants: Florida Southeast Connection, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—FPL 4002 to be effective 9/1/2018.
Filed Date: 8/7/18.
Accession Number: 20180807–5064.
Comments Due: 5 p.m. ET 8/20/18.

Docket Numbers: RP18–1050–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: Neg Rate 2018–08–07 Encana to be effective 8/7/2018.
Filed Date: 8/7/18.
Accession Number: 20180807–5065.
Comments Due: 5 p.m. ET 8/20/18.

Docket Numbers: RP18–1051–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Compliance filing Compliance Filing in Docket No. CP18–83–000—Remove Reference to Enable Lease to be effective 7/31/2018.
Filed Date: 8/8/18.
Accession Number: 20180808–5051.
Comments Due: 5 p.m. ET 8/20/18.

Docket Numbers: RP18–940–003.
Applicants: Empire Pipeline, Inc.
Description: Compliance filing Compliance Filing of Currently Effective Rates and Proposed Storage Rates to be effective 8/1/2018.
Filed Date: 8/8/18.
Accession Number: 20180808–5122.
Comments Due: 5 p.m. ET 8/20/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–17541 Filed 8–14–18; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1186]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before September 14, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1186.

Title: Rural Call Completion, WC Docket No. 13–39.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 56 respondents; 112 responses.

Estimated Time per Response: 1–48 hours.

Frequency of Response: Third-party disclosure and recordkeeping requirements.

Obligation to Respond: Mandatory. Statutory authority for this collection is contained in sections 201, 202, 217, 218, 220(a), 251(a), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 202, 217, 218, 220(a), 251(a), 403.

Total Annual Burden: 2,744 hours.

Total Annual Cost: $350,000.00.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission has found that rural call completion is a continuing problem imposing needless economic and personal costs on local communities, and that continued Commission focus on the issue is warranted. The information collected through these data collections will be used by the Commission to determine whether long distance providers are complying with their sections 201 and 202 obligations to provide telephone service to both rural and nonrural customers on a just, reasonable, and nondiscriminatory basis. The Commission revised this collection to eliminate the existing reporting requirement and to require covered providers to provide rural call completion contact information, which will be used to facilitate industry collaboration to address call completion issues.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–17478 Filed 8–14–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's website (*www.fmc.gov*) or

by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012472–002.

Agreement Name: Yang Ming/COSCO Shipping Slot Exchange Agreement.

Parties: COSCO Shipping Lines Co., Ltd.; Yang Ming Marine Transport Corporation; and Yang Ming (UK) Ltd.

Filing Party: Robert Magovern; Cozen O'Connor.

Synopsis: The amendment revises the Agreement to clarify that the space provided to Yang Ming by COSCO SHIPPING will be provided on the CEN service and the AAC3 service, instead of the AAC service, effective on or around August 27, 2018.

Proposed Effective Date: 8/9/2018.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1969.

Dated: August 10, 2018.

Rachel Dickon,

Secretary.

[FR Doc. 2018–17609 Filed 8–14–18; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3364–PN]

Medicare and Medicaid Programs: Application From the Joint Commission (TJC) for Continued Approval of its Psychiatric Hospital Accreditation Program

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

ACTION: Notice with request for comment.

SUMMARY: This proposed notice acknowledges the receipt of an application from the Joint Commission (TJC) for continued recognition as a national accrediting organization for psychiatric hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 14, 2018.

ADDRESSES: In commenting, refer to file code CMS–3364–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3364–PN, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3364–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Karena Meushaw (410) 786–6609, Monda Shaver (410) 786–3410 or Marie Vasbinder (410)786–8665.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a psychiatric hospital provided certain requirements are met. Section 1861(f) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a psychiatric hospital. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 482 subparts A, B, C and E specify the minimum conditions that a psychiatric hospital must meet to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for psychiatric hospitals.

Generally, to enter into a provider agreement with Medicare, a psychiatric hospital must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 482 subpart A, B, C and E of our CMS regulations. Thereafter, the psychiatric hospital is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by a CMS-approved national accrediting organization (AO) that all applicable Medicare conditions are met or exceeded, we may deem the provider entity as having met the requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by CMS as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. An AO applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AO are set forth at § 488.5. Our regulations at § 488.5(e)(2)(i) require an accrediting organization to reapply for continued approval of its accreditation program(s) every 6 years or sooner, as determined by CMS.

The Joint Commission's current term of approval for their psychiatric hospital accreditation program expires February 25, 2019.

II. Provisions of the Proposed Notice

A. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our findings concerning review and approval of an AO's requirements consider, among other factors, the applying AO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice

identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of TJC's request for CMS-approval of its psychiatric hospital accreditation program. This notice also solicits public comment on whether TJC's requirements meet or exceed the Medicare conditions of participation (CoPs) for psychiatric hospitals.

B. Evaluation of Deeming Authority Request

TJC submitted all the necessary materials to enable us to make a determination concerning its request for CMS-approval of its psychiatric hospital accreditation program. This application was determined to be complete on July 30, 2018. Under section 1865(a)(2) of the Act and our regulations at § 488.5 (Application and re-application procedures for national accrediting organizations), our review and evaluation of TJC will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of TJC's standards for psychiatric hospitals as compared with CMS' psychiatric hospital CoPs.
- TJC's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of TJC's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ TJC's processes and procedures for monitoring a psychiatric hospital found out of compliance with the TJC's program requirements. These monitoring procedures are used only when TJC identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the state survey agency monitors corrections as specified at § 488.9(c).

++ TJC's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ TJC's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of TJC's staff and other resources, and its financial viability.

++ TJC's capacity to adequately fund required surveys.

++ TJC's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ TJC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

V. Regulatory Impact Statement

This proposed notice does not impose any regulatory impact.

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

Dated: August 6, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–17519 Filed 8–14–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Evaluation of Domestic Victims of Human Trafficking Program.

OMB No.: 0970–0487.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is proposing data collection as part of the study, ''Evaluation of the Domestic Victims of Human Trafficking (DVHT) Program''. This notice addresses the cross-site process evaluation to be conducted with the 13 FY 2016 DVHT grantees who were awarded 3-year cooperative agreements by the Office of Trafficking in Persons (OTIP). The intent of the DVHT Program is to build, expand, and sustain organizational and community capacity to deliver trauma-informed, strength-based, and victim-centered services for domestic victims of severe forms of human trafficking through coordinated case management, a system of referrals and the formation of community partnerships.

The objective of the evaluation is to describe the ways in which projects achieve the goals of the DVHT Program and examine types of models that serve victims of human trafficking. Evaluation questions are focused on understanding project and service delivery models, process, and implementation; including partnership and collaboration development; services offered to and received by victims, strategies to identify and engage survivors; ways projects define and monitor program successes and outcomes; and program challenges, achievements, and lessons learned. Information from the evaluation will assist federal, state, and community policymakers and funders in making decisions about future program models to serve domestic victims of human trafficking, as well as to refine evaluation strategies for future programs targeting trafficking victims.

The evaluation of the DVHT Program will document and describe grantees' projects and implementation approaches, including their service models and community partners; services provided to clients (*i.e.,* victims of severe forms of human trafficking); service delivery practices; strategies to meet survivors' immediate and long-term housing needs; and approaches to engaging survivors in program development and service delivery.

Primary data for the evaluation will be collected via surveys with project directors, case managers, and key community partners; and semi-structured qualitative interviews, including telephone interviews with project directors, in-person interviews with select project staff, survivor leaders, and program partners, and individual interviews with program clients. Interviews from multiple perspectives will enhance the government's understanding of appropriate service models and practice strategies for identifying, engaging, and meeting the needs of diverse populations of victims of severe forms of human trafficking. Data collection will take place after receiving OMB approval through March 2020.

Data collection for an exploratory evaluation of the DVHT FY15 grantees (''Domestic Human Trafficking Demonstration Projects'') is being conducted under a prior Information Collection Request under 0970–0487. The data have provided insight into approaches grantees used to enhance organizational and community capacity, identify domestic victims, and deliver case management and direct services in collaboration with their community partners. The currently proposed data collection for DVHT FY16 will build on this earlier data collection for the DVHT FY15 study to understand strategies and program models implemented by the grantees in various program contexts. All data collection approved for DVHT FY15 is complete.

Respondents: Project directors, case managers, survivor leaders, other select project staff, key community partners, and clients.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Project Director Survey	13	7	1	.5	4
Partner Survey	260	130	1	.25	33
Case Manager Survey	130	65	1	.33	21
Project Director Interview #1	13	7	1	2	14
Project Director Interview #2	13	7	1	1.5	11
Site Visit Interview Guide	136	68	1	1.5	102
Client Interview Guide	40	20	1	1	20

Estimated Total Annual Burden Hours: 205.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. *Email address: OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Emily B. Jabbour,

ACF/OPRE Certifying Officer.

[FR Doc. 2018–17563 Filed 8–14–18; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: 2019 National Survey of Early Care and Education

OMB No.: 0970–0391

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing a data collection activity as part of the National Survey of Early Care and Education (NSECE) which will be conducted October 2018 through August 2019. The objective of the NSECE is to document the nation's current supply of early care and education services (that is, home-based providers, center-based providers, and the center-based provider workforce). The 2019 NSECE will collect information on child care and early education providers that serve families with children from birth to 13 years in the country, as well as the early care and education (ECE) workforce providing these services. The proposed collection will consist of three coordinated nationally representative surveys:

1. A survey of individuals providing care for children under the age of 13 in a residential setting (Home-based Provider Interview),

2. a survey of providers of care to children ages 0 through 5 years of age (not yet in kindergarten) in a non-residential setting (Center-based Provider Interview), and

3. a survey conducted with individuals employed in center-based child care programs working directly with children in classrooms (Workforce Interview).

Both the home-based and center-based provider surveys will require a screener to determine eligibility for the main survey.

The 2019 NSECE data collection efforts will provide urgently needed information about the supply of child care and early education available to families across all income levels, including providers serving low-income families of various racial, ethnic, language, and cultural backgrounds, in diverse geographic areas. The provider data will include programs that do or do not participate in the child care subsidy program, are regulated, registered, or otherwise appear in state or national lists and are home-based providers or center-based programs (*e.g.,* private, community-based child care, Head Start, and state or local Pre-K). Accurate data on the availability and characteristics of early care and education programs are essential to assess the current and changing landscape of child care and early education programs since the 2012 NSECE data collection, and to provide

insights to advance policy and initiatives in the ECE field.

Respondents: Home-based providers serving children under 13 years, center-based child care providers (including public schools) serving children ages 0 through 5 years of age (not yet in kindergarten), and selected instructional staff members from these center-based child care providers.

ANNUAL BURDEN HOURS

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Estimated annual burden hours
Home-Based Provider Interview, including Screener	4,000	1	.67	2,680
Home-based Provider Screener, no interview	2,015	1	.03	60
Center-Based Provider Interview, including Screener	7,800	1	. 8	6,240
Center-based Provider Screener, no interview	7,640	1	.1	764
Workforce Provider Interview	5,600	1	.33	1,848
Estimated Total Annual Burden Hours				11,592

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, Switzer Building, 330 C Street, SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Emily Jabbour,

ACF/OPRE Certifying Officer.

[FR Doc. 2018–17560 Filed 8–14–18; 8:45 am]

BILLING CODE 4184–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: Statement of Organizations, Functions, and Delegations of Authority

The Administration for Children and Families (ACF) has realigned the Office of Human Services Emergency Preparedness and Response (OHSEPR). OHSEPR will be a direct report to the Deputy Assistant Secretary for External Affairs. ACF will transfer the U.S. Repatriation Program from the Office of Refugee Resettlement (ORR) to OHSEPR. The OHSEPR mission statement has been revised to include the Repatriation Program and responsibility for business continuity planning. It renames the Division of Disaster Case Management to the Division of Response and Recovery Operations and the Division of Emergency Planning, Policy and Operations to the Division of Emergency Policy and Planning. Lastly, it changes the reporting relationship of the Office of Communications from a direct report to the Deputy Assistant Secretary for External Affairs to a direct report to the Assistant Secretary for Children and Families.

FOR FURTHER INFORMATION CONTACT: Carolyn Meier, Acting Director for OHSEPR, (202) 401–9306, 330 C Street SW, Washington, DC 20201.

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Administration for Children and Families (ACF), as follows: Chapter KA, Immediate Office of the Assistant Secretary as last amended in 80 FR 63555–63558, October 20, 2015; Chapter KW, Office of Human Services Emergency Preparedness and Response as last amended in 80 FR 63555–63558, October 20, 2015; Chapter KN, Office of Communications as last amended in 80 FR 63555–63558, October 20, 2015, and most recently in 81 FR 49223–49224, July 27, 2016; and Chapter KR, Office of Refugee Resettlement as last amended in 82 FR 6588–6590, January 19, 2017.

I. Under Chapter KW, Office of Human Services Emergency Preparedness and Response, delete KW in its entirety and replace with:

KW.00 MISSION. The Office of Human Services Emergency Preparedness and Response (OHSEPR) promotes resilience of vulnerable individuals, children, families, and communities impacted by disasters and public health emergencies. OHSEPR provides human services expertise to ACF grantees, partners, and stakeholders during preparedness, response, and recovery operations for emergency and disaster events. Working closely with ACF Program Offices and the Office of Regional Operations (ORO), OHSEPR coordinates ACF's planning, policy, and operations for emergency and disaster preparedness, response, and recovery. OHSEPR supports fulfillment of disaster human services within the integrated response and recovery operations of the HHS. OHSEPR administers the Human Services Immediate Disaster Case Management Program and the U.S. Repatriation Program. OHSEPR manages the ACF Continuity of Operation Plan (COOP), which directs how ACF's mission essential functions are performed during a wide range of disruptions or emergencies.

KW.10 ORGANIZATION. OHSEPR is headed by a Director, who reports to the Assistant Secretary through the Deputy Assistant Secretary of External Affairs (DASEA), and consists of:

Office of the Director (KW1)
Division of Response and Recovery Operations (KW2)
Division of Emergency Policy and Planning (KW3)

KW.20 FUNCTIONS. A. The Office of the Director is responsible for the administrative oversight and strategic direction of all OHSEPR programs, projects, and activities. The Director implements the strategic vision of the DASEA, manages budgetary and legal matters affecting OHSEPR, administers human resources and program evaluation functions, and ensures alignment of activities by all OHSEPR divisions with the Director's strategy and applicable laws, policies, doctrines, and frameworks related to the provision of HHS ACF disaster human services and business continuity operations. The Deputy Director assists the Director in an alter-ego capacity to carry out the responsibilities and oversight of the

OHSEPR. The Director works in close coordination with the DASEA and the Assistant Secretary due to the highly visible nature of emergency preparedness and response.

The Administrative Team provides administrative, financial management, budget, and contract officer representative support to OHSEPR. These responsibilities include, but are not limited to: (1) Serving as the Executive Secretariat for OHSEPR, including managing correspondence, correspondence systems, and public requests; (2) coordinating human resources activities; and (3) as appropriate, development of internal policies and procedures relating to these activities.

B. Division of Response and Recovery Operations is responsible for administration of ACF human services response and recovery operations for disasters and public health emergencies and the repatriation of U.S. citizens. This division works closely with the Division of Emergency Policy and Planning to maintain capabilities and ensure readiness for response and recovery operations to future events. Deployable capabilities include the Human Services Immediate Disaster Case Management (IDCM) Program, the Emergency Repatriation Program, and the deployment of ACF human services subject matter experts and staffing assets during response and recovery events.

The Human Services IDCM Program assists states, tribes, and territories in establishing the capacity to coordinate and provide case management services in the event of a presidentially declared disaster for which Federal Emergency Management Agency (FEMA) Individual Assistance is approved. This Division maintains the capacity to deploy IDCM teams upon activation by the FEMA. The Division administers the electronic case record management system to provide IDCM services in accordance with data management laws and regulations. This Division works closely with FEMA and the HHS Assistant Secretary for Preparedness and Response (ASPR).

The Repatriation Program receives and assists citizens and their dependents returning to the United States through the repatriation process. During an emergency repatriation, initiated by the Department of State, this Division activates state government capability through pre-established agreements to provide temporary services necessary for the health and welfare of eligible repatriated individuals in the form of a service loan. Temporary services include, but are not limited to transportation, shelter, medical care, and other goods and services. (HHS Repatriation Program is authorized under Section 1113 of the Social Security Act and Public Law 86–571, 24 U.S.C. 321–329, and other applicable regulations and executive orders.) This Division maintains the capacity to deploy repatriation teams to support state government operations at points of entry. This Division works closely with the Department of State and HHS ASPR to carry out program operations and to respond during events when state capability has been exceeded.

This Division manages capabilities for other operations, including ACF's Watch Desk and threat analysis, situational awareness reporting, and deployment and management of requested human services subject matter experts and response and recovery staffing assets. It also coordinates ACF support for federal emergency missions and liaises with federal interagency and other partners in response and recovery.

C. Division of Emergency Policy and Planning is responsible for administering OHSEPR's policy and planning activities to support readiness of operations, and to promote preparedness and resilience for children, families, and communities prior to disasters, public health emergencies, and emergency repatriations. This Division carries out ''steady state'' activities to ensure readiness of deployable and non-deployable assets and programs, including the development of plans, guides, procedures, training, exercises, mutual agreements, and staffing assets. This Division actively promotes ACF's deployable capabilities, including IDCM and the Repatriation Program, and emergency preparedness and community resilience to ACF grantees and human services providers, and ensures human service impacts from disasters are addressed in HHS-wide and government-wide emergency planning and policymaking. This Division works closely with ACF programs, Office of Regional Operations, grantees and stakeholders, HHS operating divisions, federal human service programs, and state and local human service programs.

This Division analyzes, forecasts, and maintains volunteer employee staffing assets; administers training and exercises for the deployment of volunteer staff in various types of situations; and ensures necessary follow-up contact with volunteer staff after deployment to ensure their well-being and adjustment. This Division works closely with ACF Program Offices, the Office of Regional Operations, and the HHS Employee Assistance Program.

The Division is responsible for coordinating the development and currency of ACF COOPs as required by the Presidential Policy Directive 40 (PPD–40), National Continuity Policy, and as directed by the Administrator of FEMA. This Division ensures the COOP meets established continuity program and planning requirements for executive departments and agencies, and contains defined elements outlined in established frameworks, requirements, and processes. These required elements include delineation of essential functions; succession to office and delegations of authority; safekeeping of and access to essential records; continuity locations; continuity communications; human resources planning; devolution of essential functions; reconstitution; and program validation through testing, training, and exercises.

II. Under Chapter KA, Office of the Assistant Secretary for Children and Families, delete KA.20 Functions, Paragraph A in its entirety and replace with the following:

KA.20 FUNCTIONS. A. The Office of the Assistant Secretary for Children and Families is responsible to the Secretary for carrying out ACF's mission and provides executive supervision of the major components of ACF. These responsibilities include providing executive leadership and direction to plan and coordinate ACF program activities to ensure their effectiveness; approving instructions, policies, publications, and grant awards issued by ACF; and representing ACF in relationships with governmental and non-governmental organizations. The Principal Deputy Assistant Secretary serves as an alter-ego to the Assistant Secretary for Children and Families on program matters and acts in the absence of the Assistant Secretary for Children and Families. The Chief of Staff advises the Assistant Secretary for Children and Families and provides executive leadership and direction to the operations of ACF. The DASEA provides executive leadership and direction to the Office of Regional Operations and the OHSEPR. The Deputy Assistant Secretary for Early Childhood Development serves as a key liaison and representative to the Department for early childhood development on behalf of the Assistant Secretary, ACF, and to other agencies across the government on behalf of the Department. The Deputy Assistant Secretary for Policy has responsibility for cross-program coordination of ACF initiatives, including efforts to promote interoperability and program integration.

III. Under Chapter KN, Office of Communications, delete KN.10 Organization and replace with the following:

KN.10 ORGANIZATION. The Office of Communications is headed by a Director who reports to the Assistant Secretary for Children and Families. The Office is organized as follows:

Office of the Director (KNA)
Division of News and Media (KNB)
Division of Digital Information (KNC)
Division of Freedom of information Act (KND)

IV. Under Chapter KN, Office of Communications, delete KN.20 functions, paragraph A and replace with the following:

KN.20 FUNCTIONS. A. The Office of Director provides leadership and direction to the Office of Communications in administering its responsibilities. The Office provides direction and leadership in the areas of public relations policy and internal and external communications services. It serves as an advisor to the Assistant Secretary for Children and Families in the areas of public affairs, provides advice on strategies and approaches to be used to improve public understanding of and access to ACF programs and policies, and coordinates and serves as ACF liaison with the Assistant Secretary for Public Affairs. The Office serves as Regional Liaison on public affairs issues.

V. Continuation of Policy. Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to organizational components affected by this notice

within ACF heretofore issued and in effect on this date of this reorganization are continued in full force and effect.

VI. Delegation of Authority. All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

VII. Funds, Personnel, and Equipment. Transfer of organizations and functions affected by this reorganization shall be accompanied in each instance by direct and support funds, positions, personnel, records, equipment, supplies, and other resources.

This reorganization will be effective upon date of signature.

Dated: August 8, 2018.

Steven Wagner,

Acting Assistant Secretary for Children and Families.

[FR Doc. 2018–17575 Filed 8–14–18; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of Intent To Issue One OPDIV-Initiated Supplement to BCFS Health and Human Services Under the Standing Announcement for Residential (Shelter) Services for Unaccompanied Children, HHS–2017–ACF–ORR–ZU–1132

AGENCY: Unaccompanied Alien Children's (UAC) Program, Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of intent to issue one OPDIV-Initiated Supplement to BCFS Health and Human Services, San Antonio, TX under the UAC Program.

SUMMARY: ACF, ORR, announces the intent to issue one OPDIV-Initiated Supplement to BCFS Health and Human Services, San Antonio, TX in the amount of up to $19,011,218.

ORR has been identifying additional capacity to provide shelter for potential increases in apprehensions of Unaccompanied Children at the U.S. Southern Border. Planning for increased shelter capacity is a prudent step to ensure that ORR is able to meet its responsibility, by law, to provide shelter for Unaccompanied Alien Children referred to its care by the Department of Homeland Security (DHS).

To ensure sufficient capacity to provide shelter to unaccompanied children referred to HHS, BCFS proposed to provide ORR with 700 beds in an expedited manner.

DATES: Supplemental award funds will support activities through August 13, 2018.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Director, Division of Children's Services, Office of Refugee Resettlement, 330 C Street SW, Washington, DC 20447. Phone: 202–401–4997. Email: *DCSProgram@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: ORR is continuously monitoring its capacity to shelter the unaccompanied children referred to HHS, as well as the information received from interagency partners, to inform any future decisions or actions. ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet those requirements. The expansion of the existing program and its services through this supplemental award is a key strategy for ORR to be prepared to meet its responsibility to provide shelter for Unaccompanied Children referred to its care by DHS and so that the U.S. Border Patrol can continue its vital national security mission to prevent illegal migration, trafficking, and protect the borders of the United States.

Statutory Authority: This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of Unaccompanied Alien Children from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of ORR of the Department of Health and Human Services (HHS).

(B) The Flores Settlement Agreement, Case No. CV85–4544RJK (C.D. Cal. 1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110–457), which authorizes post release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85–4544–RJK (C.D. Cal. 1996), pertinent regulations and ORR policies and procedures.

Elizabeth Leo,

Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2018–17558 Filed 8–14–18; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

[OMB# 0985–0059]

Agency Information Collection Activities; Proposed Collection; Comment Request; Data Collection Materials for the Annual Performance Reporting of the Administration for Community Living's American Indian, Alaskan Natives and Native Hawaiian Programs

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice.

This notice solicits comments on the Revision of a Currently Approved Collection (ICR Rev) and solicits comments on the information collection requirements related to the annual Program Performance Report (PPR) for the American Indian, Alaskan Natives and Native Hawaiian Programs under Title VI of the Older Americans Act.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by October 15, 2018.

ADDRESSES: Submit electronic comments on the collection of information to: Kristen Hudgins at *kristen.hudgins@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, Washington, DC 20201, Attention: Kristen Hudgins.

FOR FURTHER INFORMATION CONTACT: Kristen Hudgins, Social Science Analyst, Administration for Community Living, Washington, DC 20201, 202–

795–7732 or *kristen.hudgins@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) The accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The data collection materials for the annual performance data for the Administration for Community Living's American Indian, Alaskan Natives and Native Hawaiian Programs (OAA Title VI) is a revision of a currently approved annual program performance data collection (OMB# 0985–0059). These data collection materials have been updated to better align with comparable data collected for ACL's other nutritional, supportive, and caregiving grants. Proposed changes include adding data components and updating others for more accurate reporting of persons served and activities provided through the Title VI-funded programs. The revised data collection will provide data necessary to determine the effectiveness of the program. Some examples of these changes are updating definitions in Title VI to be more in line with Title III, asking for unduplicated numbers of people served for different services and the number of hours spent providing said services. Additionally, the caregiver portion of the PPR has been updated to collect more information around types of caregivers served and unduplicated numbers of caregivers. Another element added has to do with information on expenditures. This data collection will also support ACL in tracking performance outcomes and efficiency measures with respect to the annual and long-term performance targets established in compliance with the Government Performance Results Modernization Act (GPRAMA).

The proposed data collection tools may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden: Title VI funding is broken into three categories. Parts A and B are for nutritional and supportive programming, and ask for the same information. Part A is for American Indian and Alaska Native grantees, and Part B is for Native Hawaiian grantees. Part C is for caregiver programming. All Part C grantees must have Part A/B funding; but not all Part A/B grantees will have Part C programs. Therefore, there are 270 unique respondents, but only 237 will have to complete all portions of the PPR. ACL believes that the increase in burden hours is justified by the improved quality of the data and will ultimately improve the services provided to Native Elders.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
PPR Part A/B	270	1	1.83	494.1
PPR Part C	237	1	1.66	393.4
Total:				887.5

Dated: August 8, 2018.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2018–17576 Filed 8–14–18; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0915]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. 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 of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information entitled ''Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application.''

DATES: Submit either electronic or written comments on the collection of information by October 15, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 15, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of October 15, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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–2011–N–0915 for ''Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application; OMB Control Number 0910–0636—Extension

This information collection supports Agency guidance directed to manufacturers, packers, and/or distributors whose names appear on the label of a nonprescription drug marketed in the United States under section 502(b)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 352(b)(1)). FDA is requesting public comment on estimates of annual submissions from these respondents, as required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109–462) and described in the guidance. The guidance document discusses what should be included in a serious adverse drug event report submitted under section 760(b)(1)

of the FD&C Act (21 U.S.C. 379aa(b)(1)), including followup reports under 760(c)(2) of the FD&C Act (21 U.S.C. 379aa(c)(2)), and how to submit these reports. The estimates for the annual reporting and recordkeeping burdens are based on FDA data on the number of adverse drug experience reports submitted for nonprescription drug products marketed without an approved application and on prior input from comments received from prior **Federal Register** publications.

Based on FDA records, we received 194,449 total annual responses from approximately 283 respondents for nonprescription drugs marketed without an approved application. We estimate that each submission will take approximately 6 hours to prepare and submit.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Reports of serious adverse drug events (21 U.S.C. 379aa((b) and (c))	283	687.099	194,449	6	1,166,694

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Section 760(e) of the FD&C Act (21 U.S.C. 379aa(e)) also requires that responsible persons maintain records of nonprescription adverse event reports, whether or not the event is serious, for a period of 6 years. The guidance recommends that respondents maintain records of efforts to obtain the minimum data elements for a report of a serious adverse drug event and any followup reports. We estimate that there are approximately 265,700 records per year maintained by approximately 300 respondents, and that it takes approximately 8 hours to maintain each record.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Recordkeeping (21 U.S.C. 379aa(e)(1))	300	885.6667	265,700	8	2,125,600

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase. We attribute this adjustment to an increase in the number of submissions we received in the last few years.

Dated: August 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–17526 Filed 8–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2944]

Pharmaceutical Science and Clinical Pharmacology Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pharmaceutical Science and Clinical Pharmacology Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on September 20, 2018, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2018–N–2944. The docket will close on September 19, 2018. Submit either electronic or written comments on this public meeting by September 19, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 19, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of September 19, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before September 5, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted,

such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–2944 for ''Pharmaceutical Science and Clinical Pharmacology Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA 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 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 the 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.

FOR FURTHER INFORMATION CONTACT: Jay R. Fajiculay, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *ACPS-CP@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting will focus on two topics related to the Office of Pharmaceutical Quality's priority of promoting the availability of better medicine. During the morning session, the committee will discuss the modernization of assessing drug applications through a Knowledge-Aided Assessment and Structured Application (KASA) initiative. FDA will seek input on the potential enhancement of a submission format consistent with KASA to improve the efficiency and consistency of regulatory quality assessment. During the afternoon session, the committee will discuss in-vitro/in-vivo relationship standards, and will seek input on establishing patient-focused dissolution standards for oral solid modified-release dosage forms.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the docket (see **ADDRESSES**) on or before September 5, 2018, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 10:40 a.m. to 11:10 a.m. and 3:20 p.m. to 3:50 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 28, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 29, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Jay Fajiculay (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee

meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–17524 Filed 8–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0809]

Issuance of Priority Review Voucher; Rare Pediatric Disease Product

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that CRYSVITA (burosamab-twza), manufactured by Ultragenyx Pharmaceutical, Inc., meets the criteria for a priority review voucher.

FOR FURTHER INFORMATION CONTACT: Althea Cuff, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–4061, Fax: 301–796–9856, email: *althea.cuff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that CRYSVITA (burosamab-twza), manufactured by Ultragenyx Pharmaceutical, Inc., meets the criteria for a priority review voucher. CRYSVITA (burosamab-twza) is indicated for the treatment of X-linked hypophosphatemia in adult and pediatric patients 1 year of age and older.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about CRYSVITA (burosumab-twza), go to the ''Drugs@FDA'' website at *https://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: August 8, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–17527 Filed 8–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–0943]

Elemental Impurities in Animal Drug Products—Questions and Answers; Draft Guidance for Industry; Availability; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or Agency) is reopening the comment period for the notice of availability that published in the **Federal Register** on March 27, 2018. In that document, FDA requested comments on the draft guidance for industry (GFI) #255 entitled ''Elemental Impurities in Animal Drug Products—Questions and Answers.'' The Agency is taking this action in response to requests for an extension to allow interested parties additional time to develop and submit comments.

DATES: FDA is reopening the comment period on the notice of availability published March 27, 2018 (83 FR 13134). Submit either electronic or written comments on the draft guidance by October 15, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–0943 for ''Elemental Impurities in Animal Drug Products—Questions and Answers.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)). Submit written requests for single copies of the draft guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Michael Brent, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0647, *michael.brent@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 27, 2018, FDA published a notice of availability with a 60-day comment period to request comments on draft GFI #255 entitled ''Elemental Impurities in Animal Drug Products—Questions and Answers.''

This level 1 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 ''Elemental Impurities in Animal Drug Products—Questions and Answers'', providing recommendations to sponsors regarding the control of elemental impurities in animal drug products, including all dosage forms and routes of administration. 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.

The Agency received two requests for an extension of the comment period for the draft guidance. The requestors indicated they needed more time to complete development of comments to submit in response to the draft guidance.

FDA has considered the requests and is reopening the comment period for the draft guidance for 60 days, until October 15, 2018. The Agency believes that a 60-day reopening of the comment period allows adequate time for interested persons to submit comments to ensure that the Agency can consider the comments on this draft guidance before it begins work on the final version of the guidance.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *https://www.regulations.gov.*

Dated: August 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–17525 Filed 8–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Division of Epidemiology and Disease Prevention Epidemiology Program for American Indian/Alaska Native Tribes and Urban Indian Communities

Announcement Type: Competing Supplement

Funding Announcement Number: HHS–2018–IHS–EPI–0002

Catalog of Federal Domestic Assistance Number: 93.231

Key Dates

Application Deadline Date: September 12, 2018

Review Date: September 14–18, 2018

Earliest Anticipated Start Date: September 30, 2018

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Public Health Support, Division of Epidemiology and Disease Prevention (DEDP), is accepting applications for a cooperative agreement for competitive supplemental funds to enhance activities in the Epidemiology Program for American Indian/Alaska Native (AI/AN) Tribes and Urban Indian communities.

This program is authorized under: Section 317(k)(2) of the Public Health Service Act [42 U.S.C. 247(b)(k)(2), as amended]. Funding for this award will be provided by: The Centers for Disease Control and Prevention's (CDC) National Center for Emerging and Zoonotic Infectious Diseases (NCEZID). The authorities will be exercised by CDC and through an Intra-Departmental Delegation of Authority (IDDA) with IHS to create a supplemental funding opportunity for Tribal Epidemiology Centers. The administration will be carried out through an Intra-agency Agreement (IAA) between CDC and IHS. This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.231.

Background

The Tribal Epidemiology Center (TEC) program was authorized by Congress in 1998 as a way to provide public health support to multiple Tribes and Urban Indian communities in each of the IHS Areas. Only current TEC grantees serving Arizona Indian Tribes or Urban Indian communities with confirmed cases of Rocky Mountain spotted fever (RMSF) between 2003–2017 are eligible to apply for the competing supplemental funding under this announcement and must demonstrate that they have complied with previous terms and conditions of the TEC program.

Positioned uniquely within Tribes and Tribal or Urban Organizations, TECs are able to conduct disease surveillance, research, prevention and control of disease, injury, or disability. This allows them to assess the effectiveness of AI/AN public health programs. In addition, they can fill gaps in data needed for the relevant Government Performance and Results Act and Healthy People 2020 measures. Some of the existing TECs have already

developed innovative strategies to monitor the health status of Tribes and Urban Indian communities, including development of Tribal health registries and use of sophisticated record linkage computer software to correct existing state data sets for racial misclassification. Tribal Epidemiology Centers work in partnership with IHS DEDP to provide a more accurate national picture of Indian health status. To further the goals of the partnership, a new CDC funding opportunity will be made available to TECs to implement cancer projects in Indian Country, designed to help decrease these disparities and lessen the burden of cancer in this population. For administrative purposes, this new funding opportunity will be packaged with the existing IHS cooperative agreements.

RMSF is a life-threatening tickborne disease. RMSF has been an emerging threat to Tribal communities in Arizona since 2003, with more than 388 cases and 23 deaths—a case fatality rate 15 times higher than the national rate.

Epidemics in Arizona Tribal communities are driven by large populations of brown dog ticks and free-roaming dog populations, and thus require control of the animal and vector population. Effective control strategies have been identified through evidence-based research with Tribal, Federal, state, and private partners in an innovative project called the RMSF Rodeo. This project demonstrated that integrated pest management techniques including use of tick preventives on dogs, environmental pesticide and community education could effectively reduce the number of ticks on dogs, in the environment, and more importantly, reduced the incidence of RMSF in Tribal communities. Cases in the project area were reduced by 43%. While these effective techniques have been identified and successfully implemented, they require fundamental infrastructure in vector control and animal control, which are often lacking in Tribal communities.

Many of the impacted Tribal communities are small (fewer than 15,000 residents), rural communities where resources for vector and animal control may not be available. Consolidation of resources by region can ensure prudent use of funds where individual positions cannot be supported. Tribal Epidemiology Centers have a unique appreciation and understanding of these factors and ensure that health priorities and program interventions are culturally competent, appropriate, and locally minded. Tribal Epidemiology Centers provide technical assistance by way of program management, epidemiologic support and project design. These resources are often provided to one or more Tribal nations in the region and can serve as a regional support for area Tribes.

For the purpose of this Notice of Funding Opportunity (NOFO), technical assistance to support prevention of RMSF should be locally tailored and evidence-based. Recommended prevention practices could focus on material resources for vector control, environmental cleanup or animal control, training and staff development relating to RMSF prevention, or developing educational materials to educate the public and providers about issues relating to RMSF. All assistance with educational materials needs to ensure those that are used are culturally appropriate and locally-minded. Awardees are expected to provide support for applicant-identified outcomes from the following: Improve RMSF prevention practices to support the health of targeted Tribal communities at risk for RMSF, disseminate lessons learned on proven interventions of RMSF, and create sustainable RMSF prevention programs.

Purpose

The purpose of this IHS cooperative agreement is to build capacity for RMSF prevention in Arizona's Tribes. RMSF prevention is a multidisciplinary problem, requiring technical resources across public health, veterinary, clinical medicine, vector control, environmental health and sanitation. This NOFO will support Tribes, through the technical assistance and trainings of regional TECs, in providing training for staff, purchasing equipment, building facilities, developing communications materials, and establishing partnerships that will sustain RMSF prevention in the long term.

Limited Competition Justification

The IHS enters into cooperative agreements with TECs under the authority of Section 214(a)(1) of the Indian Health Care Improvement Act, Public Law 94–437, as amended by Public Law 102–573. Tribal Epidemiology Centers carry out a list of functions specified in statute. These functions include data collection and analysis; evaluation of existing delivery systems, data systems, and other systems that impact the improvement of Indian health; making recommendations for the targeting of services; and provision of requested technical assistance to Indian Tribes, Tribal organizations, and Urban Indian organizations [25 U.S.C. 1621m(b)]. Other organizations do not have the capacity to provide this support. With respect to access to information, TECs are treated as public health authorities for the purpose of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191). Unlike their counterparts, they have no (or little) funding from their jurisdictional governments to perform these public functions.

The limited-eligibility NOFO will allow direct support of RMSF prevention to TECs serving Arizona Indian Tribes and Urban Indian Organizations with confirmed cases of RMSF between 2003–2017. Utilization of TECs allows for the consolidation of regional resources across Tribal boundaries. TECs already possess technical expertise in program management, community-based interventions and educational tool development. Tribal Epidemiology Centers must have demonstrated their ability to methodically and effectively reach Tribal members and efficiently work with AI/AN populations on their public health capacity building. Selected organizations that have previous experience working effectively with Tribal governments will help ensure that interventions and infrastructure are culturally appropriate and locally minded.

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2018 is approximately $300,000. Individual award amounts are anticipated to be between $100,000 and $300,000. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately two awards will be issued under this program announcement.

Period of Performance

The period of performance is for three years and will run consecutively from September 30, 2018 to September 29, 2021.

Cooperative Agreement

Cooperative agreements awarded by the Department of Health and Human Services (HHS) are administered under the same policies as a grant. However, the funding agency (CDC) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both the CDC and the grantee. The CDC per the Memorandum of Understanding (MOU) between the IHS and the CDC, will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS and CDC Programmatic Involvement

(1) IHS will compete funds for TEC's using a NOFO. The IHS will be responsible for convening an Objective Review Committee (ORC) and selecting eligible applicants as detailed above.

(2) The IHS and the CDC will be involved with ongoing consultation and technical assistance to plan, implement, and evaluate each component as described under Recipient Activities. Consultation and technical assistance may include, but not be limited to, the following areas:

(i) Interpretation of current scientific literature related to epidemiology, statistics, surveillance, and other public health issues relating to RMSF;

(ii) Technical assistance on the design and implementation of each program component such as surveillance, epidemiologic analysis, outbreak investigation, development of epidemiologic studies, development of disease control programs, coordination of activities, and training of study staff;

(iii) Participating in the presentation of results in publications, if applicable; and

(iv) Technical assistance on overall operational planning and program management.

(3) Conduct site visits to TECs and/or coordinate TEC visits to IHS and/or CDC headquarters to assess work plans and ensure data security, confirm compliance with applicable laws and regulations, assess program activities, and to mutually resolve problems, as needed.

B. Grantee Cooperative Agreement Award Activities

(1) Build Tribal capacity to provide animal control, vector control or environmental cleanup, by providing technical assistance to the Tribe and/or Urban Indian Organization (UIO) in the purchase or rental of equipment, hiring of staff and training of staff in safe and effective vector control, animal control, and environmental cleanup practices.

(2) Assist Tribes with conducting evidence-based RMSF prevention activities in communities at risk. Rocky Mountain spotted fever prevention activities can include (but are not limited to) cleanup of solid waste in and around homes, spay and neuter activities, and tick prevention campaigns.

(3) Provide assistance to Tribes to conduct community education about RMSF, including the signs and symptoms, prevention, importance of early treatment and confirmatory testing.

III. Eligibility Information

1. Eligibility

Only current Arizona TEC grantees serving Tribes with previously reported cases of RMSF are eligible to apply for the competing supplemental funding under this announcement. They must demonstrate that they have complied with previous terms and conditions of the TEC program.

Rocky Mountain spotted fever is a life-threatening tickborne disease. An ongoing epidemic of RMSF affects Tribal lands in Arizona with more than 388 cases and 23 deaths since 2003—a case fatality rate 15 times higher than that national rate. All deaths from locally acquired RMSF in Arizona have occurred among Native peoples. Six Tribes in the Arizona area have experienced epidemic rates of RMSF transmitted by this tick vector. Only Arizona TECs serving Tribes with previously reported cases of RMSF will be eligible to apply for this cooperative agreement. To avoid redundancy for funded activities, applicants must disclose any other federal funds from the current FY that have been received or applied specifically for RMSF prevention.

No Supplanting of Funds

The applicant must certify that: (1) The TEC RMSF Competing Supplemental Funds, if awarded, will not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee; and (2) the TEC RMSF Competing Supplemental Funds, if awarded, will not supplant any leverage related to this grant, if any (that is, the grantee must have pursued and secured leverage to the fullest extent possible in order to ensure that expenditures from other Federal, State, or local sources or funds independently generated by the grantee are not supplanted).

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status and documents required.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the Estimated Funds Available section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, the IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/*.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single-spaced and not exceed 5 pages).
- Project Narrative (must be single-spaced and not exceed 10 pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Letters of Support from organization's Board of Directors.

- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all Key Personnel.
- Contractor or Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB)

Financial Audit (if applicable).

Acceptable forms of documentation include:

○ Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

○ Face sheets from audit reports. These can be found on the FAC website: *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements: All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than 10 pages and must: Be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 points, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the ORC in becoming familiar with the applicant's activities and accomplishments prior to this possible cooperative agreement award. If the narrative exceeds the page limit, only the first 10 pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

The page limitations below are for each narrative and budget submitted.

Part A: Program Information 3 Page Limit

Section 1: Needs.

Describe applicant's current health program activities relating to RMSF prevention, including elements of vector control, animal control and solid waste cleanup, how long each element has been operating, what programs or services are currently being provided and identify any current partnerships supporting current Tribal programs. Describe the TEC's administrative infrastructure to support the assumption of program goals and accomplishments.

Part B: Program Planning and Evaluation 5 Page Limit

Section 1: Program Plans.

Fully and clearly describe the TEC's plans to demonstrate improved health and services to the community it serves. Include proposed timelines for negotiations and deliverables. Please note any partnerships you plan to utilize as part of program implementation. Please discuss any prioritization of RMSF prevention elements or justification for not addressing any of the key RMSF prevention tenets (animal control, vector control, education, or environmental cleanup).

Section 2: Program Evaluation.

Describe fully and clearly the improvements that will be made by the TEC to RMSF and identify the anticipated or expected benefits for Tribal communities they serve. Describe the outcomes that you plan to achieve within the funding period and how you plan to collect outcome and performance measures.

Part C: Program Report 2 Page Limit

Describe your organization's significant program activities and accomplishments over the past five years associated with the goals of this announcement.

Please identify and describe significant program activities and achievements associated with RMSF. Provide a comparison of the actual accomplishments to the goals established for the project period, or if applicable, provide justification for the lack of progress.

B. Budget Narrative 5 Page Limit

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative.

3. Submission Dates and Times

Applications must be submitted electronically through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact *Grants.gov* Customer Support via email at *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), Grant Systems Coordinator, DGM, by telephone at (301) 443–2114 or (301) 443–5204. Please contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant or cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* website to submit an application electronically and select the ''Search Grants'' link on the homepage. Follow the instructions for submitting an application under the Package tab. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

Waiver Request

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, (see Section IV.6 below

for additional information). A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* The waiver must: (1) Be documented in writing (emails are acceptable), *before* submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to 15 working days.
- Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Division of Epidemiology and Disease Prevention will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy website: *http://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 10 page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 65 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (10 Points)

- Background and problem statement. Provide concise summary of RMSF in Tribal communities served by the TEC. Include information about:
  - Impacted Tribal communities. (1 point)
  - Number of RMSF cases in Tribal communities. (1 point)
  - Tribal Epidemiology Center jurisdiction (which of the impacted Tribal communities are served by the TEC). (1 point)
  - Evidence of previous work with Tribal populations. (2 points)
  - Evidence of gaps in current Tribal RMSF response. (5 points)

B. Project Objective(s), Work Plan and Approach (25 Points)

- Clearly identify the objectives of the program to be fulfilled by the TEC. At least two objectives should be able to be completed within the program period (indicate these two objectives in bold). (10 points)
- Outline approach for achieving above listed objectives in work plan or

logic model. Outline overarching activities, short-term and long term-outcomes. Make note of proposed timelines and partners who will be involved in each activity. (15 points)

C. Program Evaluation (30 Points)

- Clearly identify plans for program evaluation to ensure that objectives of the program are met at the conclusion of the funding period. (10 points)
- Include SMART (Specific, measurable, achievable, realistic and time-bound) evaluation criteria. (10 points)
- Evaluation should minimally include summaries of activities in each of the key RMSF prevention tenants (animal control, vector control, education, or environmental cleanup). (10 points)

D. Organizational Capabilities, Key Personnel and Qualifications (30 Points)

- Include an organizational capacity statement which demonstrates the ability to execute program strategies within the program period. (10 points)
- Project management and staffing plan. Detail that the organization has the current staffing and expertise to address each of the program activities. If current capacity does not exist please describe the actions that the TEC will take to fulfill this gap within a specified timeline. (10 points)
- Demonstrate Tribal willingness to work with TEC on RMSF prevention efforts. (5 points)
- Demonstrate that the TEC has previous successful experience providing technical or programmatic support to Tribal communities. (5 points)

E. Categorical Budget and Budget Justification (5 Points)

- Provide a detailed budget and accompanying narrative to explain the activities being considered and how they are related to proposed program objectives. (5 points)

Multi-Year Project Requirements

Projects requiring a second, or third year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Additional Documents Can Be Uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS Program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, regarding minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget or project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 65, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications retained by DGM for a period of one year. If additional funding becomes available during the course of FY 2018 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in Section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of the expiration of the period of performance.

B. Financial Reports

Federal Financial Report (FFR or SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at *https://pms.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the period of performance is made up of more than one budget period) and where: (1) The period of performance start date was October 1, 2010 or after, and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy website at *http://www.ihs.gov/dgm/policytopics/.*

D. Compliance With Executive Order 13166 Implementation of Services

Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html;* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under Federal civil rights laws at *https://www.hhs.gov/ocr/about-us/contact-us/index.html* or call (800) 368–1019 or TDD (800) 537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his or her exclusion from benefits limited by Federal law to individuals

eligible for benefits and services from the IHS.

Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following website: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW, Washington, DC 20201.

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-Federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857.

(Include ''Mandatory Grant Disclosures'' in subject line)

Office: (301) 443–5204.

Fax: (301) 594–0899.

Email: *Robert.Tarwater@ihs.gov.*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, *URL: http://oig.hhs.gov/fraud/report-fraud/index.asp.*

(Include ''Mandatory Grant Disclosures'' in subject line)

Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or

Email: MandatoryGranteeDisclosures@oig.hhs.gov.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 and 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Lisa C. Neel, Public Health Advisor, Office of Public Health Support, Division of Epidemiology & Disease Prevention, Indian Health Service, 5600 Fishers Lane, Mailstop: 09E17B, Rockville, MD 20857, Phone: (301) 443–4305, EMail: *Lisa.Neel@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: John Hoffman, Senior Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2116, Fax: (301) 594–0899, Email: *John.Hoffman@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, EMail: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: August 9, 2018.

Michael D. Weahkee,

Assistant Surgeon General, U.S. Public Health Service, Acting Director, Indian Health Service.

[FR Doc. 2018–17515 Filed 8–14–18; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Division of Epidemiology and Disease Prevention; Epidemiology Program for American Indian/Alaska Native Tribes and Urban Indian Communities

Announcement Type: Competing Supplement

Funding Announcement Number: HHS–2018–IHS–EPI–0001

Catalog of Federal Domestic Assistance Number: 93.231

Key Dates

Application Deadline Date: September 12, 2018

Review Date: September 14–18, 2018

Earliest Anticipated Start Date: September 30, 2018

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Public Health Support, Division of Epidemiology and Disease Prevention (DEDP), is accepting applications for cooperative agreement for competitive supplemental funds to enhance activities in the Epidemiology Program for American Indian/Alaska Native (AI/AN) Tribes and Urban Indian communities. This program is authorized under: Section 317(k)(2) of the Public Health Service Act (42 U.S.C. Section 247b(k)), as amended. Funding for this award will be provided by: The Centers for Disease Control and Prevention's (CDC) National Center for Chronic Disease Prevention and Health Promotion. The authorities will be exercised by CDC and through an Intra-Departmental Delegation of Authority

(IDDA) with IHS to create a supplemental funding opportunity for Tribal Epidemiology Centers. The administration will be carried out through an Intra-agency Agreement (IAA) between CDC and IHS. This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.231.

Background

The Tribal Epidemiology Center (TEC) program was authorized by Congress in 1998 as a way to provide public health support to multiple Tribes and Urban Indian communities in each of the IHS Areas. Only current TEC grantees are eligible to apply for the competing supplemental funding under this announcement and must demonstrate that they have complied with previous terms and conditions of the TEC program.

TECs are uniquely positioned within Tribes, Tribal and Urban Indian organizations to conduct disease surveillance, research, prevention and control of disease, injury, or disability, and to assess the effectiveness of AI/AN public health programs. Positioned uniquely within Tribes and Tribal or Urban Organizations, TECs are able to conduct disease surveillance, research, prevention and control of disease, injury, or disability. This allows them to assess the effectiveness of AI/AN public health programs. In addition, they can fill gaps in data needed for the relevant Government Performance and Results Act and Healthy People 2020 measures. Some of the existing TECs have already developed innovative strategies to monitor the health status of Tribes and Urban Indian communities, including the development of Tribal health registries and use of sophisticated record linkage computer software to correct existing state data sets for racial misclassification. Tribal Epidemiology Centers work in partnership with IHS DEDP to provide a more accurate national picture of Indian health status. To further the goals of the partnership, a new CDC funding opportunity will be made available to TECs to implement cancer projects in Indian Country, designed to help decrease these disparities and lessen the burden of cancer in this population. For administrative purposes, this new funding opportunity will be packaged with the existing IHS cooperative agreements.

The mission of the CDC National Center for Chronic Disease Prevention and Health Promotion is to help people and communities prevent chronic diseases and promote health and wellness for all. Within the National Center for Chronic Disease Prevention and Health Promotion, the Division of Cancer Prevention and Control (DCPC) works with national organizations, state and Tribal health agencies, and other key groups to develop, implement, and promote effective strategies for preventing and controlling cancer.

Purpose

The National Center for Chronic Disease Prevention and Health Promotion will be supporting two activities with funding from DCPC. The first, Colorectal Cancer Screening Among AI/AN with Diabetes, seeks to reduce a diabetes-linked cancer health disparity experienced by the AI/AN population. This population experiences the highest rates of diabetes in the United States. Despite the recent identification of diabetes as a significant risk factor for colorectal cancer (CRC), screening rates remain poor in the diabetic population. Consequently, there is a critical need for effective intervention that promotes both CRC risk awareness and screening among AI/ANs with diabetes.

The second National Center for Chronic Disease Prevention and Health Promotion activity, Annual Cancer Survivorship Group Leadership Training, seeks to increase cancer survivor support group leadership in AI/AN communities.

This cooperative agreement is to support the following National Center for Chronic Disease Prevention and Health Promotion activities:

(a) Colorectal Cancer Screening Among AI/AN with Diabetes.

i. Develop a culturally grounded, multilevel intervention to communicate CRC risk and prevention information to AI/AN men and women over age 50 who have diabetes.

ii. Determine effectiveness of colorectal cancer screening through direct mailing fecal immunochemical test (FIT) kits to AI/AN patients with diabetes.

iii. Develop a plan to embed CRC control initiatives within established diabetes management systems at Indian Health Service/Tribal health facilities.

(b) Annual Cancer Survivorship Leadership Training.

i. Organize and implement at least two, three-day cancer support leadership trainings for 15–25 AI/AN participants, nationally. The training will be designed to give participants a unique opportunity to work together in a safe, supportive environment to learn and practice skills to help people affected by cancer in their communities. The training will be based on the model, A Gathering of Cancer Support, using the Gathering of Native Americans (GONA) teaching methods.

Limited Competition Justification

The IHS enters into cooperative agreements with TECs under the authority of Section 214(a)(1) of the Indian Health Care Improvement Act, Public Law 94–437, as amended by Public Law 102–573. Tribal Epidemiology Centers carry out a list of functions specified in statute. These functions include data collection and analysis; evaluation of existing delivery systems, data systems, and other systems that impact the improvement of Indian health; making recommendations for the targeting of services; and provision of requested technical assistance to Indian Tribes, Tribal organizations, and Urban Indian organizations [25 U.S.C. 1621m(b)]. Other organizations do not have the capacity to provide this support. With respect to access to information, TECs are treated as public health authorities for the purposes of the Health Insurance Portability and Accountability Act of 1996 (Pub L. 104–191). Unlike their counterparts, they have no (or little) funding from their jurisdictional governments to perform these public functions.

The IHS and the CDC have determined that the TECs provide the most effective approach to strengthen public health capacity to support Tribes, Tribal organizations, and Urban Indian organizations, in identifying relevant health status indicators and priorities using sound epidemiologic principles.

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2018 is approximately $220,000. An estimated $135,000 will be awarded for the National Center for Chronic Disease Prevention and Health Promotion Colorectal Cancer Screening Among American Indians with Diabetes activities, and, a total of $85,000 will be awarded for the National Center for Chronic Disease Prevention and Health Promotion Annual Cancer Survivorship Group Leadership Trainings. Individual award amounts are anticipated to be between $85,000 and $220,000. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of appropriations and budgetary priorities of the CDC. The IHS is under no

obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately two awards will be issued under this program announcement.

Period of Performance

The period of performance is for three years and will run consecutively from September 30, 2018 to September 29, 2021.

Cooperative Agreement

Cooperative agreements awarded by the Department of Health and Human Services (HHS) are administered under the same policies as a grant. However, the funding agency (CDC) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both the CDC and the grantee. The CDC, per the MOU between the IHS and the CDC, will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. CDC Programmatic Involvement

(1) Provide funded TECs with ongoing consultation and technical assistance to plan, implement, and evaluate each component as described under Recipient Activities. Consultation and technical assistance may include, but not be limited to, the following areas:

(i) Interpretation of current scientific literature related to epidemiology, statistics, surveillance, and other public health issues;

(ii) Technical Assistance on the design and implementation of each program component such as surveillance, epidemiologic analysis, outbreak investigation, development of epidemiologic studies, development of disease control programs, and coordination of activities; and

(iii) Technical Assistance on overall operational planning and program management.

(2) Conduct routine site visits to TECs and/or coordinate TEC visits to IHS headquarters in order to assess work plans and ensure data security, confirm compliance with applicable laws and regulations, assess program activities, and to mutually resolve problems, as needed.

B. Grantee Cooperative Agreement Award Activities

(1) Provide a work plan to accomplish tasks described under National Center for Chronic Disease Prevention and Health Promotion Activities in the Purpose section.

(2) Succinctly and independently address and report on the requirements for each funding stream awarded under Recipient Activities. Specifically:

(i) Colorectal Cancer Screening Among American Indians with Diabetes.

(a) Submit documentation of approval for the study/project from all necessary Institutional Review Boards (IRBs) including IHS, CDC, and Tribal (if applicable) prior to initiation of any study involving human subjects.

(b) Coordinate testing of an innovative, multilevel intervention to promote fecal immunochemical testing (FIT) among American Indian men and women of or over age 50 who have diabetes.

(c) Coordinate testing of the intervention model for feasibility and effectiveness to be carried out by four Tribal health programs, should such programs agree to participate.

(ii) Annual Cancer Survivorship Group Leadership Training.

(a) Work plan must include the training objectives, trainers, and the utilization of GONA training methods. The work plan must include an outline of outreach efforts to Tribal communities across the United States, not just with the TEC's catchment area. The following should also be considered when planning the training:

- Based on a grassroots approach, an order of preference for Tribal community members attending the training would be cancer survivors, family members of cancer survivors, Tribal health care workers, and others. The selection will be further based on the intention of the attendee and their plans for use of the training in their community.
- To establish cancer support services in the Tribal community, it is suggested that two people from the same community attend the training together to assist each other in the future.
- To reach as many Tribal communities and members as possible, each training should be limited to new participants.
- Submit report describing the number of trainings that were conducted and how many participants attended each training.
- Submit registration forms of attendees and their contact information for use in updating list of previous attendees.

III. Eligibility Information

1. Eligibility

Only current TEC grantees are eligible to apply for the competing supplemental funding under this announcement and must demonstrate that they have complied with previous terms and conditions of the TEC program.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the Estimated Funds Available section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/*.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single-spaced and not exceed 5 pages).
- Project Narrative (must be single-spaced and not exceed 10 pages).

○ Background information on the organization.

○ Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.

- Letters of Support from organization's Board of Directors.
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all Key Personnel.
- Contractor or Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

○ Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

○ Face sheets from audit reports. These can be found on the FAC website: *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than 10 pages and must: Be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 points, and be printed on one side only of standard size 8½″ × 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities and accomplishments prior to this possible cooperative agreement award. If the narrative exceeds the page limit, only the first 10 pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

The page limitations below are for each narrative and budget submitted.

Part A: Program Information (3 Pages)

Section 1: Introduction and Need for Assistance

Must include the applicant's background information, a description of epidemiological service, epidemiological capacity and history of support for such activities. Applicants need to include current public health activities, what program services are currently being provided, and interactions with other public health authorities in the region (state, local, or Tribal).

Section 2: Organizational Capabilities

The applicant must describe staff capabilities or hiring plans for the key personnel with appropriate expertise in epidemiology, health sciences, and program management. The applicant must also demonstrate access to specialized expertise such as a doctoral level epidemiologist and/or a biostatistician. Applicants must include an organizational chart, and provide position descriptions and biographical sketches of key personnel including consultants or contractors. The position description should clearly describe each position and its duties. Resume should indicate that proposed staff is qualified to carry out the project activities.

Section 3: User Population

The number of AI/ANs served must be substantiated by documentation describing IHS user populations, United States Census Bureau data, clinical catchment data, or any method that is scientifically and epidemiologically valid.

Part B: Program Planning and Evaluation (5 Pages)

Section 1: Program Plans

Applicant must include a workplan that describes program goals, objectives, activities, timeline, and responsible person for carrying out the objectives/activities. The applicant must specify which activities listed under the Grantee Cooperative Agreement Award Activities are proposed.

Section 2: Program Evaluation

Applicant must define the criteria to be used to evaluate activities listed in the workplan under the Grantee Cooperative Agreement Award Activities. They must explain the methodology that will be used to determine if the needs identified for the objectives are being met and if the outcomes identified are being achieved and describe how evaluation findings will be disseminated to stakeholders.

Part C: Program Report (2 Pages)

Section 1: Describe your organization's significant program activities and accomplishments over the past five years associated with the goals of this announcement.

Section 2: Describe major activities over the last 24 months related to conducting applied research projects, training community health representatives, implementing quality improvement initiatives in IHS or Tribal healthcare facilities, and/or organizing cancer survivor group leadership trainings.

B. Budget Narrative (5 Pages)

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative.

3. Submission Dates and Times

Applications must be submitted electronically through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact *Grants.gov* Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* website to submit an application electronically and select the ''Search Grants'' link on the homepage. Follow the instructions for submitting an application under the Package tab. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

Waiver Request

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, (see Section IV.6 below for additional information). A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* The waiver must: (1) Be documented in writing (emails are acceptable), before submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to fifteen working days.
- Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Division of Epidemiology and Disease Prevention will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy website: *http://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 10 page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria

adding up to a total of 100 points. A minimum score of 65 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (25 Points)

(1) Describe the applicant's current public health activities, including programs or services currently provided, interactions with other public health authorities in the regions (state, local, or Tribal) and how long the organization has been operating. Specifically describe the organization's current capacity to conduct applied research projects, train community health representatives, implement quality improvement initiatives, and/or organize cancer survivor group leadership trainings and provide examples of implementing these activities.

(2) Provide a physical location of the TEC and area to be served by the proposed program including a map (include the map in the attachments), and specifically describe the office space and how it is going to be paid for.

(3) Describe the applicant's user population. The applicant must demonstrate AI/ANs will be served and must be substantiated by documentation describing IHS user populations, United States Census Bureau data, clinical catchment data, or any method that is scientifically and epidemiologically valid.

B. Project Objective(s), Work Plan and Approach (45 Points)

(1) State in measurable and realistic terms the objectives and appropriate activities to achieve each objective for the projects under the Substantial Involvement Description for Cooperative Agreement, Section B. Grantee Cooperative Agreement Award Activities located on page 8.

(2) Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

(3) Include a work-plan for each objective that indicates when the objectives and major activities will be accomplished and who will conduct the activities.

C. Program Evaluation (10 Points)

(1) Define the criteria to be used to evaluate activities listed in the work-plan under the Substantial Involvement Description for Cooperative Agreement, Section B. Grantee Cooperative Agreement Award Activities located on page 8.

(2) Explain the methodology that will be used to determine if the needs identified for the objectives are being met and if the outcomes identified are being achieved.

(3) Describe how evaluation findings will be disseminated to stakeholders, including the Indian Health Service.

D. Organizational Capabilities, Key Personnel and Qualifications (15 Points)

(1) Explain both the management and administrative structure of the organization including documentation of current certified financial management systems from the Bureau of Indian Affairs, IHS, or a Certified Public Accountant and an updated organizational chart (include in appendix).

(2) Describe the ability of the organization to manage a program of the proposed scope.

(3) Provide position descriptions and biographical sketches of key personnel, including those of consultants or contractors in the Appendix. Position descriptions should very clearly describe each position and its duties, indicating desired qualification and experience requirements related to the project. Resumes should indicate that the proposed staff is qualified to carry out the project activities. Applicants with expertise in epidemiology will receive priority.

E. Categorical Budget and Budget Justification (5 Points)

(1) The five points for Categorical Budget only applies to Year 1. Provide a line item budget and budget narrative for Year 1.

(2) Provide a justification by line item in the budget including sufficient cost and other details to facilitate the determination of cost allowance and relevance of these costs to the proposed project. The funds requested should be appropriate and necessary for the scope of the project.

(3) If use of consultants or contractors are proposed or anticipated, provide a detailed budget and scope of work that clearly defines the deliverables or outcomes anticipated.

(4) Applicant is encouraged to submit a line item budget and budget narrative by category for years 2–3 as an appendix to show the three-year plan of the proposal.

Multi-Year Project Requirements

Projects requiring a second, or third year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Additional Documents Can be Uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.,* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS Program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, regarding minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions

in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget and project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 65, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications retained by DGM for a period of one year. If additional funding becomes available during the course of FY 2018 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in Section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of the expiration of the period of performance.

B. Financial Reports

Federal Financial Report (FFR or SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at *https://pms.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the period of performance is made up of more than one budget period) and where: (1) The period of performance start date was

October 1, 2010 or after, and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy website at *http://www.ihs.gov/dgm/policytopics/.*

D. Compliance With Executive Order 13166 Implementation of Services

Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html;* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under Federal civil rights laws at *https://www.hhs.gov/ocr/about-us/contact-us/index.html* or call (800) 368–1019 or TDD (800) 537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his or her exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS. Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following website: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW, Washington, DC 20201.

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-Federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, Attn: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, (Include ''Mandatory Grant Disclosures'' in subject line). Office: (301) 443–5204, Fax: (301) 594–0899, Email: *Robert.Tarwater@ihs.gov AND* U.S. Department of Health and Human Services, Office of Inspector General, Attn: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, URL: *http://oig.hhs.gov/fraud/report-fraud/index.asp* (Include ''Mandatory Grant Disclosures'' in subject line). *Fax:* (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or Email: *MandatoryGranteeDisclosures@oig.hhs.gov*.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 and 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Lisa C. Neel, Public Health Advisor, Office of Public Health Support, Division of Epidemiology & Disease Prevention, Indian Health Service, 5600 Fishers Lane, Mailstop: 09E17B, Rockville, MD 20857, Phone: (301) 443–4305, Email: *Lisa.Neel@ihs.gov*.

2. Questions on grants management and fiscal matters may be directed to: John Hoffman, Senior Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2116, Fax: (301) 594–0899, Email: *John.Hoffman@ihs.gov*.

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov*.

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a

smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: August 10, 2018.

Michael D. Weahkee,

RADM, Assistant Surgeon General, U.S. Public Health Service, Acting Director, Indian Health Service.

[FR Doc. 2018–17564 Filed 8–14–18; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Initial Review Group; Mental Health Services Research Committee.

Date: October 15, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW, Washington, DC 20037.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6136, MSC 9606, Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 9, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–17474 Filed 8–14–18; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID; Clinical Trial Planning Grant (R34).

Date: September 5, 2018.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892. (Telephone Conference Call).

Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room # 3F30A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5028, *ebuczko1@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID; Clinical Trial Planning Grant (R34).

Date: September 5, 2018.

Time: 1:00 p.m. to 2:30 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: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room # 3F30A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5028, *ebuczko1@niaid.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: August 9, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–17477 Filed 8–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topic in Nephrology.

Date: August 22, 2018.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@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.

(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: August 9, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–17472 Filed 8–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA's) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet on September 17, 2018, 2:00 p.m.–3:00 p.m. (EDT) in a closed teleconference meeting.

The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the SAMHSA Assistant Secretary for Mental Health and Substance Use in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and Title 5 U.S.C. App. 2, 10(d).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee website at *http://www.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council* or by contacting the CSAT National Advisory Council Designated Federal Officer; Tracy Goss (see contact information below).

Council Name: SAMHSA's Center for Substance Abuse Treatment, National Advisory Council.

Date/Time/Type: September 17, 2018, 2:00 p.m.–3:00 p.m. EDT, Closed.

Place: SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Tracy Goss, Designated Federal Officer, CSAT National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–0759, Fax: (240) 276–2252, Email: *tracy.goss@samhsa.hhs.gov*.

Summer King,

Statistician, SAMHSA.

[FR Doc. 2018–17528 Filed 8–14–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (Sulphur, LA), as a Commercial Gauger and Laboratory

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Sulphur, LA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Sulphur, LA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 10, 2017.

DATES: Intertek USA, Inc. (Sulphur, LA) was accredited and approved, as a commercial gauger and laboratory as of May 10, 2017. The next triennial inspection date will be scheduled for May 2020.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 2717 Maplewood Dr., Sulphur, LA 70663 has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
5	Metering.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
14	Natural Gas Fluids Measurement.
17	Marine Measurement.

Intertek USA, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D 4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D 5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27–58	D 5191	Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: August 6, 2018.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2018–17520 Filed 8–14–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–26514]

Revision of Agency Information Collection Activity Under OMB Review: Rail Transportation Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0051, abstracted below to OMB for review and approval of a revision of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of contact information of rail security coordinators (RSCs) and alternate RSCs from certain freight rail and passenger rail entities; reporting of significant security concerns, to include a new electronic reporting pilot option, in addition to existing telephonic reporting; documenting the transfer of custody and control of certain hazardous materials rail cars; and providing location and shipping information for certain hazardous materials rail cars.

DATES: Send your comments by September 14, 2018. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on March 9, 2018, 83 FR 10511.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

Title: Rail Transportation Security.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 1652–0051.

Forms(s): NA.

Affected Public: Rail and shippers/receivers of certain hazardous materials.

Abstract: TSA requires freight railroad carriers and certain facilities handling specified categories and quantities of hazardous materials be able to report location and shipping information to TSA upon request. These regulated carriers and facilities must also implement chain of custody and control requirements to ensure a positive and secure exchange of the specified categories and quantities of hazardous materials listed in 49 CFR 1580.100(b), and make the reports available to TSA upon request. TSA further collects information from regulated parties on Rail Security Coordinators and significant security concerns telephonically. TSA is revising the collection to introduce an electronic reporting pilot option for significant security concerns.

Number of Respondents: 1760.

Estimated Annual Burden Hours: An estimated 112,764 hours annually.

Dated: August 9, 2018.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2018–17551 Filed 8–14–18; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0026]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Immigrant Petition by Alien Entrepreneur

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 14, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number [1615–0026] in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on May 4, 2018, at 83 FR 19798, allowing for a 60-day public comment period. USCIS did receive three comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0021 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigrant Petition by Alien Entrepreneur.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–526; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses Form I–526 to determine if an alien can enter the U.S. to engage in commercial enterprise.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–526 is 11,460 and the estimated hour burden per response is 1.83 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 20,972 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $745,338.

Dated: August 9, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–17536 Filed 8–14–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0133]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Reduced Fee

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 14, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number [1615–0133] in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at

the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on April 27, 2018, at 83 FR 18583, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2018–0002 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Reduced Fee.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–942; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the data collected on this form to verify that the applicant is eligible for a reduced fee for the immigration benefit being requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–942 is 4,491 and the estimated hour burden per response is 0.75 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,368 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $19,087.

Dated: August 9, 2018.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–17534 Filed 8–14–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0087]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Citizenship and Issuance of Certificate Under Section 322

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 14, 2018.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0087 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on May 4, 2018, at 83 FR 19797, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0019 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Citizenship and Issuance of Certificate under Section 322.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600K; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–600K is used by children who regularly reside in a foreign country to claim U.S. citizenship based on eligibility criteria met by their U.S. citizen parent(s) or grandparent(s). The form may be used by both biological and adopted children under age 18. USCIS uses information collected on this form to determine that the child has met all of the eligibility requirements for naturalization under section 322 of the Immigration and Nationality Act (INA). If determined eligible, USCIS will naturalize and issue the child a Certificate of Citizenship before the child reaches age 18.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–600 is 3,000 and the estimated hour burden per response is 2.08 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 6,240 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $367,500.

Dated: August 9, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–17532 Filed 8–14–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0053]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Certification of Military or Naval Service

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 14, 2018.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0053 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on May 29, 2018, at 83 FR 24486, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0016 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–426; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Form N–426 is used by naturalization applicants to document honorable service in the U.S. Armed Forces. The form is filed with U.S. Citizenship and Immigration Services (USCIS) when the respondent applies

for naturalization with USCIS Form N–400, Application for Naturalization (OMB Control Number 1615–0052). The Department of Defense (DOD) record centers or personnel offices verify and certify the applicant's military or naval service information provided on Form N–426. USCIS reviews the form as part of the process to determine the applicant's eligibility for naturalization. USCIS also collects biometric information from respondents to verify their identity and check or update their background information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–426 is 10,000 and the estimated hour burden per response is .75 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 7,500 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $245,000.

Dated: August 9, 2018

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–17530 Filed 8–14–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0101]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Document Verification Request and Supplement

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 15, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0101 in the body of the letter, the agency name and Docket ID USCIS–2008–0008. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0008;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0008 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Document Verification Request and Supplement.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form G–845; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, local or Tribal Government.

In the verification process, a participating agency validates an applicant's immigration status by inputting identifying information into the Verification Information System (VIS), which executes immigration status queries against a range of data sources. If VIS returns an immigration status and the benefit-issuing agency does not find a material discrepancy with the response and the documents provided by the applicant, the verification process is complete. Then, the agency may use that immigration status information to determine whether to issue the benefit.

If VIS does not locate a record pertaining to the applicant during an electronic initial verification, a second step additional verification must be requested by the agency, so that a Status Verifier can manually check the records. If the Status Verifier cannot determine status during the second step additional verification, they will request the agency to submit a copy of the applicant's immigration document. The immigration document can be submitted using scan and upload or by attaching it to a Form G–845 and mailing it to the Status Verifier.

Applicants may check on the processing of additional verification through the SAVE Case Check web portal, found at *http://www.uscis.gov/save/save-case-check.* SAVE Case Check permits applicants to use the SAVE verification numbers associated with their benefit applications or the immigration identification numbers and dates of birth provided to those benefit granting agencies to access this information.

In limited cases, agencies may query USCIS by filing Form G–845 by mail. Although the Form G–845 does not require it, if needed, certain agencies may also file the Form G–845 Supplement with the Form G–845, along with copies of immigration documents to receive additional information necessary to make their benefit determinations. These forms were developed to facilitate communication between all benefit-granting agencies and USCIS to ensure that basic information required to assess status verification requests is provided.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–845 Verification Request is 162,106 and the estimated hour burden per response is 0.083 hours; for the information collection VIS Query the estimated total number of respondents is 23,293,981 and the estimated hour burden per response is 0.17 hours; for the information collection G–845, Verification Request Supplement, the estimated total number of respondents is 7,122 and the estimated hour burden per response is 0.083 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,974,023 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $141,236,767.

Dated: August 9, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–17535 Filed 8–14–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0057]

Agency Information Collection Activities: Revision of a Currently Approved Collection: Application for Certificate of Citizenship

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 15, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0057 in the body of the letter, the agency name and Docket ID USCIS–2006–0023. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0023;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on May 4, 2018, at 83 FR 19796, allowing for a 60-day public comment period. USCIS is publishing a second Notice allowing for a 60-day comment period to allow for comments on additional changes to the form and instructions.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0023 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–600 collects information from respondents who are requesting a Certificate of Citizenship because they acquired United States citizenship either by birth abroad to a U.S. citizen parent(s), adoption by a U.S. citizen parent(s) or after meeting eligibility requirements after the naturalization of a foreign born parent. This form is also used by applicants requesting a Certificate of Citizenship because they automatically became a citizen of the United States after meeting eligibility requirements for acquisition of citizenship by foreign born children. Form N–600 can also be filed by a parent or legal guardian on behalf of a minor child. The form standardizes requests for the benefit, and ensures that basic information required to assess eligibility is provided by applicants.

USCIS uses the information collected on Form N–600 to determine if a Certificate of Citizenship can be issued to the applicant. Citizenship acquisition laws have changed throughout the history of the INA and different laws apply to determine whether the applicant automatically became a U.S. citizen. However, step children cannot acquire U.S. citizenship under any provision of the INA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–600 is 67,000 and the estimated hour burden per response is 1.58 hours; the estimated total number of respondents for the information collection Biometrics is 67,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 184,250 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $8,207,500.

Dated: August 9, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–17533 Filed 8–14–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2018–N097; FXES11140400000–178–FF04EF2000]

Endangered and Threatened Wildlife; Incidental Take Permit Application, Habitat Conservation Plan for the Alabama Beach Mouse, and Environmental Assessment for Gulf Place East Parking Lot in Gulf Shores, AL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application for an incidental take permit (ITP) under the Endangered Species Act. The city of Gulf Shores, Alabama, is requesting a 30-year ITP for take of the federally listed Alabama beach mouse incidental to construction. We request public comments on the permit application, which includes a proposed habitat conservation plan, and an environmental assessment prepared in accordance with the National Environmental Policy Act.

DATES: To ensure consideration, please send your written comments by September 14, 2018.

ADDRESSES: You may submit written comments and request copies of the application, including the HCP, and the EA by any one of the following methods:

U.S. mail: Alabama Ecological Services Office, Attn: Permit number TE84363C; U.S. Fish and Wildlife Service; 1208 Main Street, Daphne, AL 36526; or Atlanta Regional Office, Attn: Permit number TE84363C; U.S. Fish and Wildlife Service; 1875 Century Boulevard, Atlanta, GA 30345.

In-person: You may deliver comments during regular business hours at either of the office addresses listed above under *U.S. mail.* You may inspect the application, HCP, and EA by appointment during normal business hours at the same locations.

Email: You may email comments to *david_dell@fws.gov.* Please include your name and email address in your email message. Use ''Attn: Permit number TE84363C'' in the subject line of your email message. If you do not receive an email from us confirming that we received your email message, contact us directly at either telephone number in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, at the Atlanta Regional Office (see **ADDRESSES**) or by telephone at 404–679–7313, or Mr. William Lynn, Project Manager, at the Alabama Ecological Services Office (see **ADDRESSES**) or by telephone at 251–441–5868. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), have received an application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The city of Gulf Shores, Alabama (applicant), is requesting a 30-year ITP for take of the federally listed Alabama beach mouse (*Peromyscus polionotus ammobates*) (covered species) incidental to the construction of the Gulf Place East parking lot and amenities on a 4.14-acre property in Gulf Shores, Baldwin County, Alabama. We request public comments on the permit application, which includes a proposed habitat conservation plan (HCP), and an environmental assessment (EA) prepared in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

The applicant's HCP describes the activities that will be undertaken to construct the parking lot, as well as the mitigation and minimization measures proposed to address the impacts to the covered species. Pursuant to NEPA, the EA analyzes the impacts that ITP issuance would have on the covered species and the environment.

Environmental Assessment

The EA assesses the likely environmental impacts associated with

the implementation of the activities described in the HCP (proposed action), including the consequences of the no-action alternative, the construction of the parking lot with no conservation measures alternative, and the proposed action. The proposed action also includes issuance of the ITP and implementation of the HCP as submitted by the applicant. The applicant anticipates that the proposed action would result in the loss of approximately 0.89 acres of occupied Alabama beach mouse habitat within the 1.40-acre footprint of the project.

Habitat Conservation Plan

The HCP covered area consists of 4.14 acres of land owned by the applicant. The HCP includes measures to avoid, minimize, and mitigate impacts to the Alabama beach mouse from construction of the parking lot. To minimize impacts to the covered species and its habitat, the applicant reduced the footprint of the parking lot. Other avoidance, minimization, and mitigation measures include, but are not limited to, trapping and relocating the species, dune enhancement and restoration, installation of sand fencing, and creation of a dune enhancement fund. The dune enhancement fund would be used to enhance habitat elsewhere within the city limits of Gulf Shores where Alabama beach mice may be found.

Public Comments

If you wish to comment on the permit application, HCP, or EA, you may submit comments by any one of the methods listed in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Next Steps

We will evaluate the HCP, EA, and your comments to determine whether the ITP application meets the permit issuance requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA. If the requirements for permit issuance are met, we will issue ITP number TE84363C–0 to the applicant for incidental take of the Alabama beach mouse.

Authority

We provide this notice under section 10 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the ESA's regulations, the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Mike Oetker,

Acting Regional Director.

[FR Doc. 2018–17606 Filed 8–14–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/ A0A501010.999900253G]

Indian Gaming; Tribal-State Class III Gaming Compact Taking Effect in the State of California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The notice announces that the Tribal-State Compact between the State of California and the Elk Valley Rancheria is taking effect.

DATES: This compact takes effect on August 15, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by IGRA and 25 CFR 293.4, all compacts are subject to review and approval by the Secretary. The Secretary took no action on the compact between the Elk Valley Rancheria and the State of California within 45 days of its submission. Therefore, the Compact is considered to have been approved, but only to the extent the Compact is consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

Dated: August 9, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–17548 Filed 8–14–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189 A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Extension of Tribal-State Class III Gaming Compact (Rosebud Sioux Tribe and the State of South Dakota)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compact between the Rosebud Sioux Tribe and the State of South Dakota.

DATES: The extension takes effect on August 15, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: An extension to an existing tribal-state Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. 25 CFR 293.5. The Rosebud Sioux Tribe and the State of South Dakota have reached an agreement to extend the expiration date of their existing Tribal-State Class III gaming compact to January 23, 2019. This publishes notice of the new expiration date of the compact.

Dated: August 9, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–17550 Filed 8–14–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT030000.L17110000.DJ0000.LXSS03 7J0000]

Notice of Termination of the Livestock Grazing Monument Management Plan Amendment and Environmental Impact Statement, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Termination.

SUMMARY: The preparation of an Environmental Impact Statement (EIS) associated with the Livestock Grazing Monument Management Plan Amendment for the Grand Staircase Escalante National Monument (GSENM) is superseded by a Monument Plan

Revision and therefore is no longer required. The process is hereby terminated.

DATES: Termination of the EIS process for a Livestock Grazing Monument Management Plan Amendment takes effect immediately.

FOR FURTHER INFORMATION CONTACT: Matt Betenson, Associate Monument Manager, telephone (435) 644–1200; address: 669 S Hwy 89A, Kanab, UT 84741; email: *mbeternso@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: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Bureau of Land Management (BLM) announced its intent to prepare an EIS. The Notice of Intent was published in the **Federal Register** on November 4, 2013. The Plan Amendment would have considered modifying land use decisions associated with livestock grazing within the GSENM and portions of the Kanab Field Office, Arizona Strip Field Office, as well as lands managed by the National Park Service in the Glen Canyon National Recreation Area where GSENM administers grazing.

In 2013, the BLM determined that planning level decisions associated with livestock grazing may need to be modified and initiated a Plan Amendment effort. On December 4, 2017, Presidential Proclamation 9682 modified the boundaries of the GSENM. As a result of the boundary modification, the BLM has initiated a full Resource Management Plan (RMP) revision for the BLM-administered lands that were previously part of this analysis. The RMP revision will include consideration of livestock grazing in its planning-level decisions. The NOI for the RMP Revision was published on January 16, 2018.

The amendment for livestock grazing is no longer necessary and the BLM hereby terminates preparation of the Livestock Grazing Monument Management Plan Amendment and associated EIS.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Edwin L. Roberson,

State Director.

[FR Doc. 2018–17611 Filed 8–14–18; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV952000 L14400000.BJ0000. LXSSF2210000.241A; 13–08807; MO #4500124382; TAS: 14X1109]

Filing of Plats of Survey; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

DATES: Unless otherwise stated filing is applicable at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Michael O. Harmening, Chief Cadastral Surveyor for Nevada, Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV 89502–7147, phone: 775–861–6490. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS 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: 1. The Supplemental Plat of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on April 04, 2018:

The supplemental plat, in one sheet, showing a subdivision of lots 2, 3, and 4, section 34, Township 20 South, Range 54 East, Mount Diablo Meridian, Nevada, under Group No. 981, was accepted April 3, 2018. This supplemental plat was prepared to meet certain administrative needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on April 12, 2018:

The plat, in one sheet, representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, and the subdivision of section 33 and a metes-and-bounds survey of the easterly and westerly right-of-way lines of the Nevada Northern Railway Hiline through a portion of section 33, Township 18 North, Range 64 East, Mount Diablo Meridian, Nevada, under Group No. 854, was accepted on April 09, 2018. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

3. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on May 04, 2018:

The plat, in one sheet, representing the entire records of the corrective dependent resurvey of a portion of the south boundary, Township 43 North, Range 26 East, Mount Diablo Meridian, Nevada, under Group No. 970, was accepted on May 03, 2018. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on May 04, 2018:

The plat in two sheets, representing the entire records of the dependent resurvey of a portion of the subdivisional lines, and Mineral Survey No. 4864, Township 42 North, Range 62 East, Mount Diablo Meridian, Nevada, under Group No. 969, was accepted on May 02, 2018. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

5. The Plat of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on May 11, 2018:

The plat in one sheet, representing the dependent resurvey of a portion of the subdivisional lines, Township 7 South, Range 56 East, Mount Diablo Meridian, Nevada, under Group No. 980, was accepted on May 09, 2018. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

6. The Supplemental Plat of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on June 18, 2018:

The supplemental plat in one sheet, showing the subdivision of lots 15 and 16, section 20, Township 19 South, Range 62 East, Mount Diablo Meridian, Nevada, under Group No. 985, was accepted June 14, 2018. This supplemental plat was prepared to meet certain administrative needs of the Bureau of Land Management.

The survey and supplemental plats listed above, are now the basic record for describing the lands for all authorized purposes. These records have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: August 9, 2018.

Michael O. Harmening,

Chief Cadastral Surveyor for Nevada.

[FR Doc. 2018–17608 Filed 8–14–18; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Request for New Information Collection Under the Paperwork Reduction Act: Stakeholders Surveys

AGENCY: National Indian Gaming Commission, Department of the Interior.

ACTION: 60-Day notice of request for comments.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) offers the general public and other federal agencies the opportunity to comment on a new proposed generic information collection, *i.e.,* voluntary stakeholders surveys to be conducted by the NIGC. As required by the Paperwork Reduction Act of 1995 as amended by the Clinger-Cohen Act, the NIGC is soliciting comments for this proposed collection.

DATES: Submit comments on or before October 15, 2018.

ADDRESSES: Comments can be mailed, faxed, or emailed to the attention of: Tim Osumi, National Indian Gaming Commission, 1849 C Street NW, Mail Stop #1621, Washington, DC 20240. Comments may be faxed to (202) 632–7066 and may be sent electronically to *info@nigc.gov*, subject: PRA renewals.

FOR FURTHER INFORMATION CONTACT: Tim Osumi at (202) 632–7054; fax (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701, *et seq.,* laid out a comprehensive framework for the regulation of gaming on Indian lands. Amongst other actions necessary to carry out the Commission's statutory duties, the Act directs the Commission to provide trainings and technical assistance to tribal gaming operations regulated by IGRA. 25 U.S.C. 2706(d)(2).

The Commission is requesting a new clearance to conduct voluntary stakeholder surveys in order to: (i) Determine the stakeholders' satisfaction with the level(s) of service, trainings, and/or technical assistance provided by the Commission; (ii) identify any perceived weaknesses in those services, trainings, and/or technical assistance; (iii) seek any other information on the service, training, and/or technical assistance received; (iv) seek suggestions on improving the product or its format; and (v) seek suggestions for other services, trainings, and/or technical assistance. This new collection will be voluntary and the information gleaned from these surveys will be used to help direct service, training, and/or technical assistance improvement efforts, and to assist the Commission in better identifying the needs of its stakeholders. The Commission will take precautions to ensure that the respondents are aware that they are not under any risk for not responding or for the content of their responses.

The NIGC is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB control number. It is the Commission's policy to make all comments available to the public for review at its headquarters, located at 90 K Street NE, Suite 200, Washington, DC 20002. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask in your comment that the Commission withhold your personal identifying information from public review, the Commission cannot guarantee that it will be able to do so.

Analysis

Title: Voluntary Stakeholders Surveys.

Affected Public: Tribal governing bodies.

Frequency: Twice annually.

Number of Respondents: 257.

Annual Responses: 514.

Estimated Time per Respondent: 15 minutes.

Burden Hours: 129.

Dated: August 3, 2018.

Christinia Thomas,

Chief of Staff (A).

[FR Doc. 2018–17129 Filed 8–14–18; 8:45 am]

BILLING CODE 7565–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–609 and 731–TA–1421 (Preliminary)]

Steel Trailer Wheels From China; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–609 and 731–TA–1421 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of steel trailer wheels from China, provided for in subheading 8716.90.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by September 24, 2018. The Commission's views must be

transmitted to Commerce within five business days thereafter, or by October 1, 2018.

DATES: August 8, 2018.

FOR FURTHER INFORMATION CONTACT: Jordan Harriman (202) 205–2610, Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on August 8, 2018, by Dexstar Wheel, Elkhart, Indiana.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, August 29, 2018, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Requests to appear at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before August 27, 2018. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before September 4, 2018, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations 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 these or related investigations or reviews, 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: August 9, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–17471 Filed 8–14–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–608 and 731–TA–1420 (Preliminary)]

Steel Racks From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of steel racks from China that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of China.[2] [3]

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] *Steel Racks From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation* 83 FR 33195 (July 17, 2018) and *Certain Steel Racks From the People's Republic of China: Initiation of Countervailing Duty Investigation* 83 FR 33201 (July 17, 2018).

[3] Commissioner Meredith M. Broadbent not participating.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On June 20, 2018, the Coalition for Fair Rack Imports [4] filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of steel racks from China and LTFV imports of steel racks from China. Accordingly, effective June 20, 2018, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701–TA–608 and antidumping duty investigation No. 731–TA–1420 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 26, 2018 (83 FR 29822). The conference was held in Washington, DC, on July 11, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on August 6, 2018. The views of the Commission are contained in USITC Publication 4811 (August 2018), entitled *Steel Racks from China: Investigation Nos. 701–TA–608 and 731–TA–1420 (Preliminary).*

By order of the Commission.

Issued: August 9, 2018.

Lisa Barton,

Secretary to the Commission.

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[4] Members of the Coalition are Bulldog Rack Company, Weirton, West Virginia; Hannibal Industries, Inc., Los Angeles, California; Husky Rack and Wire, Denver, North Carolina; Ridg-U-Rak, Inc., North East, Pennsylvania; SpaceRAK, A Division of Heartland Steel Products, Inc., Marysville, Michigan; Speedrack Products Group, Ltd., Sparta, Michigan; Steel King Industries, Inc., Stevens Point, Wisconsin; Tri-Boro Shelving & Partition Corp., Farmville, Virginia; and UNARCO Material Handling, Inc., Springfield, Tennessee.

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. The Walt Disney Company, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Southern District of New York in *United States of America* v. *The Walt Disney Company, et al.,* Civil Action No. 1:18–cv–05800. On June 27, 2018, the United States filed a Complaint alleging that The Walt Disney Company's proposed acquisition of certain assets from Twenty-First Century Fox, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires The Walt Disney Company to divest Fox's interests in the following regional sports networks: (i) Fox Sports Arizona; (ii) Fox Sports Carolinas; (iii) Fox Sports Detroit; (iv) Fox Sports Florida; (v) Fox Sports Indiana; (vi) Fox Sports Kansas City; (vii) Fox Sports Midwest; (viii) Fox Sports New Orleans; (ix) Fox Sports North; (x) Fox Sports Ohio; (xi) SportsTime Ohio; (xii) Fox Sports Oklahoma; (xiii) Fox Sports San Diego; (xiv) Fox Sports South; (xv) Fox Sports Southeast; (xvi) Fox Sports Southwest; (xvii) Fox Sports Sun; (xviii) Fox Sports Tennessee; (xix) Fox Sports West; (xx) Prime Ticket; (xxi) Fox Sports Wisconsin; and (xxii) the YES Network.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the Southern District of New York. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Owen M. Kendler, Chief, Media, Entertainment, and Professional Services Section, Antitrust Division, Department of Justice, Washington, DC 20530, (telephone: 202–305–8376).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the Southern District of New York

United States of America, Plaintiff, v. *The Walt Disney Company*, and *Twenty-First Century Fox, Inc.*, Defendants.

Civil Action No.: 1:18-cv-05800 (CM)(KNF)

COMPLAINT

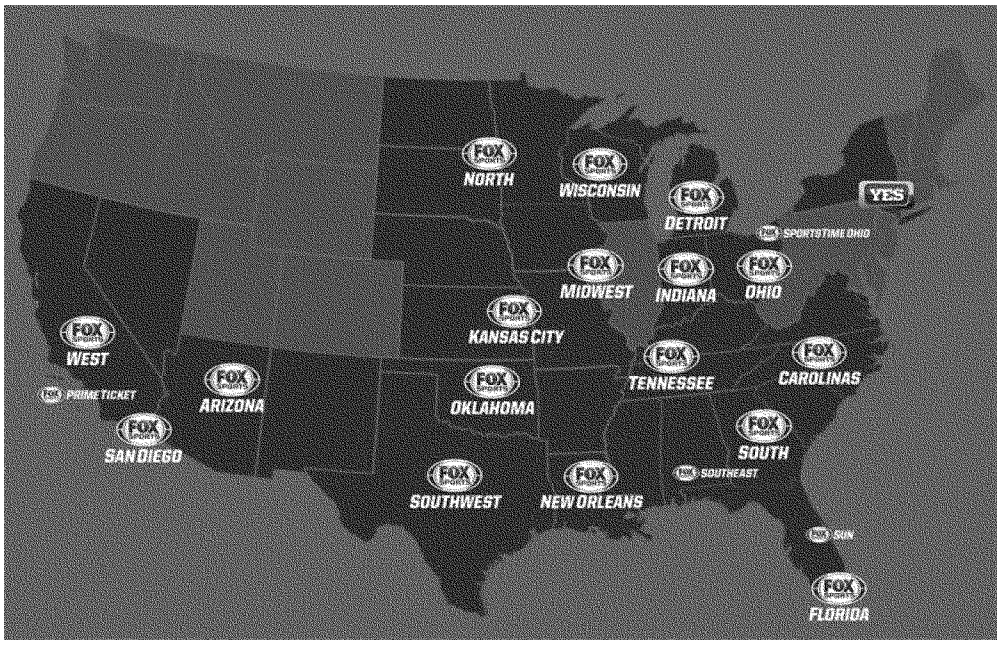
The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to enjoin the acquisition by The Walt Disney Company (''Disney'') of certain assets and businesses of Twenty-First Century Fox, Inc. (''Fox'') and to obtain other equitable relief.

I. NATURE OF THE ACTION

1. Cable sports programming is one of the most popular forms of entertainment in the United States. Disney's proposed acquisition of Fox's assets would combine two of the country's most valuable cable sports properties—Disney's ESPN franchise of networks and Fox's portfolio of Regional Sports Networks (''RSNs'')—and thereby likely substantially lessen competition in the multiple Designated Market Areas (''DMAs'') throughout the United States in which these two firms compete.

2. Pursuant to an Agreement and Plan of Merger dated December 13, 2017, as amended on June 20, 2018, Disney agreed to acquire certain assets and businesses, including Fox's ownership

of or interests in its RSNs, FX cable networks, National Geographic cable networks, television studio, Hulu, film studio, and international television businesses, (the ''Sale Assets'') from Fox for approximately $71.3 billion (the ''Transaction''). Fox operates and proposes to sell to Disney its interests in the following RSNs: (i) Fox Sports Arizona, (ii) Fox Sports Carolinas, (iii) Fox Sports Detroit, (iv) Fox Sports Florida, (v) Fox Sports Indiana, (vi) Fox Sports Kansas City, (vii) Fox Sports Midwest, (viii) Fox Sports New Orleans, (ix) Fox Sports North, (x) Fox Sports Ohio, (xi) SportsTime Ohio, (xii) Fox Sports Oklahoma, (xiii) Fox Sports San Diego, (xiv) Fox Sports South, (xv) Fox Sports Southeast, (xvi) Fox Sports Southwest, (xvii) Fox Sports Sun, (xviii) Fox Sports Tennessee, (xix) Fox Sports West, (xx) Prime Ticket, (xxi) Fox Sports Wisconsin, and (xxii) the YES Network.



3. An RSN is a cable network that telecasts live games of one or more local professional sports team—i.e., a ''home'' team or teams within that particular region. An RSN's contract with a local sports team typically provides the RSN with the exclusive rights, within a team's local region, to telecast live nearly all that team's games. Collectively, the Fox RSNs are the largest group of commonly controlled RSNs. In the aggregate, the Fox RSNs have approximately 61 million subscribers across the country and have rights to telecast live games of 44 of 91 (48%) U.S. professional sports teams in three of the four major sports leagues: Major League Baseball (''MLB''), the National Basketball Association (''NBA'') and the National Hockey League (''NHL''). More specifically, the Fox RSNs have the local rights to 15 of 30 (50%) MLB teams, 17 of 30 (57%) NBA teams, and 12 of 31 (39%) NHL teams.

4. Cable sports television networks—including RSNs—compete to be carried in the programming packages that multichannel video programming distributors (''MVPDs''), such as Comcast, Charter, DISH, and FiOS, offer to their subscribers. For RSNs, the carriage license typically is limited to the DMAs comprising the ''home'' territory of the team or teams carried on the RSN; whereas, licenses for national television networks typically comprise all DMAs in a MVPD's footprint. Disney's and Fox's cable sports television programming compete head-to-head to be carried on MVPDs in all the DMAs where Fox's RSNs are located: Phoenix, Arizona; Detroit, Michigan; Milwaukee, Wisconsin; Cleveland, Ohio; Cincinnati, Ohio; Columbus, Ohio; Miami, Florida; Oklahoma City, Oklahoma; Tampa Bay, Florida; Dallas, Texas; St. Louis, Missouri; Atlanta, Georgia; Indianapolis, Indiana; Orlando, Florida; San Antonio, Texas; Minneapolis, Minnesota; Nashville, Tennessee; Memphis, Tennessee; San Diego, California; Raleigh-Durham, North Carolina; New Orleans, Louisiana; Kansas City, Kansas; Charlotte, North Carolina; Los Angeles, California; and New York, New York (collectively, the ''DMA Markets'').

5. If consummated, the proposed acquisition would eliminate the substantial head-to-head competition that currently exists between Disney and Fox and would likely result in higher prices for cable sports programming in each of the DMA Markets. Consequently, Defendants' proposed Transaction likely would substantially lessen competition in those markets in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. JURISDICTION, VENUE, AND COMMERCE

6. The United States brings this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, to prevent and restrain Disney and Fox from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

7. The Court has subject-matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

8. Disney and Fox are engaged in interstate commerce and in activities substantially affecting interstate commerce. They each license programming to MVPDs located across the country in exchange for license, or ''affiliate,'' fees. They each own and operate television networks that are distributed to viewers throughout the United States. Their television programming licenses have had a substantial effect on interstate commerce.

9. Defendants have consented to venue and personal jurisdiction in this

District. Venue is also proper in this District under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(c).

III. THE DEFENDANTS

10. Disney is a Delaware corporation headquartered in Burbank, California. It reported revenue of $55 billion for fiscal year 2017. Disney owns various television programming assets, including 80% of ESPN—a sports entertainment company that operates several domestic sports television networks. Disney's other television programming assets include: (i) the ABC television network; (ii) eight owned-and-operated ABC broadcast stations; (iii) Disney-branded television networks; and (iv) Freeform, a television network geared toward teenagers and young adults.

11. Fox is a Delaware corporation headquartered in New York, New York. It reported revenue of $28.5 billion for fiscal year 2017. The Fox Sale Assets, which include several television programing assets and all of the Fox RSNs, generated $19 billion in revenue for fiscal year 2017.

IV. RELEVANT MARKETS

12. The licensing of cable sports programming to MVPDs constitutes a relevant product market and line of commerce under Section 7 of the Clayton Act. This includes licensing to both MVPDs and virtual MVPDs. Cable sports programming includes cable networks that devote a substantial portion of programming time to airing live sports events, such as MLB games.

13. The DMA Markets constitute geographic markets under Section 7 of the Clayton Act. A DMA is a geographical unit for which A.C. Nielsen Company—a firm that surveys television viewers—furnishes MVPDs, among others, with data to aid in evaluating audience size and composition in a particular area. DMAs are widely accepted by MVPDs as the standard geographic area to use in evaluating television audience size and demographic composition. The Federal Communications Commission also uses DMAs as geographic units with respect to its MVPD regulations.

14. Disney and Fox license cable sports programming to MVPDs in each of the DMA Markets in which MVPDs provide programming to subscribers as part of bundled channel packages. Disney's and Fox's cable sports programming in each of the DMA Markets generates a significant amount of revenue through licensing fees to MVPDs in those markets.

15. Sports programming is important to MVPDs because sports viewers comprise an important customer group for MVPDs, and MVPDs could not attract many of these sports viewers without including sports television programming in the MVPDs' packages of available networks.

16. For MVPDs, sports programming on broadcast television is unlikely a sufficient substitute for cable sports programming. MVPDs do not typically consider broadcast networks as providing the same type of content as cable networks like ESPN and the RSNs. Broadcast networks and their affiliates aim to have broad appeal by offering a variety of highly-rated programming content including primetime entertainment shows, syndicated shows, and local and national news and weather in addition to sports, with marquee sports events making up a small percentage of a broadcast network's airtime. For that reason, MVPDs do not typically consider broadcast network programming as a replacement for cable sports programming.

17. Accordingly, a hypothetical monopolist of all cable sports programming in a DMA Market likely would profitably increase licensing fees to MVPDs in that DMA Market by at least a small but significant amount.

V. LIKELY ANTICOMPETITIVE EFFECTS

18. The cable sports programming market in nearly all of the DMA Markets is already highly concentrated. As a result of the Transaction, Disney's networks would account for at least 60 percent of cable sports programming revenue in 19 of the DMA Markets and over 45 percent in the remaining six DMA Markets. Consequently, bringing Disney's ESPN networks and Fox's RSNs under common ownership would significantly concentrate the cable sports programming market in each of the DMA Markets.

19. Market concentration is often a useful indicator of the likely competitive effects of a merger. The more concentrated a market, and the more a transaction would increase concentration in a market, the more likely it is that the transaction would result in a meaningful reduction in competition that harms consumers.

20. The Herfindahl-Hirschman Index (''HHI'') is a standard measure of market concentration. Under the *Horizontal Merger Guidelines* issued by the Department of Justice and the Federal Trade Commission, mergers resulting in highly concentrated markets (with an HHI in excess of 2,500) that involve an increase in the HHI of more than 200 points are presumed to be likely to enhance market power.

21. Using 2017 gross cable sports programming revenue, in each of the DMA Markets, the combination of Disney and the Fox Sale Assets would result in HHIs in excess of 2,500 and involve an increase in the HHI of more than 200. Therefore, in each DMA Market, the HHI levels are above the thresholds at which a merger is presumed likely to enhance market power.

22. For example, in the Detroit DMA Market, where Fox operates Fox Sports Detroit, the Transaction would result in a post-merger HHI of over 4,000 with an increase of over 1,400. Therefore, in this market, the Transaction results in a presumptively anticompetitive level of concentration. Similarly, the Transaction would result in presumptively anticompetitive levels of concentration in each of the other DMA Markets.

23. In addition to substantially increasing concentration levels in each of the DMA Markets, the proposed Transaction would combine cable sports networks that are at least partial substitutes. Accordingly, the proposed Transaction would likely diminish competition in the negotiation of licenses for cable sports programming with MVPDs that have subscribers in the DMA Markets. Post-acquisition, Disney would gain the ability to threaten MVPDs in each of the DMA Markets with the simultaneous blackout of two of the most significant cable networks carrying sports programming: ESPN and a local RSN. ESPN and the local Fox RSN generate the highest and second-highest affiliate fees per subscriber in most of the 25 DMAs, and they are among the networks that generate the highest affiliate fees per subscriber in every one of the 25 DMAs.

24. The threat of double blackouts in the DMA Markets—and the resulting disproportionate loss of an MVPD's subscribers and profits—likely would significantly strengthen Disney's bargaining position with MVPDs. Before the merger, an MVPD's failure to reach an agreement with Disney could result in a blackout of Disney's networks in the MVPD's footprint and threaten it with some subscriber loss. But the MVPD would still be able to offer the sports programming on Fox's RSNs during a Disney blackout, thereby minimizing subscription cancellations. After the merger, an MVPD negotiating with Disney would face the prospect of a dual blackout of ESPN and the local RSN in one or more DMA Markets, likely resulting in disproportionately

more subscriber loss. Because the leverage that a television programmer has in negotiations with the MVPD is derived at least in part from its leverage within each DMA Market in the MVPD's footprint, the threat of a dual blackout would likely cause an MVPD to accede to a demand by Disney for higher license fees. For these reasons, the loss of competition between Disney and the Fox Sale Assets in each DMA Market would likely lead to an increase in total licensing fees in each DMA Market and, because increased licensing fees typically are passed on to consumers, would result in higher subscription fees for customers of MVPDs.

VI. ABSENCE OF COUNTERVAILING FACTORS

25. Entry would not be timely, likely or sufficient to prevent the Transaction's likely anticompetitive effects. Professional sport teams auction the exclusive rights to telecast their games under long-term contracts. Because these contracts typically last many years, there are infrequent opportunities for entrants to bid for these highly valuable licensing rights.

26. Defendants cannot demonstrate acquisition-specific and cognizable efficiencies that would be sufficient to offset the proposed acquisition's likely anticompetitive effects.

VII. VIOLATIONS ALLEGED

27. Disney's proposed acquisition of the Fox Sale Assets likely would substantially lessen competition in interstate trade and commerce, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. The proposed acquisition likely would:

a. substantially lessen competition in the licensing of cable sports programming in each of the DMA Markets;
b. eliminate actual and potential competition among Disney and Fox in the licensing of cable sports programming in each of the DMA Markets; and
c. cause prices for cable sports programming in each of the DMA Markets to increase.

VIII. REQUEST FOR RELIEF

28. The United States requests that the Court:

a. adjudge the proposed acquisition to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;
b. permanently enjoin and restrain Defendants from carrying out the Transaction, or entering into any other agreement, understanding, or plan by which Disney would acquire the Fox Sale Assets;
c. award the United States the costs of this action; and
d. award such other relief to the United States as the Court may deem just and proper.

Dated: June 27, 2018

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

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United States District Court for the Southern District of New York

United States of America, Plaintiff, v. *The Walt Disney Company,* and *Twenty-First Century Fox, Inc.,* Defendants.

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, the United States of America, filed its Complaint on June 27, 2018, and defendant The Walt Disney Company (''Disney'') and defendant Twenty-First Century Fox, Inc. (''Fox''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Disney to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires Disney to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Disney has represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of, and each of the parties to, this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II. DEFINITIONS

As used in this Final Judgment:

A. ''Disney'' means defendant The Walt Disney Company, a Delaware corporation headquartered in Burbank, California, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''Fox'' means defendant Twenty-First Century Fox, Inc., a Delaware corporation headquartered in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Acquirer'' means an entity to which defendants divest any of the Divestiture Assets.

D. ''Fox RSNs'' means all of Fox's interests in the following video networks or programming assets:

(1) Fox Sports Arizona;
(2) Fox Sports Carolinas;
(3) Fox Sports Detroit;
(4) Fox Sports Florida;
(5) Fox Sports Indiana;
(6) Fox Sports Kansas City;
(7) Fox Sports Midwest;
(8) Fox Sports New Orleans;
(9) Fox Sports North;
(10) Fox Sports Ohio;

(11) SportsTime Ohio;
(12) Fox Sports Oklahoma;
(13) Fox Sports San Diego;
(14) Fox Sports South;
(15) Fox Sports Southeast;
(16) Fox Sports Southwest;
(17) Fox Sports Sun;
(18) Fox Sports Tennessee;
(19) Fox Sports West;
(20) Prime Ticket;
(21) Fox Sports Wisconsin; and
(22) the YES Network.

E. ''Divestiture Assets'' means all of Fox's interests in the Fox RSNs, including all of the assets, tangible or intangible, necessary for the operations of the Fox RSNs as viable, ongoing video networks or programming assets, including, but not limited to, all real property (owned or leased), all broadcast equipment, office furniture, fixtures, materials, supplies, and other tangible property; all licenses, permits and authorizations issued by any governmental organization relating to the operation of the asset; all contracts (including content, programming and distribution contracts and rights), agreements (including transition services agreements), leases, and commitments and understanding of defendants; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials, and promotional materials relating to each video network; all customer lists, contracts, accounts, credit records, and all logs and other records maintained by Fox in connection with each video network. Except as set forth in Paragraph IV(H) of this Final Judgment, Divestiture Assets do not include trademarks, trade names, service marks, or service names containing the name ''Fox.''

F. The term ''Transaction'' means the transaction that is the subject of the Agreement and Plan of Merger among Twenty-First Century Fox, Inc., The Walt Disney Company, TWDC Holdco 613 corp., WDC Merger Enterprises II Corp., and WDC Merger Enterprises I, LLC, dated June 20, 2018.

III. APPLICABILITY

A. This Final Judgment applies to Disney and Fox, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, after the closing and prior to complying with Section IV and Section V of this Final Judgment, Disney sells or otherwise disposes of all or substantially all of the assets or lesser business units that include the Divestiture Assets, it shall require the purchaser to be bound by the provisions of this Final Judgment. Disney need not obtain such an agreement from the Acquirer(s) of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURES

A. Disney is ordered and directed, within ninety (90) calendar days after the closing of the Transaction, or five (5) calendar days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to one or more Acquirers acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances. With respect to divestiture of the Divestiture Assets by Disney or a trustee appointed pursuant to Section V of this Final Judgment, Disney agrees to use its best efforts to divest the Divestiture Assets as expeditiously as possible after the closing of the Transaction. For the avoidance of doubt, nothing in this Final Judgment shall require Fox to divest any of the Divestiture Assets prior to the closing of the Transaction.

B. In accomplishing the divestiture ordered by this Final Judgment, Disney promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Disney shall inform any person making an inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process, except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer(s) and the United States information relating to the personnel involved in the production and operation of the Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer(s) to employ upon closing of the sale of each of the Divestiture Assets any defendant employee whose primary responsibility is the production and operation of the Divestiture Assets.

D. Defendants shall permit the prospective Acquirer(s) of the Divestiture Assets to have reasonable access to personnel and to make inspections of the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Disney shall warrant to the Acquirer(s) that each Divestiture Asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. Disney shall warrant to the Acquirer(s) (1) that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each Divestiture Asset, and (2) that following the sale of the Divestiture Assets, Disney will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

H. Notwithstanding Paragraph II(E), that the Divestiture Assets do not include trademarks, trade names, service marks, or service names containing the name ''Fox,'' the defendants shall offer any Acquirer(s) of a Fox RSN a non-exclusive royalty-free license for use of the ''Fox'' trademark consistent with that RSN's current usage of that trademark for a time period of at least eighteen (18) months.

I. At the option of Acquirer(s), on or before the closing date of any divestiture, Disney shall enter into one or more transition services agreements, approved in advance by the United States in its sole discretion, to provide any transition services reasonably necessary to operate any Divestiture Assets as viable, ongoing video networks or programming assets.

J. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Divestiture Assets and be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing business of selling, supplying, or licensing video programming. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of

the United States that the Divestiture Assets will remain viable, and the divestiture of such assets will achieve the purposes of this Final Judgment and remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment:

(1) shall be made to an Acquirer(s) that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the business of selling, supplying, and licensing video programming; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between the Acquirer(s) and defendants gives defendants the ability unreasonably to raise the costs of the Acquirer(s), to lower the efficiency of the Acquirer(s), or otherwise to interfere in the ability of the Acquirer(s) to compete effectively.

V. APPOINTMENT OF TRUSTEE

A. If Disney has not divested the Divestiture Assets within the time period specified in Section IV(A), Disney shall notify the United States of that fact in writing, specifically identifying the Divestiture Assets that have not been divested (the ''relevant Divestiture Assets''). Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the relevant Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the relevant Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of Disney any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of Disney pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The trustee shall account for all monies derived from the sale of the relevant Divestiture Assets and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Disney and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the relevant Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the trustee and Disney are unable to reach agreement on the trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of appointment of the trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to defendants and the United States.

E. Disney shall use its best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other agents retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Disney shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee's reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the relevant Divestiture Assets.

G. If the trustee has not accomplished the divestitures ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such report contains information that the trustee deems confidential, such report shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

H. If the United States determines that the trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute trustee.

VI. NOTICE OF PROPOSED DIVESTITURE

A. Within two (2) business days following execution of a definitive divestiture agreement, Disney or the trustee, whichever is then responsible for effecting the divestitures required herein, shall notify the United States of any proposed divestiture required by Section IV or Section V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or

desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer, any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirers. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer(s), any third party, and the trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Paragraph V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Paragraph V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. FINANCING

Disney shall not finance all or any part of any purchase made pursuant to Section IV or Section V of this Final Judgment.

VIII. HOLD SEPARATE

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. After the Transaction has been consummated or closed, defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or Section V of this Final Judgment, defendants shall deliver to the United States an affidavit, signed by each defendant's Chief Financial Officer and General Counsel, which shall describe the fact and manner of defendant's compliance with Section IV or Section V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for and complete the sale of the Divestiture Assets, including efforts to secure regulatory approvals, and to provide required information to prospective Acquirers, including the limitations, if any, on such information.

Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitations on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendant's earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at the option of the United States, to require defendants to provide hard copies or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. NO REACQUISITION

Disney may not reacquire any of the Divestiture Assets during the term of this Final Judgment without prior written approval of the United States.

XII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. ENFORCEMENT OF FINAL JUDGMENT

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including its right to seek an order of contempt from this Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and they waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore all competition harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that the defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgement against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for any attorneys' fees, experts' fees, and costs incurred in connection with that enforcement effort, including the investigation of the potential violation.

XIV. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire seven (7) years from the date of its entry, except that this Final Judgment may be terminated upon notice by the United States to the Court and the defendants that the divestitures have been completed and that the continuation of the Final Judgment no longer is necessary.

XV. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

_____

United States District Judge

United States District Court for the Southern District of New York

United States of America, Plantiff, v. *The Walt Disney Company,* and *Twenty-First Century Fox, Inc.,* Defendants.

Civil Action No. 1:18–cv–05800 (CM) (KNF)

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to which defendants divest any of the Divestiture Assets.

B. ''Disney'' means defendant The Walt Disney Company, a Delaware corporation headquartered in Burbank, California, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Fox'' means defendant Twenty-First Century Fox, Inc., a Delaware corporation headquartered in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Fox RSNs'' means all of Fox's interests in the following video networks or programming assets:

(1) Fox Sports Arizona;
(2) Fox Sports Carolinas;
(3) Fox Sports Detroit;
(4) Fox Sports Florida;
(5) Fox Sports Indiana;
(6) Fox Sports Kansas City;
(7) Fox Sports Midwest;
(8) Fox Sports New Orleans;
(9) Fox Sports North;
(10) Fox Sports Ohio;
(11) SportsTime Ohio;
(12) Fox Sports Oklahoma;
(13) Fox Sports San Diego;
(14) Fox Sports South;
(15) Fox Sports Southeast;
(16) Fox Sports Southwest;
(17) Fox Sports Sun;
(18) Fox Sports Tennessee;
(19) Fox Sports West;
(20) Prime Ticket;
(21) Fox Sports Wisconsin; and
(22) the YES Network.

E. ''Divestiture Assets'' means all of Fox's interests in the Fox RSNs, including, all of the assets, tangible or intangible, necessary for the operations of the Fox RSNs as viable, ongoing video networks or programming assets, including, but not limited to, all real property (owned or leased), all broadcast equipment, office furniture, fixtures, materials, supplies, and other tangible property; all licenses, permits and authorizations issued by any governmental organization relating to the operation of the asset; all contracts (including content, programming and distribution contracts and rights), agreements (including transition services agreements), leases, and commitments and understanding of defendants; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials, and promotional materials relating to each video network; all customer lists, contracts, accounts, credit records, and all logs and other records maintained by Fox in connection with each video network. Except as provided in the Final Judgment, Divestiture Assets does not include trademarks, trade names, service marks, or service names containing the name ''Fox.''

F. The term ''Transaction'' means the transaction that is the subject of the Agreement and Plan of Merger among Twenty-First Century Fox, Inc., The

Walt Disney Company, TWDC Holdco 613 corp., WDC Merger Enterprises II Corp., and WDC Merger Enterprises I, LLC, dated June 20, 2018.

II. Objectives

The Final Judgment filed in this case is meant to ensure defendants' prompt divestiture of the Divestiture Assets for the purpose of establishing one or more viable competitors in the sale, supply, or licensing of video programming in the United States in order to remedy the effects that the United States alleges would otherwise result from the Transaction. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Divestiture Assets will remain economically viable, and ongoing business concerns that will remain independent and uninfluenced by Disney or, after the Transaction has been consummated, by Fox, and that competition is maintained during the pendency of the ordered divestitures.

III. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the Southern District of New York.

IV. Compliance with and Entry of the Proposed Final Judgment

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendants and by filing that notice with the Court. Disney agrees to arrange, at its expense, publication as quickly as possible of the newspaper notice required by the APPA, which shall be drafted by the United States, in its sole discretion. The publication shall be arranged no later than three business days after defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Disney shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending the Final Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment. The United States shall have the full rights and enforcement powers in the proposed Final Judgment as though the same were in full force and effect as the Final Order of the Court.

C. Defendants shall not consummate the Transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation.

D. This Hold Separate Stipulation and Order shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Paragraph IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Hold Separate Stipulation and Order, the time has expired for all appeals of any court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding.

F. Disney represents that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. Notice of Compliance

. Within twenty (20) days after the entry of the Hold Separate Stipulation and Order, and every thirty (30) calendar days thereafter (1) Fox shall deliver to the United States an affidavit, signed by Fox's Chief Financial Officer and General Counsel, which shall describe the fact and manner of Fox's compliance with Section VI until defendants consummate the Transaction; and

(2) Disney shall deliver to the United States an affidavit, signed by Disney's Chief Financial Officer and General Counsel, which shall describe the fact and manner of Disney's compliance with Section VII until the divestitures required by the Final Judgment have been accomplished.

VI. Pre-Closing Asset Preservation Provisions

Until defendants consummate the Transaction:

A. Fox shall preserve, maintain, and continue to operate each Divestiture Asset as an ongoing, economically viable, competitive video network or programming asset.

B. Fox shall take all steps reasonably necessary to ensure that the Divestiture Assets will be maintained and operated as ongoing, economically viable and active competitors in the video network or programming business.

C. Fox shall use all reasonable efforts, consistent with past practices, to maintain and increase the sales and revenues associated with each of the Divestiture Assets.

D. Fox, consistent with past practices, shall provide sufficient working capital and lines and sources of credit to continue to maintain each Divestiture Asset as an ongoing, economically viable, and competitive video network or programming asset.

E. Fox shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books, and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of each of the Divestiture Assets.

F. Fox shall preserve the existing relationships between the Divestiture Assets and with each customer that advertises on or licenses content to a Divestiture Asset, each distributor that licenses content from a Divestiture Asset, and with others having business relations with any of the Divestiture Assets, in accordance with the ordinary course of business.

VII. Post-Closing Hold Separate and Asset Preservation Provisions

Once the Transaction has been consummated and until the divestitures required by the Final Judgment have been accomplished:

A. Disney shall preserve, maintain, and continue to operate each Divestiture Asset as an independent, ongoing, economically viable, competitive video network or programming asset, management, programming, distribution, sales and operations of such assets held entirely separate, distinct and apart from those of Disney's

other operations. Disney shall not coordinate its programming, production, distribution, marketing, content purchases, or terms of sale of any products with those of any of the Divestiture Assets.

B. Disney shall take all steps necessary to ensure that (1) the Divestiture Assets will be maintained and operated as independent, ongoing, economically viable and active competitors in the video network or programming business; (2) management of the Divestiture Assets will not be influenced by Disney; and (3) the books, records, competitively sensitive production, programming, distribution, sales, content purchases, marketing and pricing information, and decision making concerning production, programming, distribution, sales, content purchases, pricing and marketing by or under any of the Divestiture Assets will be kept separate and apart from Disney's other operations.

C. Disney shall use all reasonable efforts to maintain and increase the sales and revenues associated with each of the Divestiture Assets, and shall maintain at 2018 or previously approved levels for 2017, whichever is higher, all promotional, advertising, sales, technical assistance, marketing and other support for each of the Divestiture Assets.

D. Disney shall provide sufficient working capital and lines and sources of credit to continue to maintain each Divestiture Asset as an ongoing, economically viable, and competitive video network or programming asset.

E. Disney shall not, except as part of a divestiture approved by the United States in accordance with the proposed Final Judgment, remove, sell, lease, assign, transfer, destroy, pledge, or otherwise dispose of any of the Divestiture Assets.

F. Disney shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books, and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of each of the Divestiture Assets.

G. Disney shall preserve the existing relationships between the Divestiture Assets and with each customer that advertises on or licenses content to a Divestiture Asset, each distributor that licenses content from a Divestiture Asset, and with others having business relations with any of the Divestiture Assets, in accordance with the ordinary course of business.

H. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets.

I. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the proposed Final Judgment to fulfill its obligations.

J. Disney shall appoint a person or persons to oversee the Divestiture Assets, who also will be responsible for defendants' compliance with this section. Such person or persons shall have complete managerial responsibility for the Divestiture Assets, subject to the provisions of this Final Judgment. In the event such person is unable to perform such duties, Disney shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should Disney fail to appoint a replacement acceptable to the United States within this time period, the United States shall appoint a replacement.

VIII. Duration of Hold Separate Obligations

Defendants' obligations under Section VI and VII of this Hold Separate Stipulation and Order shall remain in effect until (1) consummation of the divestitures required by the proposed Final Judgment or (2) until further order of the Court. If the United States voluntarily dismisses the Complaint in this matter, defendants are released from all further obligations under this Hold Separate Stipulation and Order.

Dated: June 27, 2018

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

Craig Minerva

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FOR DEFENDANT TWENTY-FIRST CENTURY FOX, INC.

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ORDER

IT IS SO ORDERED by the Court, this ____ day of ____, 2018.

United States District Judge

United States District Court for the Southern District of New York

United States of America, Plaintiff, v. The Walt Disney Company, and Twenty-First Century Fox, Inc., Defendants.

Civil Action No. 18–CV–5800 (CM) (KNF)

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Defendants The Walt Disney Company (''Disney'') and Twenty-First Century Fox, Inc. (''Fox'') (collectively, ''Defendants'') entered into an Agreement and Plan of Merger dated December 13, 2017, amended on June 20, 2018, pursuant to which Disney agreed to acquire certain assets, including Fox's ownership of, or interests in, twenty-two regional sports networks (''RSNs''), the FX cable networks, the National Geographic cable networks, television and film studios, Hulu, and international television businesses (the ''Fox Sale Assets'') from Fox for approximately $71.3 billion (the ''Transaction'').

Specifically, Fox proposes to sell to Disney its interests in the following RSNs: (i) Fox Sports Arizona; (ii) Fox Sports Carolinas; (iii) Fox Sports Detroit; (iv) Fox Sports Florida; (v) Fox

Sports Indiana; (vi) Fox Sports Kansas City; (vii) Fox Sports Midwest; (viii) Fox Sports New Orleans; (ix) Fox Sports North; (x) Fox Sports Ohio; (xi) SportsTime Ohio; (xii) Fox Sports Oklahoma; (xiii) Fox Sports San Diego; (xiv) Fox Sports South; (xv) Fox Sports Southeast; (xvi) Fox Sports Southwest; (xvii) Fox Sports Sun; (xviii) Fox Sports Tennessee; (xix) Fox Sports West; (xx) Prime Ticket; (xxi) Fox Sports Wisconsin; and (xxii) the YES Network.

The proposed acquisition would combine two of the country's most valuable cable sports properties—Disney's ESPN franchise of networks and Fox's portfolio of twenty-two RSNs. Cable sports television networks compete to be carried in the programming packages that distributors, such as cable companies (e.g., Charter Communications and Comcast), direct broadcast satellite services (e.g., DISH Network and DirecTV), fiber optic networks services (e.g., Verizon's Fios and CenturyLink's Prism TV), and online distributors of linear cable programming (e.g., Hulu Live and DISH's Sling TV) (hereinafter, collectively referred to as ''MVPDs'') offer to their subscribers. Consequently, Disney's proposed acquisition of Fox's portfolio of RSNs would end the head-to-head competition between them and likely would result in higher prices for cable sports programming in each of the Designated Market Areas (''DMAs'') in which Disney and Fox compete.

The United States filed a civil antitrust Complaint on June 27, 2018, seeking to enjoin the proposed Transaction. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially for the licensing of cable sports programming to MVPDs in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, in each of the following twenty-five DMAs: Phoenix, Arizona; Detroit, Michigan; Milwaukee, Wisconsin; Cleveland, Ohio; Cincinnati, Ohio; Columbus, Ohio; Miami, Florida; Oklahoma City, Oklahoma; Tampa Bay, Florida; Dallas, Texas; St. Louis, Missouri; Atlanta, Georgia; Indianapolis, Indiana; Orlando, Florida; San Antonio, Texas; Minneapolis, Minnesota; Nashville, Tennessee; Memphis, Tennessee; San Diego, California; Raleigh-Durham, North Carolina; New Orleans, Louisiana; Kansas City, Kansas; Charlotte, North Carolina; Los Angeles, California; and New York, New York (collectively, the ''DMA Markets''). This loss of competition likely would result in increased MVPD licensing fees in each DMA Market and because licensing fees typically are passed onto consumers, higher subscription fees for MVPD customers.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the likely anticompetitive effects of the Transaction. Under the proposed Final Judgment, which is explained more fully below, Disney is required to divest all of Fox's interests in the Fox RSNs, including all assets necessary for the operation of each Fox RSN as a viable, ongoing cable sports programming network, to one or more buyers acceptable to the United States, in its sole discretion. Under the terms of the Hold Separate Stipulation and Order, Disney and Fox will take certain steps to ensure that each Fox RSN continues to operate as an ongoing, economically viable, competitive cable sports programming network that will remain independent and uninfluenced by the consummation of the Transaction, and that competition is maintained during the pendency of the ordered divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. The Defendants and the Proposed Transaction

Disney is a Delaware corporation headquartered in Burbank, California. It reported revenue of $55 billion for fiscal year 2017. Disney owns various television programming assets, including 80% of ESPN—a sports entertainment company that operates several national cable sports programming networks. Disney's other programming assets include: (i) the ABC television network; (ii) eight owned-and-operated ABC broadcast stations; (iii) Disney-branded cable television networks; and (iv) Freeform, a cable television network geared toward teenagers and young adults. Disney licenses its cable programming networks to MVPDs throughout the United States.

Fox is a Delaware corporation headquartered in New York, New York. It reported revenue of $28.5 billion for fiscal year 2017. The Fox Sale Assets, which include several cable television programing networks and all of the Fox RSNs, generated $19 billion in revenue in fiscal year 2017. Fox licenses its cable programming networks to MVPDs throughout the United States. The Fox Sale Assets do not include Fox Business Network, Fox Broadcasting Company, Fox Sports, Fox Television Stations Group, FS1, FS2, Fox Deportes, or the Big Ten Network.

Collectively, the twenty-two Fox RSNs serve approximately 61 million subscribers in twenty-five separate DMA Markets and license local and regional rights to telecast live games of 44 of 91 (48%) U.S. professional sports teams in three of the four major sports leagues: Major League Baseball (''MLB''), the National Basketball Association (''NBA''), and the National Hockey League (''NHL''). More specifically, the Fox RSNs have the local or regional broadcast rights to 15 of 30 (50%) MLB teams, 17 of 30 (57%) NBA teams, and 12 of 31 (39%) NHL teams.

The proposed Transaction would likely lessen competition substantially in each of the DMA Markets as a result of Disney's acquisition of Fox's RSNs. This Transaction is the subject of the Complaint and proposed Final Judgment filed by the United States on June 27, 2018.

B. The Transaction's Likely Anticompetitive Effects

1. Relevant Markets

The Complaint alleges that licensing of cable sports programming to MVPDs in each DMA Market constitutes a relevant market under Section 7 of the Clayton Act.

Cable sports programming includes cable television networks that devote a substantial portion of their programming time to airing live sporting events, including MLB, NBA, and NHL games. Consumers that view live sporting events are an important customer group for MVPDs. MVPDs could not attract or retain those consumers as subscribers without including cable sports programming in the packages of cable programming networks they offer their subscribers. ESPN and the local Fox RSN generate the highest and second-highest affiliate fees per subscriber of all networks carried by an MVPD in most of the 25 DMAs and they are among the networks that generate the highest affiliate fees per subscriber in every one of the 25 DMAs. The high per-subscriber fees that MVPDs pay to license these networks reflects the importance of these networks to MVPDs and their subscribers.

For MVPDs, sports programming on broadcast television is unlikely a sufficient substitute for cable sports programming. MVPDs do not typically consider broadcast networks as providing the same type of content as cable sports networks like ESPN and the RSNs. Broadcast networks and their affiliates aim to have broad appeal by offering a variety of highly-rated programming content including primetime entertainment shows, syndicated shows, and local and national news and weather, with live sports events making up a small percentage of a broadcast network's airtime. Many MVPD customers demand programming focused on, if not dedicated to, live sporting events, and a broadcast network's occasional programming of live sporting events does not suffice for many customers. For that reason, MVPDs do not typically consider broadcast network programming as a replacement for cable sports programming.

With respect to the licensing of cable sports programming to MVPDs, each DMA Market constitutes a separate relevant geographic market under Section 7 of the Clayton Act. A DMA is a geographic unit for which A.C. Nielsen Company—a firm that surveys television viewers—furnishes MVPDs, among others, with data to aid in evaluating audience size and composition in a particular area. DMAs are widely accepted by MVPDs as the standard geographic area to use in evaluating television audience size and demographic composition. The Federal Communications Commission also uses DMAs as geographic units with respect to its MVPD regulations.

2. Harm to Competition in Each of the DMA Markets

The Complaint alleges that the proposed Transaction likely would substantially lessen competition in interstate trade and commerce, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and have the following effects, among others:

a. substantially lessen competition in the licensing of cable sports programming to MVPDs in each of the DMA Markets;

b. eliminate actual and potential competition among Disney and Fox in the licensing of cable sports programming to MVPDs in each of the DMA Markets; and

c. cause prices for cable sports programming to MVPDs in each of the DMA Markets to increase.

The Transaction, by eliminating the Fox RSNs as separate competitors and combining their operations under common ownership and control with ESPN, would allow Disney to increase its market share of cable sports programming in each DMA Market and likely increase licensing fees to MVPDs for ESPN and/or the Fox RSNs. As a result of the Transaction, Disney's networks would account for at least 60 percent of cable sports programming in 19 of the DMA Markets and over 45 percent in the remaining six DMA Markets.

As alleged in the Complaint, Disney's acquisition of the Fox RSNs would further concentrate already highly concentrated cable sports programming markets in each of the DMA Markets. Using the Herfindahl-Hirschman Index (''HHI''), a standard measure of market concentration, the post-acquisition HHI in each of the DMA Markets would exceed 2,500 and the Transaction would increase each DMA Market's HHI by over 200 points. As a result, the proposed Transaction is presumed to likely enhance market power under the *Horizontal Merger Guidelines* issued by the Department of Justice and the Federal Trade Commission.

Moreover, the Transaction combines networks that are at least partial substitutes and therefore competitors in a product market with limited alternatives. The Transaction would provide Disney with the ability to threaten MVPDs in each of the DMA Markets with the simultaneous blackout of at least two major cable sports programming networks: the ESPN networks and the local Fox RSN, thereby diminishing competition in the negotiation of licensing agreements with MVPDs in each of the DMA markets.

The threatened loss of cable sports programming, and the resulting diminution of an MVPD's subscribers and profits, would significantly strengthen Disney's bargaining position. Prior to the Transaction, an MVPD's failure to reach a licensing agreement with Disney would result in the blackout of Disney's networks, including ESPN, and threaten some subscriber loss for the MVPD, including those subscribers that value ESPN's content. But because the MVPD still would be able to offer its subscribers the local Fox RSN, many MVPD subscribers simply would watch the local RSN instead of cancelling their MVPD subscriptions. In the event of a Fox RSN blackout, many subscribers likely would switch to watching ESPN. After the Transaction, an MVPD negotiating with Disney would be faced with the prospect of a dual blackout of significant cable sports programming, a result more likely to cause the MVPD to lose incremental subscribers (that it would not have lost in a pre-transaction blackout of only ESPN or the Fox RSN) and therefore accede to Disney's demand for higher licensing fees. For these reasons, the loss of competition between ESPN and the Fox RSN in each DMA Market would likely lead to an increase in MVPD licensing fees in those markets. Some of these increased programming costs likely would be passed onto consumers, resulting in higher MVPD subscription fees for millions of U.S. households.

3. Entry

The Complaint alleges that entry or expansion into cable sports programming would not be timely, likely, or sufficient to prevent the Transaction's anticompetitive effects. With respect to RSN sports programming, there are a limited number of professional sports teams in a given DMA, and these teams auction the exclusive local rights to telecast their games under long-term contracts. Because these contracts typically last many years, there are infrequent opportunities to bid for these licensing rights to expand an existing RSN or create a new RSN. Moreover, non-local RSNs cannot enter because their licenses typically are limited to the DMAs that comprise the ''home'' territory of the team or teams that the RSN carries; and local MVPD subscribers would not generally have demand for extensive coverage of another DMA's home team. Thus, an MVPD cannot substitute an RSN from another DMA for the local RSN in response to an anticompetitive price increase.

Entry or expansion into national cable sports programming also is difficult. For a national sports network to compete effectively, it needs to obtain the national broadcast rights from professional sports leagues (i.e., MLB, NBA, and NHL), which are expensive and infrequently available. Although both Fox and NBCUniversal have national cable sports programming networks (FS1 and NBC Sports, respectively), neither company has been able to replicate ESPN's competitive position (as evidenced by their lower MVPD licensing fees and viewership ratings).

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture requirement of the proposed Final Judgment will eliminate the likely anticompetitive effects of the Transaction in each DMA Market by establishing an independent and economically viable competitor. The proposed Final Judgment requires

Disney, within 90 days after the closing of the Transaction, or five days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest all of Fox's interests in the Fox RSNs, including all assets necessary for the operation of the Fox RSNs as viable, ongoing video networks or programming assets. The assets must be divested in such a way as to satisfy the United States in its sole discretion that the operations can and will be operated by the purchaser as viable, ongoing businesses that can compete effectively in the relevant markets. Disney must use its best efforts to divest the Fox RSNs as expeditiously as possible and shall cooperate with prospective purchasers.

In the event that Disney does not accomplish the divestiture within the period prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that Disney will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The proposed Final Judgment also contains provisions designed to promote compliance and make the enforcement of Division consent decrees as effective as possible. Paragraph XIII(A) provides that the United States retains and reserves all rights to enforce the provisions of the proposed Final Judgment, including its rights to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence, and Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph XIII(B) provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment was drafted to restore all competition that would otherwise be harmed by the merger. Defendants agree that they will abide by the proposed Final Judgment, and that they may be held in contempt of this Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XIII(C) of the proposed Final Judgment further provides that, should the Court find in an enforcement proceeding that Defendants have violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, in order to compensate American taxpayers for any costs associated with the investigation and enforcement of violations of the proposed Final Judgment, Paragraph XIII(C) provides that in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for attorneys' fees, experts' fees, and costs incurred in connection with any enforcement effort, including the investigation of the potential violation.

Finally, Section XIV of the proposed Final Judgment provides that the Final Judgment shall expire seven years from the date of its entry, except that the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestitures have been completed and that the continuation of the Final Judgment is no longer necessary.

The divestiture provisions of the proposed Final Judgment will eliminate the likely anticompetitive effects of the acquisition in the provision of cable sports programming in the DMA Markets.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Owen M. Kendler, Chief, Media, Entertainment & Professional Services Section Antitrust Division, United States Department of Justice, 450 Fifth Street, N.W., Suite 4000, Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final

Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Disney's acquisition of the Fox RSNs. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the provision of cable sports programming in the DMA Markets identified by the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1); *see also United States* v. *Int'l Bus. Mach. Corp.,* 163 F.3d 737, 740 (2d Cir. 1998). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B); *see generally United States* v. *Keyspan,* 763 F. Supp. 2d 633, 637–38 (S.D.N.Y. 2011) (discussing Tunney Act standards); *United States* v. *Morgan Stanley,* 881 F. Supp. 2d 563, 567 (S.D.N.Y. 2012) (similar). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *accord United States* v. *Alex. Brown & Sons, Inc.,* 963 F. Supp. 235, 238 (S.D.N.Y. 1997) (quoting *Microsoft,* 56 F.3d at 1460, *aff'd sub nom. United States* v. *Bleznak,* 153 F.3d 16 (2d Cir. 1998)); *Keyspan,* 763 F. Supp. 2d at 637 (same).

Under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, ''[t]he Court's function is not to determine whether the proposed [d]ecree results in the balance of rights and liabilities that is the one that will *best* serve society, but only to ensure that the resulting settlement is within the reaches of the public interest.'' *Morgan Stanley,* 881 F. Supp. 2d at 567 (quoting *Alex. Brown & Sons,* 963 F. Supp. at 238) (internal quotations omitted) (emphasis in original). In making this determination, ''[t]he [c]ourt is not permitted to reject the proposed remedies merely because the court believes other remedies are preferable. [Rather], the relevant inquiry is whether there is a factual foundation for the government's decision such that its conclusions regarding the proposed settlement are reasonable.'' *Morgan Stanley,* 881 F. Supp. 2d at 563 (quoting *United States* v. *Abitibi-Consolidated Inc.,* 584 F. Supp. 2d 162, 165 (D.D.C. 2008)); *see also United States* v. *Apple, Inc.,* 889 F. Supp. 2d 623, 631 (S.D.N.Y. 2012); *Alex. Brown & Sons,* 963 F. Supp. at 238.[1] The government's predictions about the efficacy of its remedies are entitled to deference. *Apple,* 889 F. Supp. 2d at 631 (citation omitted).[2]

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citation omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *US Airways Grp., Inc.,* 38 F. Supp. 3d 69, 74 (D.D.C. 2014) (noting that room must be made for the government to grant concessions in the negotiation process for settlements) (citing *Microsoft,* 56 F.3d at 1461); *Morgan Stanley,* 881 F. Supp. 2d at 568 (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1, 17 (D.D.C. 2007).

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also Morgan Stanley,* 881 F. Supp. 2d at 567 (''A court must limit its review to the issues in the complaint and 'give due respect to the [Government's] perception of . . . its case.'''') (quoting *Microsoft,* 56 F.3d at 1461); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *20, (D.D.C. Aug. 11, 2009) (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged.''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–

[1] *See also United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981) (''The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.''); *see generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'''').

[2] *See Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

60. Courts cannot look beyond the complaint in making the public interest determination ''unless the complaint underlying the decree is drafted so narrowly such that its entry would appear 'to make a mockery of judicial power.''' *Apple,* 889 F. Supp. 2d at 631 (S.D.N.Y. 2012) (citing *SBC Commc'ns,* 489 F. Supp. 2d at 15).

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 75 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24, 598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11; *see also Apple,* 889 F. Supp. 2d at 632 (''[P]rosecutorial functions vested solely in the executive branch could be undermined by the improper use of the APPA as an antitrust oversight provision.'') (citation omitted). A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 75.[3]

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: August 7, 2018

Respectfully submitted,

Lowell R. Stern

United States Department of Justice, Antitrust Division, Media, Entertainment & Professional Services Section, 450 Fifth Street, N.W., Suite 4000, Washington, DC 20530, Telephone: (202) 514–3676, Facsimile: (202) 514–7308, E-mail: *lowell.stern@usdoj.gov*

Attorney for Plaintiff United States

[FR Doc. 2018–17521 Filed 8–14–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Rhodes Technologies

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before October 15, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been delegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on June 28th, 2018, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Dihydromorphine	9145	I
Methylphenidate	1724	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Levorphanol	9220	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Oxymorphone	9652	II
Noroxymorpohone	9668	II
Tapentadol	9780	II

[3] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

The company plans to manufacture the listed controlled substances in bulk for conversion and sale to finished dosage form manufacturers. In reference to drug code 7360 and 7370, the company plans to bulk manufacture a synthetic CBD and tetrahydrocannabinol. No other activity for drug code 7360 and 7370 are authorized for this registration.

Dated: August 3, 2018.

John J. Martin,

Assistant Administrator.

[FR Doc. 2018–17605 Filed 8–14–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0067]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of an Existing Collection in Use Rap Back Services Form (1–796)

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 60-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.

DATES: Comments are encouraged and will be accepted for 60 days until October 15, 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 Gerry Lynn Brovey, Supervisory Information Liaison Specialist, Federal Bureau of Investigation, Criminal Justice Information Services Division, 1000 Custer Hollow Road; Clarksburg, WV 26306; phone: 304–625–4320 or email *glbrovey@ic.fbi.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of an approved collection.

(2) *Title of the Form/Collection:* Rap Back Services Form (1–796).

(3) *Agency form number:* The form number is 1–796. Sponsoring component: Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* This form is utilized by authorized agencies to enroll individuals in the Rap Back Service to ensure the submitting agency is notified when individuals in positions of trust engage in criminal conduct or individuals under the supervision of a criminal justice agency commit subsequent criminal acts.

(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 12 respondents will complete each form within approximately 5 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 60 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, 3E.405A, Washington, DC 20530.

Dated: August 10, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–17529 Filed 8–14–18; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1750]

Body Armor Manufacturer Workshop

AGENCY: National Institute of Justice, Justice.

ACTION: Notice.

SUMMARY: The National Institute of Justice (NIJ) is hosting a workshop for body armor manufacturers to provide an overview of draft NIJ Standard 0101.07, *Ballistic Resistance of Body Armor,* and draft NIJ Specification *Threat Levels and Associated Ammunition to Test Equipment Intended to Protect U.S. Law Enforcement Against Handguns and Rifles.* A preliminary outline of how the NIJ Compliance Testing Program (CTP), which manages conformity assessment of body armor, will begin to phase out use of NIJ Standard 0101.06 and phase in the use of NIJ Standard 0101.07 in the administration of the program over approximately the next year will be presented. The impact of the transition on the Compliant Products List (CPL) and Follow-up Inspection Testing (FIT) of listed body armor models compliant with NIJ Standard 0101.06 over a longer period of time will also be discussed.

This will be an open forum and there will opportunities for attendees to ask questions. Space is limited at this workshop, and as a result, only 100 participants will be allowed to register. NIJ requests that each manufacturer limit their representatives to no more than two per organization. Exceptions to this limit may occur, should space allow. Participants planning to attend are responsible for their own travel arrangements. To register for the workshop, please send an email to *bactp@justnet.org* by 5:00 p.m. Eastern time on September 7, 2018, and provide the name of your company and the names of the representatives who will attend. A preliminary agenda will be sent to registered attendees approximately one week prior to the workshop.

DATES: The workshop will be held on Wednesday, September 19, 2018 from 8:30 a.m. to 5:00 p.m. Eastern time.

ADDRESSES: The workshop will be held at the Loews Annapolis Hotel, 126 West St., Annapolis, MD 21401.

FOR FURTHER INFORMATION CONTACT: Mark Greene, Policy and Standards Division Director, Office of Science and Technology, National Institute of Justice, 810 7th Street NW, Washington, DC 20531; telephone number: (202) 307–3384; email address: *mark.greene2@usdoj.gov.*

SUPPLEMENTARY INFORMATION: NIJ Standard 0101.07—the proposed revision of NIJ Standard 0101.06, *Ballistic Resistance of Body Armor*—specifies minimum performance requirements and test methods for the ballistic resistance of body armor used by U.S. law enforcement that is intended to protect the torso against handgun and rifle ammunition. A request for public comment was published in the **Federal Register** on February 22, 2018 (*https://www.federalregister.gov/d/2018-03674*). The proposed specification *Threat Levels and Associated Ammunition to Test Equipment Intended to Protect U.S. Law Enforcement Against Handguns and Rifles* defines ballistic threats identified by U.S. law enforcement as representative of prevalent threats in the United States. A request for public comment was published in the **Federal Register** on February 22, 2018 (*https://www.federalregister.gov/d/2018-03672*).

David B. Muhlhausen,

Director, National Institute of Justice.

[FR Doc. 2018–17466 Filed 8–14–18; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1749]

Recognizing Private Sector Certification Programs for Criminal Justice Restraints

AGENCY: National Institute of Justice, Justice.

ACTION: Notice.

SUMMARY: The National Institute of Justice (NIJ) has been transitioning certification of restraints and handcuffs from an NIJ-operated program to recognition of private sector programs, as previously reported in the **Federal Register** (*https://federalregister.gov/a/2017-14638*). NIJ recognizes the following certification program for restraints as in compliance with *Minimum Scheme Requirements to Certify Criminal Justice Restraints Described in NIJ Standard 1001.00:* Safety Equipment Institute, Inc., 1307 Dolley Madison Boulevard, Suite 3A, McLean, VA 22101, Telephone: (703) 442–5732, Fax: (703) 442–5756, Email: *info@seinet.org*, *http://www.seinet.org/.*

FOR FURTHER INFORMATION CONTACT: Mark Greene, Policy and Standards Division Director, Office of Science and Technology, National Institute of Justice, 810 7th Street NW, Washington, DC 20531; telephone number: (202) 307–3384; email address: *mark.greene2@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Criminal justice agencies may still obtain NIJ's Compliant Products List (CPL) for metallic handcuffs that are compliant with NIJ Standard 0307.01 via the contact information below until December 31, 2018 by sending a request from an agency email address. While the CPL has remained published during the transition period, agencies should be aware that NIJ discontinued the metallic handcuffs Compliance Test Program on September 14, 2016 (*https://www.federalregister.gov/d/2016-22057*) and the CPL has not been updated since then. For criminal justice agencies wishing to purchase or procure restraints certified to meet NIJ Standard 1001.00, NIJ suggests the following procurement language: ''Restraints tested in accordance with NIJ Standard 1001.00 and certified by a certification body recognized by the National Institute of Justice.'' Please note that restraints are certified by the NIJ-recognized private sector organization. They are *not* certified by NIJ, and the products should *not* be referred to as ''NIJ certified.'' More information on NIJ Standard 1001.00, *Criminal Justice Restraints Standard,* and certification of restraints may be found at *https://nij.gov/topics/technology/standards-testing/Pages/restraints.aspx,* or by using the shortened link *https://go.usa.gov/xU2Ay.*

David B. Muhlhausen,

Director, National Institute of Justice.

[FR Doc. 2018–17467 Filed 8–14–18; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0004]

The Cadmium in Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend OMB approval of the information collection requirements contained in the Cadmium in General Industry Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by October 15, 2018.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2012–0004, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2012–0004) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov*

or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Christie Garner at (202) 693–2222 to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Thomas Mockler or Christie Garner, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (see 29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining said information (see 29 U.S.C. 657).

The collection of information requirements specified in the Cadmium in Construction Standard protect workers from the adverse health effects that may result from their exposure to cadmium. The major collection of information requirements of the Standard include: Conducting worker exposure monitoring, notifying workers of their cadmium exposures, implementing a written compliance program, implementing medical surveillance of workers, providing examining physicians with specific information, ensuring that workers receive a copy of their medical surveillance results, maintaining workers' exposure monitoring and medical surveillance records for specific periods, and providing access to these records by the worker who is the subject of the records, the worker's representative, and other designated parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The Agency is not seeking a burden-hour adjustment and will summarize any comments submitted in response to this notice and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Cadmium in Construction (29 CFR 1926.1127).

OMB Control Number: 1218–0186.

Affected Public: Business or other for-profits.

Number of Respondents: 10,000.

Frequency: On occasion; Quarterly; Semi-annually; Annually.

Average Time per Response: Varies from five minutes (.08 hour) for an employer to notify a worker with exposure monitoring results to 1.5 hours to administer worker medical examinations.

Estimated Number of Responses: 258,250.

Estimated Total Burden Hours: 33,720.

Estimated Cost (Operation and Maintenance): $2,211,445.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2012–0005) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350; TTY (877) 889–5627. Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on August 9, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–17557 Filed 8–14–18; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report of Rescissions Proposals Pursuant to the Congressional Budget and Impoundment Control Act of 1974

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of monthly cumulative report pursuant to the Congressional Budget and Impoundment Control Act of 1974.

SUMMARY: Pursuant to the Congressional Budget and Impoundment Control Act of 1974, OMB is issuing a monthly cumulative report (for August, 2018) from the Director detailing the status of rescission proposals that were previously transmitted to the Congress on May 8, 2018, and amended by the supplementary message transmitted on June 5, 2018.

DATES: *Release Date:* August 10, 2018.

ADDRESSES: The August, 2018 cumulative report is available on-line on the OMB website at: *https://www.whitehouse.gov/omb/budget-rescissions-deferrals/*.

FOR FURTHER INFORMATION CONTACT: Jessica Andreasen, 6001 New Executive Office Building, Washington, DC 20503, Email address: *jandreasen@omb.eop.gov,* telephone number: (202) 395–3645. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

John Mulvaney,

Director.

[FR Doc. 2018–17571 Filed 8–14–18; 8:45 am]

BILLING CODE 3110–01–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 18–09]

Notice of Entering Into a Compact With the Mongolia

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 as amended, and the heading ''Millennium Challenge Corporation'' of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018, the Millennium Challenge Corporation (MCC) is publishing a summary of the Millennium Challenge Compact between the United States of America, acting through MCC, and the country of Mongolia. Representatives of MCC and Mongolia signed the compact on July 27, 2018. The complete text of the compact has been posted at: *https://assets.mcc.gov/content/uploads/compact-mongolia-water.pdf.*

Dated: August 9, 2018.

Thomas G. Hohenthaner,

Deputy Vice President and General Counsel, Millennium Challenge Corporation.

Summary of the Mongolia Compact

Overview of MCC Mongolia Compact

MCC's five-year, $350 million Millennium Challenge Compact with the Government of Mongolia (the ''Government'') aims to reduce poverty through economic growth by assisting the Government in addressing one of the country's most binding constraints to economic growth: Inadequate access to water and sanitation in productive sectors and poor communities. The Compact will address this constraint through a single project that aims to increase the water supply to the capital city, Ulaanbaatar.

The Compact will focus on addressing problems within the water sector in Ulaanbaatar, specifically the imminent shortage of water that threatens Ulaanbaatar's economy and that could begin to reduce the quality of life of its residents as early as 2019. The city currently draws its annual supply of 77 million cubic meters of drinking water from groundwater aquifers along the upper reaches of the Tuul River, which flows through the city. Studies supported by MCC indicate that any additional extraction of the groundwater aquifers upstream will diminish river flow and cause portions of the river in this area to run dry, thus making the upper reaches of the river unavailable for the development of future water supplies. The groundwater aquifers located along the reaches of the Tuul River downstream from the city must therefore support the city's future needs. However, poorly treated discharge from the city's outdated and overloaded central wastewater treatment plant has contaminated the Tuul River as it flows downstream from the city, thereby introducing potentially harmful contaminants into these downstream aquifers. The pollution of these aquifers at a time of rapid growth in the demand for water only makes the imminent water crisis more acute.

Project Summary

The Compact will address the constraint of long-term water supply to Ulaanbaatar through a Water Supply Project, the objective of which is to meet the projected demand for water in Ulaanbaatar for residential consumers and commercial and industrial users over the medium term in ways that are economically and environmentally sustainable. The Water Supply Project is composed of three activities:

- *Downstream Wells Activity:* This activity involves expansion of the city's bulk water supply through the construction of (i) approximately 52 new wells in two downstream wellfields to supply up to 50 million cubic meters of groundwater per year, (ii) associated pipelines, transmission lines, and pumps to convey the water, (iii) an advanced water treatment plant to produce water that meets drinking standards, and (iv) storage facilities, a pumping station and a conveyance pipeline to transport finished drinking water into the existing municipal water network of Ulaanbaatar. The activity includes advanced technology for purification of the water to ensure that water supplied to the city is safe and potable.
- *Wastewater Recycling Activity:* This activity involves a significant reduction in the demand for fresh water through the construction of (i) a wastewater recycling plant designed to treat a portion of the effluent from the central wastewater treatment plant, (ii) pumping stations and associated pipelines to convey the recycled water to water storage facilities near two large combined heating and power plants, and (iii) internal piping, storage facilities and control systems to facilitate the use of recycled wastewater for certain processes within these combined heating and power plants, which are currently the city's largest consumers of freshwater. This activity will substitute recycled water for at least 14 million cubic meters of freshwater that the combined heating and power plants consume each year, with an expectation that the volume will increase over time. The wastewater recycling plant will be the first of its kind in Mongolia, helping to pave the path for efficient and responsible management of the scarce water resources of Ulaanbaatar.
- *Water Sector Sustainability Activity:* This activity is designed to enhance the long-term sustainability of water supplies to the capital city through critical policy, legal, regulatory and institutional changes, with a particular emphasis on achieving full cost recovery and making improvements in operations and maintenance. The Water Sector Sustainability Activity includes five sub-activities, which will

support (i) utility-wide financial sustainability and cost recovery, (ii) utility cost savings and cost containment for operation in the *ger* areas, (iii) improved utility operational efficiency, (iv) environmental sustainability, industrial pre-treatment, and pollution control, and (v) public communications, stakeholder engagement, and behavior change interventions. This activity will help to ensure that the benefits of the Compact reach all citizens of Ulaanbaatar and are sustained over the long term.

MCC estimates that the Water Supply Project will add 64 million cubic meters to Ulaanbaatar's long-term supply of water, an 83 percent increase in total supply. MCC estimates this volume to be sufficient to meet the city's growing demand for water well beyond the end of the Compact.

Compact Budget

Table I presents the Compact budget and sets forth both the MCC funding by Compact components and the Government's expected $111.76 million in a country contribution toward the objectives of the Compact.

TABLE I—MONGOLIA COMPACT BUDGET

[In US$ millions]

MCC funding by compact components	Program funding under section 605	Compact development funding under section 609(g)	Total MCC funding
1. Water Supply Project			
1.1 Downstream Wells Activity	$223.50	$16.00	$239.50
1.2 Wastewater Recycling Activity	40.95	2.25	43.20
1.3 Water Sector Sustainability Activity	17.04	2.96	20.00
Subtotal	281.49	21.21	302.70
2. Monitoring and Evaluation	10.33	0.03	10.36
3. Program Administration and Oversight	30.12	6.82	36.94
MCC Funding	321.94	28.06	350.00

Total compact funding	Amount
Total MCC Funding	$350.00
Government of Mongolia Contribution	111.76
Total Compact	461.76

[FR Doc. 2018–17574 Filed 8–14–18; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL CREDIT UNION ADMINISTRATION

Privacy Act of 1974: Systems of Records

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of a modified system of records; notice of modified standard routine uses.

SUMMARY: Pursuant to the Privacy Act of 1974, the National Credit Union Administration (NCUA) proposes the following changes to: Reflect changes in information access and retrieval, and change the name of the office system owner for an existing system of records, Consumer Complaints Against Federal Credit Unions, NCUA–12; revise the authorities to reflect specific programmatic authority for collecting, maintaining, using, and disseminating the information; and add a routine use to all NCUA Systems of Records as part of our Standard Routine Uses. These actions are necessary to meet the requirements of the Privacy Act that federal agencies publish in the **Federal Register** a notice of the existence and character of records it maintains that are retrieved by an individual identifier. This is a republication after full review by OMB.

DATES: Submit comments on or before September 14, 2018. This action will be effective without further notice on September 14, 2018 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments by any of the following methods, but please send comments by one method only:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Website: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on NCUA Consumer Complaints Against Federal Credit Unions SORN'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

FOR FURTHER INFORMATION CONTACT: Morgan M. Rogers, Division of Consumer Affairs Director, or Matthew J. Biliouris, Director, Office of Consumer Financial Protection, Consumer Assistance, the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314 (Regarding the NCUA–12, Consumer Complaints Against Federal Credit Unions System), or Rena Kim, Privacy Attorney, or Linda Dent, Senior Agency Official for Privacy, Office of General Counsel, the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

(1) NCUA is Proposing To Update NCUA–12, Consumer Complaints Against Federal Credit Unions. The NCUA–12 Consumer Complaints Against Federal Credit Unions System is being updated to reflect a change in the manner in which records are accessed and retrieved by examination personnel. The NCUA–12 system of records collects and maintains consumer complaints against federal credit unions received and processed by the NCUA Consumer Assistance Center. The change in access will improve the effectiveness and efficiency when examiners conduct the required pre-exam planning review of consumer complaints. Examiners may securely view consumer complaints, credit union responses, supporting documentation about complaints, and consumer protection violations concerning the credit unions in their assigned region. The update includes a change to the office system owner's name resulting

from a reorganization. The Consumer Assistance Center is a component within NCUA's previous Office of Consumer Financial Protection and Access, now reorganized and renamed the Office of Consumer Financial Protection (OCFP).

(2) NCUA is Proposing To Revise the Authorities for Maintenance of the System To Reflect Specific Programmatic Authority for Collecting, Maintaining, Using, and Disseminating the Information. We are revising the authorities to reflect specific programmatic authority for collecting, maintaining, using, and disseminating the information.

(3) NCUA is Proposing To Add One Routine Use to Our Standard Routine Uses. This additional routine use will facilitate the sharing of NCUA's information with another agency in its efforts to respond to a breach. It will ensure that NCUA meets the requirements of OMB M–17–12 ''Preparing for and Responding to a Breach of Personally Identifiable Information.''

In addition to the substantive updates described above, the NCUA has modified the format of NCUA–12 to align with the guidance set forth in OMB Circular A–108. NCUA–12 and all of NCUA's Standard Routine Uses are published in full below. For convenience, modified language is identified in italics. All of the NCUA's SORNs are available at *www.ncua.gov.*

By the National Credit Union Administration Board on August 9, 2018.

Gerard Poliquin,

Secretary of the Board.

SYSTEM NAME AND NUMBER

Consumer Complaints Against Federal Credit Unions—NCUA–12.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

NCUA Consumer Assistance Center, Office of Consumer Financial Protection, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Third party service provider, Salesforce.com, Inc. The Landmark at One Market, Suite 300, San Francisco, CA 94105.

SYSTEM MANAGER(S):

Division of Consumer Affairs Director, Office of Consumer Financial Protection, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1752a, 12 U.S.C. 1766, 12 U.S.C. 1784(a), and 12 U.S.C. 1789.

PURPOSE(S) OF THE SYSTEM:

The system supports the NCUA's supervisory oversight and enforcement responsibilities to intake and respond to consumer inquiries, complaints and other communications from the general public, credit unions and other state and federal government banking and law enforcement agencies regarding federal consumer financial protection laws, regulations and credit union activity.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are members of the public that contact the NCUA's Consumer Assistance Center by telephone, written correspondence and web search, including both general inquiries and complaints concerning federal financial consumer protection matters within credit unions.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and records of other communications between the NCUA and the individual submitting a complaint or making an inquiry, including copies of supporting documents and contact information supplied by the individual. This system may also contain regulatory and supervisory communications between the NCUA and the NCUA-insured credit union in question and/or intra-agency or inter-agency memoranda or correspondence relevant to the complaint or inquiry.

RECORD SOURCE CATEGORIES:

Information is provided by the individual complainant, and his or her representative such as, a member of Congress or an attorney. Information is also provided by federal credit union officials and employees. Information is provided by the individual to whom the record pertains, internal agency records, and investigative and other record material compiled in the course of an investigation, or furnished by other state and federal financial regulatory and law enforcement government agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The NCUA's Consumer Assistance Center uses these records to document the submission of and responses to consumer inquiries, complaints and other communications from the general public regarding federal consumer financial protection laws, regulations and credit union activity.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the NCUA as a routine use as follows:

(1) Information may be disclosed to officials of federal credit unions and other persons mentioned in a complaint or identified during an investigation.

(2) Disclosures may be made to the Federal Reserve Board, other federal financial regulatory agencies, the Federal Financial Institutions Examination Council, the White House Office of Consumer Affairs, and the Congress, or any of its authorized committees in fulfilling reporting requirements or assessing implementation of applicable laws and regulations. (Such disclosures will be made in a non-identifiable manner when feasible and appropriate.)

(3) Referrals may also be made to other federal and nonfederal supervisory or regulatory authorities when the subject matter is a complaint or inquiry which is more properly within such agency's jurisdiction.

(4) NCUA's Standard Routine Uses apply to this system of records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored electronically and physically.

POLICIES AND PRACTICES FOR RETRIEVABILITY OF RECORDS:

Records are retrieved by individual identifiers such as individual complainant's name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records, including audio records, are retained in a secure and encrypted cloud-based storage system for a period of seven years consistent with the National Archives and Records Administration records retention schedule.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS:

Information in the system is safeguarded in accordance with the applicable laws, rules and policies governing the operation of federal information systems.

RECORD ACCESS PROCEDURES:

Individuals wishing access to their records should submit a written request to the Senior Agency Official for Privacy, NCUA, 1775 Duke Street, Alexandria, VA 22314, and provide the following information:

1. Full name.
2. Any available information regarding the type of record involved.
3. The address to which the record information should be sent.
4. You must sign your request.

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for the representative to act on their behalf. Individuals requesting access must also comply with NCUA's Privacy Act regulations regarding verification of identity and access to records (12 CFR 792.55).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment to their records should submit a written request to the Senior Agency Official for Privacy, NCUA, 1775 Duke Street, Alexandria, VA 22314, and provide the following information:

1. Full name.
2. Any available information regarding the type of record involved.
3. A statement specifying the changes to be made in the records and the justification therefore.
4. The address to which the response should be sent.
5. You must sign your request.

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for the representative to act on their behalf.

NOTIFICATION PROCEDURES:

Individuals wishing to learn whether this system of records contains information about them should submit a written request to the Senior Agency Official for Privacy, NCUA, 1775 Duke Street, Alexandria, VA 22314, and provide the following information:

1. Full name.
2. Any available information regarding the type of record involved.
3. The address to which the record information should be sent.
4. You must sign your request.

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for the representative to act on their behalf. Individuals requesting access must also comply with NCUA's Privacy Act regulations regarding verification of identity and access to records (12 CFR 792.55).

HISTORY:

This system of records notice was originally published in 65 FR 3486 (January 21, 2000). It was republished (but not substantively changed in 75 FR 41539 (July 16, 2010), and 71 FR 77807 (December 27, 2006).

NCUA'S STANDARD ROUTINE USES:

1. If a record in a system of records indicates a violation or potential violation of civil or criminal law or a regulation, and whether arising by general statute or particular program statute, or by regulation, rule, or order, the relevant records in the system or records may be disclosed as a routine use to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

2. A record from a system of records may be disclosed as a routine use to a federal, state, or local agency which maintains civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from a system of records may be disclosed as a routine use to a federal agency, in response to its request, for a matter concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

4. A record from a system of records may be disclosed as a routine use to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. Further, a record from any system of records may be disclosed as a routine use to the Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

5. A record from a system of records may be disclosed as a routine use to officers and employees of a federal agency for purposes of audit.

6. A record from a system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

7. A record from a system of records may be disclosed as a routine use to the officers and employees of the General Services Administration (GSA) in connection with administrative services provided to this Agency under agreement with GSA.

8. Records in a system of records may be disclosed as a routine use to the Department of Justice, when: (a) NCUA, or any of its components or employees acting in their official capacities, is a party to litigation; or (b) Any employee of NCUA in his or her individual capacity is a party to litigation and where the Department of Justice has agreed to represent the employee; or (c) The United States is a party in litigation, where NCUA determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and NCUA determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, NCUA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

9. Records in a system of records may be disclosed as a routine use in a proceeding before a court or adjudicative body before which NCUA is authorized to appear (a) when NCUA or any of its components or employees are acting in their official capacities; (b) where NCUA or any employee of NCUA in his or her individual capacity has agreed to represent the employee; or (c) where NCUA determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and NCUA determines that use of such records is relevant and necessary to the litigation, provided, however, NCUA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

10. A record from a system of records may be disclosed to contractors, experts, consultants, and the agents thereof, and others performing or working on a contract, service, cooperative agreement, or other assignment for NCUA when necessary to accomplish an agency function or administer an employee benefit program. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NCUA employees.

11. A record from a system of records may be disclosed to appropriate agencies, entities, and persons when (1) NCUA suspects or has confirmed that

the security or confidentiality of information in the system of records has been compromised; (2) NCUA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NCUA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NCUA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

12. A record from a system of records may be shared with the Office of Management and Budget (OMB) in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

13. To another Federal agency or Federal entity, when the NCUA 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.

[FR Doc. 2018–17517 Filed 8–14–18; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: National Credit Union Administration.

ACTION: Rescindment of a system of records notice.

SUMMARY: NCUA–5, Unofficial Personnel and Employee Development/Correspondence Records is a system of records that covers unofficial personnel and related records maintained by NCUA staff to facilitate day-to-day administrative activities. The records are covered by OPM/GOVT–1 and OPM/GOVT–2 and therefore, the NCUA is proposing that NCUA–5 be rescinded. The rescission will not affect business and will likewise not create any additional privacy risks for the individuals whose information is covered by NCUA–5 (NCUA employees). Rather, the rescission will increase the NCUA's compliance with OMB Circular A–108, Section 6, i. (December 23, 2016).

DATES: There are no dates associated with this rescission because the records will continue to be maintained pursuant to OPM/GOVT–1 and OPM/GOVT–2.

ADDRESSES: You may submit comments by any of the following methods, but please send comments by one method only:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Website: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on NCUA Consumer Complaints Against Federal Credit Unions SORN'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

FOR FURTHER INFORMATION CONTACT: Linda Dent, Senior Agency Official for Privacy, Office of General Counsel, the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION: The NCUA is proposing to rescind NCUA–5, Unofficial Personnel and Employee Development/Correspondence Records because the records covered by NCUA–5 are also covered by government-wide SORNs, OPM/GOVT–1 and OPM/GOVT–2. Following the rescission of NCUA–5, the NCUA will continue to maintain and use the records as it previously had, but will rely on the government-wide SORNs opposed to its own. A side-by-side comparison of the types of records, the purposes and the routine uses in NCUA–5 and those in OPM/GOVT–1 and OPM/GOVT–2 was conducted to ensure the proposed rescission would not orphan any Privacy Act records and was otherwise in keeping with the spirit of the Privacy Act's notice related provisions. The NCUA's proposal to rescind NCUA–5 is part of an effort on the NCUA's part to increase compliance with OMB Circular A–108, Section 6, i. (December 23, 2016).

System Name and Number: NCUA–5, Unofficial Personnel and Employee Development/Correspondence Records.

History: The NCUA originally published NCUA–5 on January 21, 2001 (65 FR 3486). The NCUA republished NCUA–5 on December 27, 2006 (71 FR 77807), and July 16, 2010 (75 FR 41539). Both of the publications were of full republications of the NCUA's SORNs, neither of which included substantive changes to NCUA–5.

By the National Credit Union Administration Board on August 9, 2018.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2018–17518 Filed 8–14–18; 8:45 am]

BILLING CODE P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities will hold six meetings of the Humanities Panel, a federal advisory committee, during September 2018. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at Constitution Center at 400 7th Street SW, Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* September 5, 2018

This meeting will discuss applications on the topic of U.S. History, for the Digital Projects for the Public (Production) grant program, submitted to the Division of Public Programs.

2. *Date:* September 6, 2018

This meeting will discuss applications on the topics of World History and Culture, for the Digital Projects for the Public (Production) grant program, submitted to the Division of Public Programs.

3. *Date:* September 7, 2018

This meeting will discuss applications on the topic of U.S. History, for the Digital Projects for the Public (Discovery) grant program, submitted to the Division of Public Programs.

4. *Date:* September 12, 2018

This meeting will discuss applications on the topic of U.S. History, for the Digital Projects for the Public (Production) grant program, submitted to the Division of Public Programs.

5. *Date:* September 13, 2018

This meeting will discuss applications on the topics of World History and Culture, for the Digital Projects for the Public (Discovery) grant program, submitted to the Division of Public Programs.

6. *Date:* September 14, 2018

This meeting will discuss applications on the topics of Arts and Culture, for the Digital Projects for the Public (Production) grant program, submitted to the Division of Public Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: August 9, 2018.

Michael McDonald,

General Counsel, National Endowment for the Humanities.

[FR Doc. 2018–17603 Filed 8–14–18; 8:45 am]

BILLING CODE 7536–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 1:30 p.m., Tuesday, August 28, 2018.

PLACE: NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE, Washington DC 20002.

STATUS: Open (with the exception of Executive Session).

MATTERS TO BE CONSIDERED:

I. CALL TO ORDER
II. Approval of Minutes
III. Executive Session: Report from CEO
IV. Executive Session: Internal Audit Report
V. Preliminary FY19 Budget
VI. Fluid Helix LIFT Vendor Contract
VII. Housing Counseling Fee for Service Opportunity
VIII. FY18 Corporate Goal Performance
IX. 40th Anniversary Board Agency Event
X. Management Program Background and Updates
XI. Adjournment

CONTACT PERSON FOR MORE INFORMATION: Rutledge Simmons, Acting EVP & General Counsel/Secretary, (202) 760–4105; *Rsimmons@nw.org.*

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(2) and (4) permit closure of the following portion(s) of this meeting:

- Report from CEO
- Internal Audit Report

Rutledge Simmons,

Acting EVP & General Counsel/Corporate Secretary.

[FR Doc. 2018–17484 Filed 8–13–18; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–05626; NRC–2018–0121]

National Aeronautics & Space Administration; John H. Glenn Research Center

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) reviewed an application by National Aeronautics & Space Administration John H. Glenn Research Center (NASA Glenn) for amendment of Materials License No. 34–00507–16, which authorizes the use and storage of licensed material for research and development. The amendment would allow the unrestricted release of the NASA Cyclotron Facility, also known as Building 140.

DATES: August 15, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0121 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–2018–0121. 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.
- *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 ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michael A. Kunowski, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 630–829–9618, email: *Michael.Kunowski@nrc.gov.*

SUPPLEMENTARY INFORMATION: By letter dated May 10, 2017 (ADAMS Accession No. ML17159A717), NASA Glenn submitted to the NRC an application to amend Materials License No. 34–00507–16, to allow the unrestricted release of Building 140 in accordance with the NRC's radiological criteria for unrestricted use found in section 20.1402 of title 10 of the *Code of Federal Regulations* (10 CFR).

Upon completing its review, the staff determined the request complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), as well as the NRC's rules and regulations. As required by the Act and the NRC's rules and regulations in 10 CFR chapter I, the staff made the appropriate findings which are contained in the safety evaluation report (ADAMS Accession No. ML18123A475). The staff also prepared an environmental assessment of the proposed action and issued a finding of no significant impact (ADAMS Accession No. ML18124A242). On May 8, 2018 (ML18129A196), the NRC

approved and issued Amendment 58 to Materials License No. 34–00507–16, held by NASA Glenn for the release of Building 140. Pursuant to 10 CFR 30.36, the NRC is providing notice of the action taken. Amendment 58 was effective as of the date of issuance.

Dated at Rockville, Maryland, this 9th day of August, 2018.

For the Nuclear Regulatory Commission.

Michael A. Kunowski,

Chief, Materials Control, ISFSI and Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. 2018–17486 Filed 8–14–18; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Request for Reinstatement: Certificate of Medical Examination, OF 178, 3206–0250

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a previously approved collection request (ICR) 3206–0250, Certificate of Medical Examination. As required by the Paperwork Reduction Act of 1995, as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until October 15, 2018. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Talent Acquisition and Workforce Shaping, Employee Services, Office of Personnel Management, 1900 E Street NW, Washington, DC 2041, Attention: Kimberly Holden or sent via electronic mail to *employ@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Talent Acquisition and Workforce Shaping, Employee Services, Office of Personnel Management, 1900 E Street NW, Washington, DC 20503, Attention: Monica Butler. You can also send via email to *employ@opm.gov* or call (202) 606–4209.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Optional Form (OF) 178, Certificate of Medical Examination, is used to collect medical information about individuals who are incumbents of positions which require physical fitness/agility testing and/or medical examinations, or who have been selected for such a position contingent upon meeting physical fitness/agility testing and medical examinations as a condition of employment. This information is needed to ensure fair and consistent treatment of employees and job applicants, to adjudicate the medically based passover of a preference eligible, and to adjudicate claims of discrimination under the Americans with Disabilities Act (ADA).

Analysis

Agency: Talent Acquisition and Workforce Shaping, Employee Services, Office of Personnel Management.

Title: Certificate of Medical Examination.

OMB Number: 3206–0250.

Frequency: Annually.

Affected Public: Federal Government.

Number of Respondents: 45,000.

Estimated Time per Respondent: 3 hours.

Total Burden Hours: 135,000 hours.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

[FR Doc. 2018–17428 Filed 8–14–18; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–249; CP2018–283; MC2018–204 and CP2018–284; MC2018–205 and CP2018–285]

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:* August 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
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).:* CP2017–249; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to a Global Plus 3 Negotiated Service Agreement; *Filing Acceptance Date:* August 9, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 17, 2018.

2. *Docket No(s).:* CP2018–283; *Filing Title:* Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement; *Filing Acceptance Date:* August 9, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 17, 2018.

3. *Docket No(s).:* MC2018–204 and CP2018–284; *Filing Title:* USPS Request to Add Priority Mail Contract 460 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 9, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* August 17, 2018.

4. *Docket No(s).:* MC2018–205 and CP2018–285; *Filing Title:* USPS Request to Add Priority Mail Contract 461 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 9, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* August 17, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–17585 Filed 8–14–18; 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:* August 15, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 9, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 461 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–205, CP2018–285.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–17501 Filed 8–14–18; 8:45 am]

BILLING CODE 7710–12–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:* August 15, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 9, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 460 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–204, CP2018–284.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–17500 Filed 8–14–18; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83811; File No. SR–Phlx–2018–53)

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Incorporate the "PSX Last Sale and Nasdaq Last Sale Plus Data Feeds" Into the Market Data Enterprise License Proposed by the Nasdaq Stock Market LLC

August 9, 2018

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 27, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

This amendment is immediately effective upon filing.[3]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to incorporate the ''PSX Last Sale and Nasdaq Last Sale Plus Data Feeds'' into the market data enterprise license proposed by the Nasdaq Stock Market LLC (''Nasdaq''), which is designed to lower fees, reduce administrative costs, and expand the availability of Nasdaq Last Sale (''NLS'') Plus, NLS, Nasdaq Basic and Nasdaq Depth-of-Book products. The proposal is described in further detail below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This proposed change was initially filed on July 3, 2018, and became immediately effective on that date. *See* SR–Phlx–2018–51, available at *http://nasdaq.cchwallstreet.com/.* It was subsequently refiled on July 17, 2018. *See* SR–Phlx–2018–52, available at *http://nasdaq.cchwallstreet.com/.* A firm eligible to purchase the enterprise license proposed by Nasdaq may purchase it for the month of July, effective on July 3, 2018, and the monthly fee for the license will be prorated for the period July 3 through July 31, 2018. Any fees owed by the purchaser of the enterprise license for the use of NLS Plus on July 1 and July 2, 2018, will also be prorated accordingly.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to incorporate the ''PSX Last Sale and Nasdaq Last Sale Plus Data Feeds'' into the market data enterprise license proposed by Nasdaq,[4] which is designed to lower fees, reduce administrative costs, and expand the availability of NLS Plus, NLS, Nasdaq Basic and Nasdaq Depth-of-Book products (TotalView and Level 2).

NLS Plus is a comprehensive data feed offered by Nasdaq that allows distributors to access the three last sale products [5] offered by Nasdaq and its affiliated U.S. equity exchanges,[6] as well as the FINRA/Nasdaq Trade Reporting Facility (''TRF''). It provides total cross-market volume information at the issue level, and reflects the cumulative consolidated volume of real-time trading activity for Tape A, B and C securities.[7] NLS Plus provides Trade Price, Trade Size, Sale Condition Modifiers, Cumulative Consolidated Market Volume, End of Day Trade Summary, Adjusted Closing Price, IPO Information, and Bloomberg ID. Additionally, pertinent regulatory information such as Market Wide Circuit Breaker, Regulation SHO Short Sale Price Test Restricted Indicator, Trading Action, and Symbol Directory are included. NLS Plus may be received by itself or in combination with NASDAQ Basic.

Firms that receive NLS Plus pay the monthly administrative fees for PSX Last Sale, BX Last Sale and NLS, and distributors pay a data consolidation fee of $350 per month.[8] The Exchange does not currently charge user fees for PSX Last Sale, but firms that receive NLS Plus would be required to pay any user fees adopted by the Exchange.[9]

The Exchange proposes to incorporate any fees owed under the PSX Last Sale and Nasdaq Last Sale Plus Data Feeds into the market data enterprise license proposed by Nasdaq, which is designed to lower fees, reduce administrative costs, and expand the availability of NLS Plus, NLS, Nasdaq Basic and Nasdaq Depth-of-Book products. These fees include the monthly administrative fee applicable to NLS, PSX Last Sale and BX Last Sale, a data consolidation fee for Internal or External Distributors, and any user fees for PSX Last Sale or BX Last Sale that may be adopted in the future.[10]

As set forth in greater detail under the Nasdaq proposal, the market data enterprise license for display usage proposed by Nasdaq will allow Distributors who are broker-dealers or Investment Advisers [11] to disseminate these products to a wide audience for a monthly fee of $600,000, with the opportunity to lower that fee further to $500,000 per month if they contract for twelve months of service in advance. As explained in greater detail in Nasdaq's filing, the Exchange believes that the proposed market data enterprise license will reduce exchange fees, lower administrative costs for distributors, and help expand the availability of market information to investors, and thereby increase participation in financial markets. The enterprise license is being introduced in response to competition from other exchanges,[12] and demonstrates both the power and the benefits of the competitive market to spur innovation and change.

The purpose of this filing is to incorporate PSX Last Sale fees into the Nasdaq market data enterprise license as a means of lowering costs for all three equity markets. The rationale and support for this proposal are the same as already set forth by Nasdaq in its companion proposal.[13]

The proposed enterprise license is optional in that no exchange is required to offer it and distributors are not required to purchase it. Firms can discontinue its use at any time and for any reason, and may decide to purchase market data products individually or substitute products from one exchange with competing products from other exchanges.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the proposal to cover PSX fees for NLS Plus within the proposed market data enterprise license will lower fees, reduce administrative costs, and expand the availability of market data to retail investors, which the Exchange expects to improve transparency for financial market participants and lead to increased participation in financial markets. Discounts for broader dissemination of market data information have routinely been adopted by exchanges and permitted by the Commission as equitable allocations of reasonable dues, fees and other charges.[16] Distributors

[4] *See* SR–NASDAQ–2018–058 (not yet published).

[5] The three last sale products consist of Nasdaq Last Sale, BX Last Sale, and PSX Last Sale. PSX Last Sale consists of two data feeds containing real-time last sale information for trades executed on the Exchange. ''PSX Last Sale for Nasdaq'' contains all transaction reports for Nasdaq-listed securities. ''PSX Last Sale for NYSE/NYSEAmex'' contains all such transaction reports for securities listed on NYSE, NYSE Amex, and other exchanges.

[6] The Nasdaq, Inc. U.S. equity markets are Nasdaq PSX, Nasdaq, and Nasdaq BX.

[7] Tape A and Tape B securities are disseminated pursuant to the Security Industry Automation Corporation's (''SIAC'') Consolidated Tape Association Plan/Consolidated Quotation System, or CTA/CQS (''CTA''). Tape C securities are disseminated pursuant to the NASDAQ Unlisted Trading Privileges (''UTP'') Plan.

[8] The fee applies to both Internal and External Distributors. *See* PSX Last Sale and Nasdaq Last Sale Plus Data Feeds, Subsection (b)(1). ''Internal Distributors'' are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. ''External Distributors'' are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity.

[9] *See* PSX Last Sale and Nasdaq Last Sale Plus Data Feeds, Subsection (b)(3).

[10] The Exchange also proposes a technical change to the PSX Last Sale and Nasdaq Last Sale Plus Data Feeds to reflect that PSX administrative fees are charged on a monthly, rather than annual, basis. *See* Securities Exchange Act Release No. 79654 (December 22, 2016), 81 FR 96140 (December 29, 2016) (SR–Phlx–2016–122).

[11] ''Investment Adviser'' is defined in Section 202(a)(11) of the Investment Advisers Act of 1940, as ''any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities . . . .''

[12] *See, e.g.,* Enterprise Fee for the Cboe Equities One Feed, available at *https://markets.cboe.com/us/equities/market_data_products/bats_one/.*

[13] *See* n. 4.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

[16] For example, the Commission has permitted pricing discounts for market data under Nasdaq

Continued

will be free to move from the month to month rate to the annual rate at any time, or from the annual rate to the monthly rate, with notice, at the expiration of the twelve month term.

This proposal demonstrates the existence of an effective, competitive market because it resulted from a need to generate innovative approaches in response to competition from other exchanges that offer enterprise licenses for market data.[17] As the Commission has recognized, ''[i]f competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior,'' [18] and ''the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory.'' [19] The proposed enterprise license will be subject to significant competition from other exchanges because each eligible distributor will have the ability to accept or reject the license depending on whether it will or will not lower its fees, and because other exchanges will be able to offer their own competitive responses. As the Commission has held in the past, the presence of competition provides a substantial basis for a finding that the proposal will be an equitable allocation of reasonable dues, fees and other charges.[20]

Furthermore, the proposed enterprise license will not unfairly discriminate between customers, issuers, brokers or dealers. The Act does not prohibit all distinctions among customers, but only discrimination that is unfair, and it is not unfair discrimination to charge those distributors that are able to reach the largest audiences of retail investors a lower fee for incremental investors in order to encourage the widespread distribution of market data. The proposed change to the PSX rule book is designed to incorporate the PSX Last Sale and Nasdaq Last Sale Plus Data Feeds into the market data enterprise license proposed by Nasdaq. As explained in the Nasdaq filing, the market data enterprise license will be subject to significant competition, and that competition will ensure that there is no unfair discrimination. Each distributor will be able to accept or reject the license depending on whether it will or will not lower costs for that particular distributor, and, if the license is not sufficiently competitive, the Exchange may lose market share.

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[21]

The Commission was speaking to the question of whether broker-dealers should be subject to a regulatory requirement to purchase data, such as Depth-of-Book data, that is *in excess of* the data provided through the consolidated tape feeds, and the Commission concluded that the choice should be left to them. Accordingly, Regulation NMS removed unnecessary regulatory restrictions on the ability of exchanges to sell their own data, thereby advancing the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

The proposed change to the PSX rule book is designed to incorporate the PSX Last Sale and Nasdaq Last Sale Plus Data Feeds into the market data enterprise license proposed by Nasdaq, and the proposed enterprise license will compete with other enterprise licenses offered by Nasdaq, underlying fee schedules promulgated by the Exchange, and enterprise licenses and fee structures implemented by other exchanges. The enterprise license is a voluntary product for which market participants can readily find substitutes. Accordingly, both PSX and Nasdaq are constrained from introducing a fee that would be inequitable or unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal will eliminate PSX fees for NLS Plus as part of a market data enterprise license proposed by Nasdaq that is intended to lower fees, reduce administrative costs, and expand the availability of market data to retail investors, which the Exchange expects to lead to increased participation in financial markets. It will not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act, but rather will enhance competition by introducing an innovative fee structure for market data, lowering prices and enhancing competition.

The market for data products is extremely competitive and firms may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction

Rules 7023(c) and 7047(b). *See also* Securities Exchange Act Release No. 82182 (November 30, 2017), 82 FR 57627 (December 6, 2017) (SR–NYSE–2017–60) (changing an enterprise fee for NYSE BBO and NYSE Trades).

[17] *See* n. 12.

[18] Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21).

[19] *Id.*

[20] *Id.*

[21] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

execution platform, the cost of implementing cybersecurity to protect the data from external threats and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, the operation of the Exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[22]

It is costly for the Exchange to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and each are subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, the Exchange would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of trade reports from the TRF without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating, and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

An exchange's broker-dealer customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will disfavor a particular exchange if the expected revenues from executing trades on the exchange do not exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing more orders will become correspondingly more valuable.

Similarly, vendors provide price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail broker-dealers offer their retail customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. Exchanges, TRFs, and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, the Exchange believes that market data products can enhance order flow by providing more widespread distribution of information about transactions in real time, thereby encouraging wider participation in the market by investors with access to the internet or television. Conversely, the value of such products to Distributors and investors decreases if order flow falls, because the products contain less content.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.[23]

Moreover, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including SRO markets, internalizing broker-dealers and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for broker-dealers to further exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, broker-dealers, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and broker-dealer is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including Nasdaq, NYSE, NYSE American, NYSE Arca, IEX, and BATS/Direct Edge.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in

[22] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

[23] *Cf. Ohio* v. *American Express,* No. 16–1454 (S. Ct. June 25, 2018), *https://www.supremecourt.gov/opinions/17pdf/16-1454_5h26.pdf* (recognizing the need to analyze both sides of a two sided platform market in order to determine its competitiveness).

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number *SR–Phlx–2018–53.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–53 and should be submitted on or before September 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17492 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Regulation S–P. SEC File No. 270–480; OMB Control No. 3235–0537.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in the privacy notice and opt out notice provisions of Regulation S–P—Privacy of Consumer Financial Information (17 CFR part 248, subpart A) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The privacy notice and opt out notice provisions of Regulation S–P (the ''Rule'') implement the privacy notice and opt out notice requirements of Title V of the Gramm-Leach-Bliley Act (''GLBA''), which include the requirement that at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous disclosure to such consumer of such financial institution's policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties (''privacy notice''). Title V of the GLBA also provides that, unless an exception applies, a financial institution may not disclose nonpublic personal information of a consumer to a nonaffiliated third party unless the financial institution clearly and conspicuously discloses to the consumer that such information may be disclosed to such third party; the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and the consumer is given an explanation of how the consumer can exercise that nondisclosure option (''opt out notice''). The Rule applies to broker-dealers, investment advisers registered with the Commission, and investment companies (''covered entities'').

Commission staff estimates that, as of March 31, 2018, the Rule's information collection burden applies to approximately 20,465 covered entities (approximately 3,857 broker-dealers, 12,643 investment advisers registered with the Commission, and 3,965 investment companies). In view of (a) the minimal recordkeeping burden imposed by the Rule (since the Rule has no recordkeeping requirement and records relating to customer communications already must be made and retained pursuant to other SEC rules); (b) the summary fashion in which information must be provided to customers in the privacy and opt out notices required by the Rule (the model privacy form adopted by the SEC and the other agencies in 2009, designed to serve as both a privacy notice and an opt out notice, is only two pages); (c) the availability to covered entities of the model privacy form and online model privacy form builder; and (d) the experience of covered entities' staff with the notices, SEC staff estimates that covered entities will each spend an average of approximately 12 hours per year complying with the Rule, for a total of approximately 245,580 annual burden-hours (12 x 20,465 = 245,580). SEC staff understands that the vast majority of covered entities deliver their privacy and opt out notices with other communications such as account opening documents and account statements. Because the other communications are already delivered to consumers, adding a brief privacy and opt out notice should not result in added costs for processing or for postage and materials. Also, privacy and opt out notices may be delivered electronically to consumers who have agreed to electronic communications, which further reduces the costs of delivery. Because SEC staff assumes that most paper copies of privacy and opt out notices are combined with other required mailings, the burden-hour estimates above are based on resources required to integrate the privacy and opt notices into another mailing, rather than on the resources required to create and send a separate mailing. SEC staff estimates that, of the estimated 12

[25] 17 CFR 200.30–3(a)(12).

annual burden-hours incurred, approximately 8 hours would be spent by administrative assistants at an hourly rate of $82, and approximately 4 hours would be spent by internal counsel at an hourly rate of $422, for a total annualized internal cost of compliance of $2,344 for each of the covered entities (8 × $82 = $656; 4 × $422 = $1,688; $656 + $1,688 = $2,344). Hourly cost of compliance estimates for administrative assistant time are derived from the Securities Industry and Financial Markets Association's *Office Salaries in the Securities Industry 2013,* modified by SEC staff to account for an 1,800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. Hourly cost of compliance estimates for internal counsel time are derived from the Securities Industry and Financial Markets Association's *Management & Professional Earnings in the Securities Industry 2013,* modified by SEC staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. Accordingly, SEC staff estimates that the total annualized internal cost of compliance for the estimated total hour burden for the approximately 20,465 covered entities subject to the Rule is approximately $47,969,960 ($2,344 × 20,465 = $47,969,960).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 9, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17488 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83812; File No. SR–MIAX–2018–21]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

August 9, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2018, Miami International Securities Exchange LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Market Maker Sliding Scale (defined below) contained in its Fee Schedule, and assessed to MIAX Options Market Makers,[3] to (i) modify certain volume thresholds, and (ii) increase certain Maker (as defined below) fees in certain Tiers for options transactions in Penny classes (as defined below) executed in the simple order book.

Section 1)a)i) of the Fee Schedule sets forth the Exchange's Market Maker Sliding Scale for Market Maker Transaction Fees (the ''Sliding Scale''). The Sliding Scale assesses a per contract transaction fee on a Market Maker for the execution of simple orders and quotes (collectively, ''simple orders'') and complex orders and quotes (collectively, ''complex orders''). The percentage threshold by tier is based on the Market Maker's percentage of total national market maker volume in all options classes that trade on the Exchange during a particular calendar month, or total aggregated volume (''TAV''), and the Exchange aggregates the volume executed by Market Makers in both simple orders and complex orders for purposes of determining the applicable tier and corresponding per contract transaction fee amount.[4] The Sliding Scale applies to all MIAX Options Market Makers for transactions in all products (except for mini-options, for which there are separate product fees), with fees established for standard option classes in the Penny Pilot Program [5] (''Penny classes'') and separate fees for standard option classes which are not in the Penny Pilot

[3] The term ''Market Makers'' refers to Lead Market Makers (''LMMs''), Primary Lead Market Makers (''PLMMs''), and Registered Market makers (''RMMs'') collectively. *See* Exchange Rule 100. A Directed Order Lead Market Maker (''DLMM'') and Directed Primary Lead Market Maker (''DPLMM'') is a party to a transaction being allocated to the LMM or PLMM and is the result of an order that has been directed to the LMM or PLMM. *See* Fee Schedule, note 2.

[4] The calculation of the volume thresholds does not include QCC and cQCC Orders, PRIME and cPRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order (''PRIME Participating Quotes or Orders'') and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order (''cPRIME Participating Quote or Order'') (herein ''Excluded Contracts''). *See* Fee Schedule, page 2.

[5] *See* Securities Exchange Act Release No. 83515 (June 25, 2018), 83 FR 30786 (June 29, 2018) (SR–MIAX–2018–12).

Program (''non-Penny classes''), and further based on whether the Market Maker is acting as a ''Maker'' or a ''Taker'' in simple orders.[6] Market Makers that place resting liquidity, *i.e.,* quotes or orders on the MIAX Options System,[7] are assessed the ''maker'' fee (each a ''Maker''). Market Makers that execute against (remove) resting liquidity are assessed a higher ''taker'' fee (each a ''Taker''). This is distinguished from traditional ''maker-taker'' models where ''makers'' typically receive a rebate and ''takers'' are assessed a fee; the Exchange instead assesses lower transaction fees to ''makers'' as compared to ''takers,'' similar to the manner implemented at other exchanges.[8]

Further, the Exchange provides certain discounted Market Maker transaction fees for Members [9] and their qualified Affiliates [10] that achieve certain volume thresholds through the submission of Priority Customer [11] orders under the Exchange's Priority Customer Rebate Program (''PCRP''),[12] which is set forth on two tables: one setting forth the transaction fees applicable to Members and their Affiliates that are in PCRP Volume Tier 3 or higher; and the other setting forth the transaction fees applicable to Members and their Affiliates that are not in PCRP Volume Tier 3 or higher. The Sliding Scale also includes Maker and Taker fees in both tables in each Tier for simple orders in Penny classes and non-Penny classes where the fees are discounted/differentiated between the tables.

The current Sliding Scale tables are as follows:

MEMBERS AND THEIR AFFILIATES IN PRIORITY CUSTOMER REBATE PROGRAM VOLUME TIER 3 OR HIGHER

	Tier	Percentage thresholds	Simple				Complex		
			Per contract fee for penny classes		Per contract fee for non-penny classes		Per contract fee for penny classes	Per contract fee for non-penny classes	Per contract surcharge for removing liquidity against a resting priority customer complex order on the strategy book for penny and non-penny classes
			Maker	Taker	Maker	Taker			
All MIAX Market Makers	1	0.00–0.075	$0.21	$0.23	$0.25	$0.30	$0.25	$0.29	$0.10
	2	Above 0.075–0.60	0.15	0.22	0.19	0.27	0.19	0.23	0.10
	3	Above 0.60–1.00	0.08	0.19	0.12	0.23	0.12	0.16	0.10
	4	Above 1.00–1.50	0.04	0.18	0.08	0.22	0.07	0.11	0.10
	5	Above 1.50	0.02	0.17	0.06	0.21	0.05	0.09	0.10

MEMBERS AND THEIR AFFILIATES NOT IN PRIORITY CUSTOMER REBATE PROGRAM VOLUME TIER 3 OR HIGHER

	Tier	Percentage thresholds	Simple				Complex		
			Per contract fee for penny classes		Per contract fee for non-penny classes		Per contract fee for penny classes	Per contract fee for non-penny classes	Per contract surcharge for removing liquidity against a resting priority customer complex order on the strategy book for penny and non-penny classes
			Maker	Taker	Maker	Taker			
All MIAX Market Makers	1	0.00–0.075	$0.23	$0.25	$0.27	$0.32	$0.25	$0.29	$0.10
	2	Above 0.075–0.60	0.17	0.24	0.21	0.29	0.19	0.23	0.10
	3	Above 0.60–1.00	0.10	0.21	0.14	0.25	0.12	0.16	0.10
	4	Above 1.00–1.50	0.06	0.20	0.10	0.24	0.07	0.11	0.10

[6] *See* Securities Exchange Act Release No. 78519 (August 9, 2016), 81 FR 54162 (August 15, 2016) (SR–MIAX–2016–21).

[7] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[8] The Exchange notes that similar maker-taker pricing is implemented at Nasdaq ISE, LLC (''ISE''). *See* Nasdaq ISE Fee Schedule, Section I Regular Order Fees and Rebates.

[9] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[10] For purposes of the MIAX Options Fee Schedule, the term ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, (''Affiliate''), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* Fee Schedule, note 1.

[11] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A ''Priority Customer Order'' means an order for the account of a Priority Customer. *See* Exchange Rule 100.

[12] Under the PCRP, MIAX Options credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. *See* Fee Schedule, Section 1)a)iii.

MEMBERS AND THEIR AFFILIATES NOT IN PRIORITY CUSTOMER REBATE PROGRAM VOLUME TIER 3 OR HIGHER—Continued

	Tier	Percentage thresholds	Simple				Complex		
			Per contract fee for penny classes		Per contract fee for non-penny classes		Per contract fee for penny classes	Per contract fee for non-penny classes	Per contract surcharge for removing liquidity against a resting priority customer complex order on the strategy book for penny and non-penny classes
			Maker	Taker	Maker	Taker			
	5	Above 1.50	0.04	0.19	0.08	0.23	0.05	0.09	0.10

First, the Exchange proposes to modify the monthly volume thresholds in the Market Maker Sliding Scale in both the table setting forth the transaction fees applicable to Members and their Affiliates that are in PCRP Volume Tier 3 or higher; and in the second table setting forth the transaction fees applicable to Members and their Affiliates that are not in PCRP Volume Tier 3 or higher. Specifically, the Exchange proposes to adjust the percentage threshold of Tier 2 from above 0.075% up to 0.60% of the total monthly volume executed by the Member on MIAX Options, not including Excluded Contracts, divided by the TAV, to become above 0.075% up to 0.70% of the total monthly volume executed by the Member on MIAX Options, not including Excluded Contracts, divided by the TAV. The Exchange proposes to adjust the percentage threshold of Tier 3 from above 0.60% up to 1.00% of the total monthly volume executed by the Member on MIAX Options, not including Excluded Contracts, divided by the TAV, to become above 0.70% up to 1.10% of the total monthly volume executed by the Member on MIAX, not including Excluded Contracts, divided by the TAV. The Exchange proposes to adjust the percentage threshold of Tier 4 from above 1.00% up to 1.50% of the total monthly volume executed by the Member on MIAX Options, not including Excluded Contracts, divided by the TAV, to become above 1.10% up to 1.50% of the total monthly volume executed by the Member on MIAX Options, not including Excluded Contracts, divided by the TAV. The Exchange does not propose any adjustment to the percentage thresholds of Tier 1 or Tier 5.

Second, the Exchange proposes to increase the Maker fees in the Market Maker Sliding Scale, in Tiers 2, 3, 4 and 5 for Penny classes, for Members and their Affiliates that are in PCRP Volume Tier 3 or higher and also for Members and their Affiliates not in PCRP Volume Tier 3 or higher. For options transactions in Penny classes by Members and their Affiliates that are in PCRP Volume Tier 3 or higher, the Exchange proposes to increase the Maker fee in Tier 2 from $0.15 to $0.16, in Tier 3 from $0.08 to $0.10, in Tier 4 from $0.04 to $0.05 and in Tier 5 from $0.02 to $0.03. For options transactions in Penny classes by Members and their Affiliates that are not in PCRP Volume Tier 3 or higher, the Exchange proposes to increase the Maker fee in Tier 2 from $0.17 to $0.18, in Tier 3 from $0.10 to $0.12, in Tier 4 from $0.06 to $0.07 and in Tier 5 from $0.04 to $0.05.

With all proposed changes Section 1)a)i of the Fee Schedule shall be the following:

MEMBERS AND THEIR AFFILIATES IN PRIORITY CUSTOMER REBATE PROGRAM VOLUME TIER 3 OR HIGHER

	Tier	Percentage thresholds	Simple				Complex		
			Per contract fee for penny classes		Per contract fee for non-penny classes		Per contract fee for penny classes	Per contract fee for non-penny classes	Per contract surcharge for trading against a priority customer complex order for penny and non-penny classes
			Maker*	Taker	Maker*	Taker			
All MIAX Market Makers	1	0.00–0.075	$0.21	$0.23	$0.25	$0.30	$0.25	$0.32	$0.12
	2	Above 0.075–0.70	0.16	0.22	0.19	0.27	0.24	0.29	0.12
	3	Above 0.70–1.10	0.10	0.19	0.12	0.23	0.21	0.25	0.12
	4	Above 1.10–1.50	0.05	0.18	0.08	0.22	0.20	0.24	0.12
	5	Above 1.50	0.03	0.17	0.06	0.21	0.19	0.23	0.12

MEMBERS AND THEIR AFFILIATES NOT IN PRIORITY CUSTOMER REBATE PROGRAM VOLUME TIER 3 OR HIGHER

	Tier	Percentage thresholds	Simple				Complex		
			Per contract fee for penny classes		Per contract fee for non-penny classes		Per contract fee for penny classes	Per contract fee for non-penny classes	Per contract surcharge for trading against a priority customer complex order for penny and non-penny classes
			Maker*	Taker	Maker*	Taker			
All MIAX Market Makers	1	0.00–0.075	0.23	0.25	0.27	0.32	0.25	0.32	0.12
	2	Above 0.075–0.70	0.18	0.24	0.21	0.29	0.24	0.29	0.12
	3	Above 0.70–1.10	0.12	0.21	0.14	0.25	0.21	0.25	0.12
	4	Above 1.10–1.50	0.07	0.20	0.10	0.24	0.20	0.24	0.12
	5	Above 1.50	0.05	0.19	0.08	0.23	0.19	0.23	0.12

The proposed rule change is scheduled to become operative August 1, 2018.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act [13] in general, and furthers the objectives of Section 6(b)(4) of the Act,[14] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act,[15] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customer, issuers, brokers and dealers.

The Exchange believes that the proposed changes to the Tier percentage thresholds in the Market Maker Sliding Scale are consistent with Section 6(b)(4) and 6(b)(5) of the Act in that they are fair, equitable and not unfairly discriminatory because they apply equally to all MIAX Options Market Makers. All MIAX Options Market Makers are subject to the same fee schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposed changes to the Tier percentage thresholds in the Market Maker Sliding Scale are consistent with Section 6(b)(5) of the Act in that they promote equitable access to the Exchange for all market participants. To the extent that MIAX Options Marker Maker volume is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and quotes to the Exchange. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The specific percentage thresholds of the Tiers for Market Makers as well as the fees are set based upon business determinations and an analysis of current volume levels. The Exchange believes that the proposed Maker fees are generally within the range of fees at other exchanges that have a comparable pricing structure.[16] The percentage thresholds are intended to continue to incentivize MIAX Options Market Makers to increase the number of orders and quotes they send to the Exchange so that they can achieve the next threshold, and to encourage all market participants to send more orders and quotes as well. Increasing the number of orders and quotes sent to the Exchange will in turn provide tighter and more liquid markets, and therefore attract more business overall. Similarly, the different fees at the different Tier levels are based on an analysis of current revenue and volume levels and are intended to provide continued incentives to MIAX Options Market Makers to increase the volume of orders and quotes sent to, and contracts executed on, the Exchange. The specific volume thresholds of the Tiers and rates are set in order to encourage MIAX Options Market Makers to continue to reach for higher tiers.

The proposed Maker fee increases in Penny Classes for simple orders in the specified Tiers is reasonable, equitable and not unfairly discriminatory because all similarly situated MIAX Options Market Makers are subject to the same tiered fees and access to the Exchange is offered on terms that are not unfairly discriminatory. For competitive and business reasons, the Exchange has kept its Maker fees for simple orders in Penny Classes lower than certain other options exchanges that operate comparable pricing models.[17] The Exchange now believes that it is appropriate to increase those Maker fees so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and grow market share. While distinguished from the traditional ''maker-taker'' fee model under which an exchange pays a per-contract rebate to their members to encourage them to place resting liquidity by providing quotes and orders (''maker'') on their trading systems and assessing a fee that executes against a resting order (''taker''), the Exchange assesses a reduced fee for ''makers'' as compared to ''takers'' rather than giving the ''maker'' a rebate. Further, Exchange's proposal to assess a higher Maker fee is reasonable, equitable and not unfairly discriminatory because this would narrow the difference between the Maker and Taker fees, which would in turn benefit the public and investors by encouraging Market Makers to provide more order flow.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee structure is intended to promote narrower spreads and encourage the posting of liquidity (instead of taking liquidity), and thus should promote better prices. The Exchange believes that the proposed changes in the Tier structure in the Market Maker Sliding Scale should continue to encourage the provision of liquidity that enhances the quality of the Exchange's markets and increases the number of trading opportunities on MIAX Options for all participants who will be able to compete for such opportunities. The proposed rule change should enable the Exchange to continue to attract and compete for order flow with other exchanges. However, this competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of competitive pricing.

The proposed Maker fee increases are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges which offer comparable Maker fees.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f (b)(5).

[16] *See* NYSE American LLC (''NYSE American'') Fee Schedule, p. 11. The NYSE American Market Maker Sliding Scale Tier 1 percentage threshold is from 0.00% to 0.20%, with a per contract non-take volume fee of $0.25 and a per contract take volume fee of $0.25, the Tier 2 percentage threshold is from greater than 0.20% to 0.65%, with a per contract non-take volume fee of $0.22 and a per contract take volume fee of $0.24, the Tier 3 percentage threshold is from greater than 0.65% to 1.40%, with a per contract non-take volume fee of $0.12 and a per contract take volume fee of $0.17, the Tier 4 percentage threshold is from greater than 1.40% to 2.00%, with a per contract non-take volume fee of $0.09 and a per contract take volume fee of $0.14, and the Tier 5 percentage threshold is greater than 2.020%, with a per contract non-take volume fee of $0.06 and a per contract take volume fee of $0.09. S*ee also* Cboe Exchange, Inc. (''CBOE'') Fees Schedule, p. 3. The CBOE Liquidity Provider Sliding Scale Tier 1 percentage threshold is from 0.00% to 0.05%, with a transaction fee per contract of $0.23, the Tier 2 percentage threshold is from above 0.05% to 0.80%, with a transaction fee per contract of $0.17, the Tier 3 percentage threshold is from above 0.80% to 1.50%, with a transaction fee per contract of $0.10, the Tier 4 percentage threshold is from above 1.50% to 2.25%, with a transaction fee per contract of $0.05, and the Tier 5 percentage threshold is above 2.25%, with a transaction fee per contract of $0.03.

[17] *Id.*

levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange rather than remove liquidity from the market place.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[18] and Rule 19b–4(f)(2) [19] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2018–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2018–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2018–21, and should be submitted on or before September 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17493 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33197; File No. 812–14838]

Thrivent Financial for Lutherans, et al.

August 9, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment funds and accounts.

APPLICANTS: Thrivent Financial for Lutherans (''Thrivent Financial''), Thrivent Asset Management, LLC (''Thrivent Asset Management'' and, together with Thrivent Financial, the ''Existing Advisers''), and Thrivent Church Loan and Income Fund (''Church Loan Fund'' and, together with the Existing Advisers, the ''Applicants'').

FILING DATES: The application was filed on November 1, 2017, and amended on March 28, 2018 and June 22, 2018.

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 September 4, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549–1090. Applicants: 625 Fourth Avenue South, Minneapolis, Minnesota 55415.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's 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. The Church Loan Fund is a Delaware statutory trust that will be registered as a non-diversified, closed-end management investment company. The Church Loan Fund's investment

objective will be to seek to produce income. The Church Loan Fund expects to have a policy of investing, under normal market conditions, at least 80% of its assets in Church Loans (as defined below) and other fixed income securities. The Church Loan Fund anticipates that its board of trustees (''Board'') [1] will have five trustees, four of whom will not be ''interested persons'' as that term is defined in section 2(a)(19) of the Act.[2]

2. Thrivent Financial is organized and operates as a ''fraternal benefit society'' as defined under the laws of the state of Wisconsin. Thrivent Financial is an integrated, not-for-profit, Christian membership organization that provides a broad range of financial products and services. Thrivent Financial is also registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). Thrivent Financial, among other investments, invests in loans to support church long-term financing, which includes construction and building related activities (''Church Loans''). These Church Loans are made by Thrivent Financial from a portion of its general account (''Existing Proprietary Account'').[3]

3. Thrivent Asset Management is a limited liability company organized under the laws of Delaware and is registered as an investment adviser under the Advisers Act. Thrivent Asset Management, a wholly owned indirect subsidiary of Thrivent Financial, will serve as the investment adviser to the Church Loan Fund.

4. Applicants seek an order (''Order'') to permit one or more Regulated Funds [4] and one or more Affiliated Accounts [5] to (a) participate in the same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under section 17(d) of the Act; and (b) make additional investments in securities of such issuers (''Follow-On Investments''), including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers. ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Subsidiary, as defined below) participate together with one or more other Regulated Funds and/or Affiliated Accounts in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Subsidiaries) could not participate together with one or more other Regulated Funds and/or one or more Affiliated Accounts without obtaining and relying on the Order.[6]

5. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subsidiaries.[7] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any other Regulated Fund or Affiliated Account because it would be a company controlled by its parent Regulated Fund for purposes of rule 17d–1. Applicants request that each Wholly-Owned Investment Subsidiary be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Subsidiary's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Subsidiary would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Subsidiary. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Subsidiary'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 Subsidiary 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 Subsidiaries, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Subsidiary.

6. When considering Potential Co-Investment Transactions for any Regulated Fund, the relevant Adviser will consider only the Objectives and Strategies,[8] investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Regulated Fund. The Advisers expect that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Accounts, with certain exceptions based on available capital or diversification.[9]

7. 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 applicable Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the trustees of the Board eligible to vote on that Co-Investment Transaction (the ''Eligible Trustees'') [10] and the majority of such trustees of the Board who are Independent Trustees (a ''Required

[1] The term ''Board'' refers to the board of directors or trustees of any Regulated Fund (as defined below).

[2] The term ''Independent Trustees'' refers to the directors or trustees of any Regulated Fund who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act.

[3] ''Proprietary Account'' means the Existing Proprietary Account and any Future Proprietary Accounts. ''Future Proprietary Account'' means any direct or indirect, wholly- or majority-owned subsidiary of the Advisers that is formed in the future and, from time to time, may hold various financial assets in a principal capacity and intends to invest in the co-investment program. ''Advisers'' means (a) the Existing Advisers; and (b) any future investment adviser that controls, is controlled by, or is under common control with the Existing Advisers and is registered as an investment adviser under the Advisers Act.

[4] ''Regulated Funds'' refers to the Church Loan Fund and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company formed in the future that is registered under the Act and is advised by an Adviser.

[5] ''Affiliated Accounts'' means any Proprietary Accounts and Affiliated Funds. ''Affiliated Fund'' means any investment fund that would be an ''investment company'' but for section 3(c)(1) or 3(c)(7) of the Act, is formed in the future, and is advised by the Advisers. No Affiliated Fund is or will be a subsidiary of a Regulated Fund.

[6] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[7] The term ''Wholly-Owned Investment Subsidiary'' means any entity: (i) That is wholly-owned by a Regulated Fund (with such 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 such Regulated Fund; (iii) with respect to which the board of trustees of such Regulated Fund 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. All subsidiaries participating in Co-Investment Transactions will be Wholly-Owned Investment Subsidiaries and will have Objectives and Strategies (as defined below) that are either the same as, or a subset of, their parent Regulated Fund's Objectives and Strategies.

[8] The term ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934 or the Act, and the Regulated Fund's reports to investors.

[9] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[10] Eligible Trustees may not have a financial interest in such transaction, plan, or arrangement.

Majority'') will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

8. 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 each Affiliated Account 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 Trustees. 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 Trustees.

9. No Independent Trustee of a Regulated Fund will have a direct or indirect financial interest in any Co-Investment Transaction (other than indirectly through share ownership in one of the Regulated Funds), including any interest in any issuer whose securities would be acquired in a Co-Investment Transaction.

10. Under condition 16, if an Adviser, its principals, or any person controlling, controlled by, or under common control with the Adviser or its principals, and the Affiliated Accounts (collectively, the ''Holders'') own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Fund (the ''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Trustees will act independently in evaluating the co-investment program, because the ability of an Adviser or the principals to influence the Independent Trustees by a suggestion, explicit or implied, that the Independent Trustees can be removed will be limited significantly. The Independent Trustees shall evaluate and approve any such independent third party, taking into account its qualifications, reputation for independence, cost to the investors, and other factors that they deem relevant.

Applicants' Legal Analysis

1. 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 may 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 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.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for another Regulated Fund or an Affiliated Account that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the Adviser will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable 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 Accounts, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity 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. The applicable Adviser will provide the Eligible Trustees of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Trustees 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 applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each Regulated Fund and each Affiliated Account) to the Eligible Trustees of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with another Regulated Fund or an Affiliated Account only if, prior to the Regulated Fund's 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 investors and do not involve overreaching in respect of the Regulated Fund or its investors on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the Regulated Fund's investors; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or any Affiliated Accounts 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 Funds or any Affiliated Accounts; provided that, if any other Regulated Fund or any Affiliated Account, 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 Trustees will have the right to ratify the selection of such director or board observer, if any; and

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Board of the Regulated Fund 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 Regulated Fund or any Affiliated Account or any affiliated person of any Regulated Fund or any Affiliated Account receives in connection with the right of a Regulated Fund or an Affiliated Account 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 Accounts (who may each, 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 any Adviser, the other Regulated Funds, the Affiliated Accounts, 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 section 17(e) 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 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 Accounts during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies 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 Securities and Exchange Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[11] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Account, or any affiliated person of another Regulated Fund or Affiliated Account 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 Account. The grant to another Regulated Fund or Affiliated Account, but not the Regulated Fund, of 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 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 Regulated Fund or an Affiliated Account elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Adviser 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 each 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 Regulated Funds and Affiliated Accounts.

(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 Account 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 Adviser will provide its written recommendation as to the Regulated Fund's participation to the Regulated Fund's Eligible Trustees, 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 Regulated Fund and each Affiliated Account will bear its own expenses in connection with any such disposition.

8. (a) If a Regulated Fund or an Affiliated Account desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Adviser 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 Account 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 Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Trustees, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of a Follow-On Investment is not based on the Regulated Funds' and the Affiliated Accounts' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Accounts in the same transaction, exceeds the

[11] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each party'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 Independent Trustees 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 and the Affiliated Accounts that the Regulated Fund considered but declined to participate in, so that the Independent Trustees may determine whether all investments made during the preceding quarter, including those investments which the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Trustees will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

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 business development company (as defined in section 2(a)(48) of the Act) and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Independent Trustee of a Regulated Fund will also be a director, trustee, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act), of an Affiliated Account.

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 of 1933) will, to the extent not payable by an Adviser under the investment advisory agreements with the Regulated Funds and the Affiliated Accounts be shared by the Affiliated Accounts and the Regulated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee [12] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Accounts 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 the Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the 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 Accounts based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Accounts, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Accounts 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 Accounts, 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 the Advisers, investment advisory fees paid in accordance with the agreements between the Advisers and the Regulated Funds or the Affiliated Accounts).

14. The Proprietary Accounts will not be permitted to invest in a Potential Co-Investment Transaction except to the extent the demand from the Regulated Funds and the other Affiliated Accounts is less than the total investment opportunity.

15. The Advisers will each maintain policies and procedures reasonably designed to ensure compliance with the foregoing conditions. These policies and procedures will require, among other things, that the applicable Adviser will be notified of all Potential Co-Investment Transactions that fall within a Regulated Fund's then-current Objectives and Strategies and will be given sufficient information to make its independent determination and recommendations under conditions 1, 2(a), 7 and 8.

[12] Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

16. 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 trustees; (2) the removal of one or more trustees; or (3) all other matters under either the Act or applicable State law affecting the Board's composition, size or manner of election.

17. Each Regulated Fund's chief compliance officer, as defined in Rule 38a–1(a)(4) under the Act, 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.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17497 Filed 8–14–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83810; File No. SR–BX–2018–036]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Incorporate BX Rule 7039 Into the Market Data Enterprise License Proposed by the Nasdaq Stock Market LLC

August 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 27, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

This amendment is immediately effective upon filing.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This proposed change was initially filed on July 3, 2018, and became immediately effective on that date. *See* SR–BX–2018–031, available at *http://nasdaq.cchwallstreet.com/*. It was subsequently refiled on July 17, 2018. *See* SR–BX–2018–034, available at *http://nasdaq.cchwallstreet.com/*. A

Continued

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to incorporate BX Rule 7039 into the market data enterprise license proposed by the Nasdaq Stock Market LLC (''Nasdaq''), which is designed to lower fees, reduce administrative costs, and expand the availability of Nasdaq Last Sale (''NLS'') Plus, NLS, Nasdaq Basic and Nasdaq Depth-of-Book products.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to incorporate BX Rule 7039 into the market data enterprise license proposed by Nasdaq,[4] which is designed to lower fees, reduce administrative costs, and expand the availability of NLS Plus, NLS, Nasdaq Basic and Nasdaq Depth-of-Book products.

NLS Plus is a comprehensive data feed offered by Nasdaq that allows distributors to access the three last sale products [5] offered by Nasdaq and its affiliated U.S. equity exchanges,[6] as well as the FINRA/Nasdaq Trade Reporting Facility (''TRF''). It provides total cross-market volume information at the issue level, and reflects the cumulative consolidated volume of real-time trading activity for Tape A, B and C securities.[7] NLS Plus provides Trade Price, Trade Size, Sale Condition Modifiers, Cumulative Consolidated Market Volume, End of Day Trade Summary, Adjusted Closing Price, IPO Information, and Bloomberg ID. Additionally, pertinent regulatory information such as Market Wide Circuit Breaker, Regulation SHO Short Sale Price Test Restricted Indicator, Trading Action, and Symbol Directory are included. NLS Plus may be received by itself or in combination with NASDAQ Basic.

Firms that receive NLS Plus pay the monthly administrative fees for BX Last Sale, PSX Last Sale and NLS, and distributors pay a data consolidation fee of $350 per month.[8] The Exchange does not currently charge user fees for BX Last Sale, but firms that receive NLS Plus would be required to pay any user fees adopted by the Exchange.[9]

The Exchange proposes to incorporate any fees owed under BX Rule 7039 into the market data enterprise license proposed by Nasdaq, which is designed to lower fees, reduce administrative costs, and expand the availability of NLS Plus, NLS, Nasdaq Basic and Nasdaq Depth-of-Book products. These fees include the monthly administrative fee applicable to NLS, BX Last Sale and PSX Last Sale, a data consolidation fee for Internal or External Distributors, and any user fees for BX Last Sale or PSX Last Sale that may be adopted in the future.[10]

As set forth in greater detail under the Nasdaq proposal, the market data enterprise license for display usage proposed by Nasdaq will allow Distributors who are broker-dealers or Investment Advisers [11] to disseminate these products to a wide audience for a monthly fee of $600,000, with the opportunity to lower that fee further to $500,000 per month if they contract for twelve months of service in advance. As explained in greater detail in Nasdaq's filing, the Exchange believes that the proposed market data enterprise license will reduce exchange fees, lower administrative costs for distributors, and help expand the availability of market information to investors, and thereby increase participation in financial markets. The enterprise license is being introduced in response to competition from other exchanges,[12] and demonstrates both the power and the benefits of the competitive market to spur innovation and change.

The purpose of this filing is to incorporate BX Last Sale fees into the Nasdaq market data enterprise license as a means of lowering costs for all three equity markets. The rationale and support for this proposal are the same as already set forth by Nasdaq in its companion proposal.[13]

The proposed market data enterprise license is optional in that no exchange is required to offer it and distributors are not required to purchase it. Firms can discontinue its use at any time and for any reason, and may decide to purchase market data products individually or substitute products from one exchange with competing products from other exchanges.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not

firm eligible to purchase the enterprise license proposed by Nasdaq may purchase it for the month of July, effective on July 3, 2018, and the monthly fee for the license will be prorated for the period July 3 through July 31, 2018. Any fees owed by the purchaser of the enterprise license for the use of NLS Plus on July 1 and July 2, 2018, will also be prorated accordingly.

[4] *See* SR–NASDAQ–2018–058 (not yet published).

[5] The three last sale products consist of Nasdaq Last Sale, BX Last Sale, and PSX Last Sale. BX Last Sale consists of two data feeds containing real-time last sale information for trades executed on the Exchange. ''BX Last Sale for Nasdaq'' contains all transaction reports for Nasdaq-listed securities. ''BX Last Sale for NYSE/Amex'' contains all such transaction reports for NYSE- and Amex-listed securities.

[6] The Nasdaq, Inc. U.S. equity markets are the Exchange, Nasdaq, and Nasdaq PSX.

[7] Tape A and Tape B securities are disseminated pursuant to the Security Industry Automation Corporation's (''SIAC'') Consolidated Tape Association Plan/Consolidated Quotation System, or CTA/CQS (''CTA''). Tape C securities are disseminated pursuant to the NASDAQ Unlisted Trading Privileges (''UTP'') Plan.

[8] The fee applies to both Internal and External Distributors. *See* Rule 7039(b)(1). ''Internal Distributors'' are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. ''External Distributors'' are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity.

[9] *See* Rule 7039(b)(3).

[10] The Exchange also proposes a technical change to Rule 7039(b)(1) to reflect that BX administrative fees are charged on a monthly, rather than annual, basis. *See* Securities Exchange Act Release No. 79667 (December 22, 2016), 81 FR 96152 (December 29, 2016) (SR–BX–2016–071).

[11] ''Investment Adviser'' is defined in Section 202(a)(11) of the Investment Advisers Act of 1940, as ''any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities . . . .''

[12] *See, e.g.,* Enterprise Fee for the Cboe Equities One Feed, available at *https://markets.cboe.com/us/equities/market_data_products/bats_one/.*

[13] *See* n.4.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the proposal to cover BX fees for NLS Plus within the proposed market data enterprise license will lower fees, reduce administrative costs, and expand the availability of market data to retail investors, which the Exchange expects to improve transparency for financial market participants and lead to increased participation in financial markets. Discounts for broader dissemination of market data information have routinely been adopted by exchanges and permitted by the Commission as equitable allocations of reasonable dues, fees and other charges.[16] Distributors will be free to move from the month to month rate to the annual rate at any time, or from the annual rate to the monthly rate, with notice, at the expiration of the twelve month term.

This proposal demonstrates the existence of an effective, competitive market because it resulted from a need to generate innovative approaches in response to competition from other exchanges that offer enterprise licenses for market data.[17] As the Commission has recognized, ''[i]f competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior,'' [18] and ''the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory.'' [19] The proposed enterprise license will be subject to significant competition from other exchanges because each eligible distributor will have the ability to accept or reject the license depending on whether it will or will not lower its fees, and because other exchanges will be able to offer their own competitive responses. As the Commission has held in the past, the presence of competition provides a substantial basis for a finding that the proposal will be an equitable allocation of reasonable dues, fees and other charges.[20]

Furthermore, the proposed enterprise license will not unfairly discriminate between customers, issuers, brokers or dealers. The Act does not prohibit all distinctions among customers, but only discrimination that is unfair, and it is not unfair discrimination to charge those distributors that are able to reach the largest audiences of retail investors a lower fee for incremental investors in order to encourage the widespread distribution of market data. The proposed change to the BX rule book is designed to incorporate BX Rule 7039 into the market data enterprise license proposed by Nasdaq. As explained in the Nasdaq filing, the market data enterprise license will be subject to significant competition, and that competition will ensure that there is no unfair discrimination. Each distributor will be able to accept or reject the license depending on whether it will or will not lower costs for that particular distributor, and, if the license is not sufficiently competitive, the Exchange may lose market share.

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[21]

The Commission was speaking to the question of whether broker-dealers should be subject to a regulatory requirement to purchase data, such as Depth-of-Book data, that is *in excess of* the data provided through the consolidated tape feeds, and the Commission concluded that the choice should be left to them. Accordingly, Regulation NMS removed unnecessary regulatory restrictions on the ability of exchanges to sell their own data, thereby advancing the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

The proposed change to the BX rule book is designed to incorporate BX Rule 7039 into the market data enterprise license proposed by Nasdaq, and the proposed enterprise license will compete with other enterprise licenses offered by Nasdaq, underlying fee schedules promulgated by the Exchange, and enterprise licenses and fee structures implemented by other exchanges. The enterprise license is a voluntary product for which market participants can readily find substitutes. Accordingly, both BX and Nasdaq are constrained from introducing a fee that would be inequitable or unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal will eliminate BX fees for NLS Plus as part of a market data enterprise license proposed by Nasdaq that is intended to lower fees, reduce administrative costs, and expand the availability of market data to retail investors, which the Exchange expects to lead to increased participation in financial markets. It will not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act, but rather will enhance competition by introducing an innovative fee structure for market data, lowering prices and enhancing competition.

The market for data products is extremely competitive and firms may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint

[16] For example, the Commission has permitted pricing discounts for market data under Nasdaq Rules 7023(c) and 7047(b). *See also* Securities Exchange Act Release No. 82182 (November 30, 2017), 82 FR 57627 (December 6, 2017) (SR–NYSE–2017–60) (changing an enterprise fee for NYSE BBO and NYSE Trades).

[17] *See* n.12.

[18] Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21).

[19] *Id.*

[20] *Id.*

[21] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform, the cost of implementing cybersecurity to protect the data from external threats and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, the operation of the Exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[22]

It is costly for the Exchange to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and each are subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, the Exchange would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of trade reports from the TRF without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating, and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

An exchange's broker-dealer customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will disfavor a particular exchange if the expected revenues from executing trades on the exchange do not exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing more orders will become correspondingly more valuable.

Similarly, vendors provide price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail broker-dealers offer their retail customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: They can simply refuse to purchase any proprietary data product that fails to provide sufficient value. Exchanges, TRFs, and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, the Exchange believes that market data products can enhance order flow by providing more widespread distribution of information about transactions in real time, thereby encouraging wider participation in the market by investors with access to the internet or television. Conversely, the value of such products to Distributors and investors decreases if order flow falls, because the products contain less content.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.[23]

Moreover, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including SRO markets, internalizing broker-dealers and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for broker-dealers to further exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, broker-dealers, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and broker-dealer is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including Nasdaq, NYSE, NYSE American, NYSE Arca, IEX, and BATS/Direct Edge.

[22] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

[23] *Cf. Ohio* v. *American Express,* No. 16–1454 (S. Ct. June 25, 2018), *https://www.supremecourt.gov/opinions/17pdf/16-1454_5h26.pdf* (recognizing the need to analyze both sides of a two sided platform market in order to determine its competitiveness).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2018–036 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2018–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–036 and should be submitted on or before September 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17491 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83813; File No. SR–MIAX–2018–20]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

August 9, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2018, Miami International Securities Exchange LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to delete a fee waiver relating to certain market data feed products.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to delete a fee waiver relating to certain market data feed products offered by the Exchange—namely, the Exchange's Administrative Information Subscriber (''AIS'') market data feed, and the Exchange's Top of Market (''ToM'') market data feed.

The ToM market data feed includes data that is identical to the data sent to the processor for the Options Price Regulatory Authority (''OPRA''). ToM provides real-time updates of the MIAX Best Bid or Offer, or MBBO,[3] price with aggregate orders and quote size of contracts that can be displayed, display of Public Customer[4] interest at the MBBO, display of Priority Customer[5] interest at the MBBO, and MIAX Options last sale.[6] The Exchange launched ToM in early 2013,[7] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''MBBO'' means the best bid or offer on the Exchange. *See* Exchange Rule 100. *See also* Exchange Rule 506(c)(2).

[4] The term ''Public Customer'' means a person that is not a broker or dealer in securities. *See* Exchange Rule 100.

[5] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100.

[6] *See* Securities Exchange Act Release No. 69007 (February 28, 2013), 78 FR 14617 (March 6, 2013) (SR–MIAX–2013–05).

[7] *See id.*

adopted monthly fees shortly thereafter.[8] The Exchange assesses a monthly fee of $1,250.00 for ToM Internal Distributors and a monthly fee of $1,750.00 for ToM External Distributors.

The Exchange began offering its AIS market data feed in April 2013.[9] The AIS market data feed currently includes administrative information for both simple and complex orders. The AIS market data feed includes: Simple and complex liquidity seeking event notifications, listed series updates, complex strategy definition updates, system state, and underlying trading state information. The Exchange assesses a monthly fee of $1,250.00 for all AIS Internal Distributors and a monthly fee of $1,750.00 for all AIS External Distributors. However, the monthly fee for Distributors of AIS is presently waived if the Distributor also subscribes to ToM.[10]

Accordingly, under the present operation of the Fee Schedule, a subscriber who only subscribes to AIS will be charged the AIS monthly fee ($1,250.00 for Internal Distributors and $1,750.00 for External Distributors). A subscriber who only subscribes to ToM will be charged the ToM monthly fee ($1,250.00 for Internal Distributors and $1,750.00 for External Distributors). A subscriber who subscribes to both ToM and AIS will be charged only the ToM monthly fee ($1,250.00 for Internal Distributors and $1,750.00 for External Distributors).

The Exchange now proposes to delete the fee waiver which entitles a subscriber of both ToM and AIS to receive a fee waiver for AIS. Accordingly, pursuant to this proposal, a subscriber to both ToM and AIS would now be assessed a separate fee for each of the data feeds. A subscriber who is an Internal Distributor will now pay $2,500.00 in the aggregate, if subscribing to both feeds, and a subscriber who is an External Distributor will now pay $3,500.00 in the aggregate, if subscribing to both feeds.

The Exchange is not proposing to modify any other aspect of either the AIS market data feed product or the ToM market data feed product. The Exchange is solely deleting the fee waiver which presently entitles a subscriber of ToM to also receive a subscription to AIS for free.

The proposed rule change is scheduled to become operative on August 1, 2018.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b)[11] of the Act in general, and furthers the objectives of Section 6(b)(4)[12] of the Act, in that it is designed to provide for an equitable allocation of reasonable dues, fees and other charges among Exchange Members[13] and other persons using its facilities, because it applies equally to all Members and any persons using the facilities or services of the Exchange. The Exchange also believes that the proposal furthers the objectives of Section 6(b)(5)[14] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange believes that the proposed amendment to delete a fee waiver relating to certain market data feed products offered by the Exchange—namely, the Exchange's AIS market data feed, and the Exchange's ToM market data feed—is reasonable, equitable, and not unfairly discriminatory. The Exchange has offered an AIS fee waiver to ToM subscribers since the inception of AIS.[15] The Exchange determined to establish and continue the AIS fee waiver for business and competitive reasons, in order to encourage ToM subscribers to subscribe to the AIS feed. The Exchange now believes that it is appropriate to delete the fee waiver, based on a business determination of the number of ToM feed and AIS feed subscribers, with the fee waiver having achieved the intended result.

The Exchange anticipates the changes will result in a reasonable allocation of its costs and expenses among its Members and other persons using its facilities because the proposed fees would enable the Exchange to recover the costs associated with providing such infrastructure, and with offering access through the network connections and access and services, responding to customer requests, configuring MIAX Options systems, and administering the various services connectivity services. The Exchange believes the proposed fees are equitable and not unfairly discriminatory because the new fee levels result in a more reasonable and equitable allocation of fees amongst non-Members and Members for similar services. Access to the Exchange is provided on fair and non-discriminatory terms. Moreover, the decision as to whether or not to subscribe to AIS is entirely optional to all parties. Potential subscribers are not required to purchase the AIS market data feed. Subscribers can discontinue their use at any time and for any reason, including due to their assessment of the reasonableness of fees charged. The allocation of fees among subscribers is fair and reasonable because, if the market deems the proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of this data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[16]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

In July, 2010, Congress adopted H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), which amended Section 19 of the Act. Among

[8] *See* Securities Exchange Act Release No. 69323 (April 5, 2013), 78 FR 21677 (April 11, 2013) (SR–MIAX–2013–14).

[9] *See* Securities Exchange Act Release No. 69320 (April 5, 2013), 78 FR 21661 (April 11, 2013) (SR–MIAX–2013–13).

[10] *See* Securities Exchange Act Release No. 73326 (October 9, 2014), 79 FR 62233 (October 16, 2014) (SR–MIAX–2014–51).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[14] 15 U.S.C. 78f(b)(5).

[15] *See supra* note 10.

[16] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

other things, Section 916 of the Dodd-Frank Act amended paragraph (A) of Section 19(b)(3) of the Act by inserting the phrase ''on any person, whether or not the person is a member of the self-regulatory organization'' after ''due, fee or other charge imposed by the self-regulatory organization.'' As a result, all SRO rule proposals establishing or changing dues, fees or other charges are immediately effective upon filing regardless of whether such dues, fees or other charges are imposed on members of the SRO, non-members, or both. Section 916 further amended paragraph (C) of Section 19(b)(3) of the Act to read, in pertinent part, ''At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) [of Section 19(b)], the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 this title. If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) [of Section 19(b)] to determine whether the proposed rule should be approved or disapproved.''

The Exchange believes that these amendments to Section 19 of the Act reflect Congress's intent to allow the Commission to rely upon the forces of competition to ensure that fees for market data are reasonable and equitably allocated. Although Section 19(b) had formerly authorized immediate effectiveness for a ''due, fee or other charge imposed by the self-regulatory organization,'' the Commission adopted a policy and subsequently a rule stating that fees for data and other products available to persons that are not members of the self-regulatory organization must be approved by the Commission after first being published for comment. At the time, the Commission supported the adoption of the policy and the rule by pointing out that unlike members, whose representation in self-regulatory organization governance was mandated by the Act, non-members should be given the opportunity to comment on fees before being required to pay them, and that the Commission should specifically approve all such fees. The Exchange believes that the amendment to Section 19 reflects Congress's conclusion that the evolution of self-regulatory organization governance and competitive market structure have rendered the Commission's prior policy on non-member fees obsolete. Specifically, many exchanges have evolved from member-owned, not-for-profit corporations into for-profit, investor-owned corporations (or subsidiaries of investor-owned corporations). Accordingly, exchanges no longer have narrow incentives to manage their affairs for the exclusive benefit of their members, but rather have incentives to maximize the appeal of their products to all customers, whether members or non-members, so as to broaden distribution and grow revenues. Moreover, the Exchange believes that the change also reflects an endorsement of the Commission's determinations that reliance on competitive markets is an appropriate means to ensure equitable and reasonable prices. Simply put, the change reflects a presumption that all fee changes should be permitted to take effect immediately, since the level of all fees are constrained by competitive forces. The Exchange therefore believes that the fees for AIS are properly assessed on Internal and External Distributors.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoaliton* v. *SEC,* No. 09–1042 (D.C. Cir. 2010), although reviewing a Commission decision made prior to the effective date of the Dodd-Frank Act, upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data:

> ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' '' [17]

The court's conclusions about Congressional intent are therefore reinforced by the Dodd-Frank Act amendments, which create a presumption that exchange fees, including market data fees, may take effect immediately, without prior Commission approval, and that the Commission should take action to suspend a fee change and institute a proceeding to determine whether the fee change should be approved or disapproved only where the Commission has concerns that the change may not be consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Notwithstanding its determination that the Commission may rely upon competition to establish fair and equitably allocated fees for market data, the NetCoalition Court found that the Commission had not, in that case, compiled a record that adequately supported its conclusion that the market for the data at issue in the case was competitive. The Exchange believes that a record may readily be established to demonstrate the competitive nature of the market in question.

The market for data products is extremely competitive and users may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the Exchange is characterized by high fixed costs and low marginal costs. This cost structure

[17] *NetCoaltion,* at 15 (quoting H.R. Rep. No. 94–229, at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 321, 323).

is common in content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[18] In the case of any exchange, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and are each subject to significant scale economies.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products. The level of competition and contestability in the market is evidence in the numerous alternative venues that compete for order flow, including SRO markets, as well as internalizing BDs and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including the Nasdaq exchanges, NYSE exchanges, and CBOE/Bats exchanges.

In this competitive environment, an ''excessive'' price for one product will have to be reflected in lower prices for other products sold by the Exchange, or otherwise the Exchange may experience a loss in sales that may adversely affect its profitability. In this case, the proposed rule change enhances competition by providing Historical Market Data at a fixed price. As such, the Exchange believes that the proposed changes will enhance, not impair, competition in the financial markets.

The market for market data products is competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market. Broker-dealers currently have numerous alternative venues for their order flow, including eleven existing options markets. Each SRO market competes to produce transaction reports via trade executions. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO is currently permitted to produce proprietary data products, and many in addition to MIAX Options currently do, including Nasdaq, CBOE, Nasdaq ISE, NYSE American, and NYSE Arca. Additionally, order routers and market data vendors can facilitate single or multiple broker-dealers' production of proprietary data products. The potential sources of proprietary products are virtually limitless.

Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end subscribers. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Thomson Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end subscribers will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. The Exchange and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, BATS Trading and Direct Edge. Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While broker-dealers have previously published their proprietary data individually, Regulation NMS encourages market data vendors and broker-dealers to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson Reuters.

The Court in NetCoalition concluded that the Commission had failed to demonstrate that the market for market data was competitive based on the reasoning of the Commission's NetCoalition order because, in the Court's view, the Commission had not adequately demonstrated that the proprietary data at issue in the case is used to attract order flow. The Exchange believes, however, that evidence not then before the court clearly demonstrates that availability of data attracts order flow. Due to competition among platforms, the Exchange intends to improve its platform data offerings on a continuing basis, and to respond promptly to customers' data needs.

The intensity of competition for proprietary information is significant and the Exchange believes that this proposal itself clearly evidences such competition. The Exchange has offered an AIS fee waiver to ToM subscribers since the inception of AIS. The Exchange now believes that it is appropriate to delete the fee waiver, based on a business determination of the number of ToM feed and AIS feed subscribers. It is entirely optional and is geared towards attracting new Member Applicants and customers. MIAX Options competitors continue to create new market data products and

[18] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

innovative pricing in this space. The Exchange expects firms to make decisions on how much and what types of data to consume on the basis of the total cost of interacting with MIAX Options or other exchanges. Of course, the explicit data fees are only one factor in a total platform analysis. Some competitors have lower transactions fees and higher data fees, and others are vice versa. The market for this proprietary information is highly competitive and continually evolves as products develop and change. Additionally, respecting intra-market competition, the AIS feed and the ToM feed are available to all subscribers, thus providing all subscribers to the data products with an even playing field with respect to information and access to trade on MIAX Options.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[19] and Rule 19b–4(f)(2)[20] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2018–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2018–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2018–20, and should be submitted on or before September 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17494 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

[20] 17 CFR 240.19b–4(f)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83809; File No. SR–CboeBZX–2018–057)]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 1.5, Definitions, Exchange Rule 14.6, Obligations for Companies Listed on the Exchange, and Exchange Rule 14.11, Other Securities

August 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 1, 2018, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b-4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 1.5(c), which defines the After Hours Trading Session, to allow trading until 8:00 p.m. ET.

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange offers four distinct trading sessions where the Exchange accepts orders for potential execution: (1) The ''Early Trading Session,'' which begins at 7:00 a.m. Eastern Time (''ET'') and continues until 8:00 a.m. ET,[5] (2) the ''Pre-Opening Session,'' which begins at 8:00 a.m. ET and continues until 9:30 a.m. ET,[6] (3) ''Regular Trading Hours,'' which begin at 9:30 a.m. ET and continue until 4:00 p.m. ET,[7] and (4) the ''After Hours Trading Session,'' which begins at 4:00 p.m. ET and continues until 5:00 p.m. ET.[8] Users[9] may designate when their orders are eligible for execution by selecting their desired Time-in-Force instruction.[10]

The purpose of the proposed rule change is to amend Rule 1.5(c), which defines the After Hours Trading Session, to allow trading until 8:00 p.m. ET, consistent with the hours currently available on the Exchange's affiliates Cboe EDGX Exchange, Inc. (''EDGX'') and Cboe EDGA Exchange, Inc. (''EDGA'').[11] The After Hours Trading Session will continue to begin after Regular Trading Hours end at 4:00 p.m. ET but instead of ending at 5:00 p.m. ET, as is the case today, will now be available until 8:00 p.m. ET similar to the EGDX and EDGA markets. Rule 11.1(a), which was inadvertently modified in November 2014 to include an 8:00 p.m. ET cutoff for entering orders as part of a proposed rule change to accept orders beginning at 6:00 a.m. ET,[12] will not be amended by this proposed rule change as the Exchange will now accept orders until 8:00 p.m. ET as described in that rule.

The Exchange's affiliate, Cboe BYX Exchange, Inc. (''BYX''), is also filing to extend its trading hours to 8:00 p.m. ET.[13] The proposed rule change will therefore promote a consistent experience for market participants across all four equities markets operated by Cboe Global Markets, Inc. Orders entered for participation in the After Hours Trading Session will continue to be handled in the same manner as today, with the exception that the Exchange will now accept those orders until 8:00 p.m. ET, thereby providing additional time for market participants to source liquidity outside of Regular Trading Hours. The Exchange therefore believes that amending Rule 1.5(c) to extend the Exchange's trading hours will be benefit investors that will now be able to trade on the Exchange later in the day.

A number of other Exchange rules related to listings also specifically reference the time that the Exchange is open for trading (*i.e.,* until 5:00 p.m. ET today). The Exchange therefore proposes to update references to the Exchange's hours of operation in those rules in connection with the changes to extend the After Hours Trading Session to 8:00 p.m. ET. Specifically, the Exchange proposes to amend the following rules to reference the proposed 8:00 p.m. ET end of trading: (1) Interpretations and Policies .01 and .02 to Rule 14.6, which provide the timing for notifying the Exchange of certain public disclosures to be made during Exchange market hours; (2) Rule 14.11(b)(7),(c)(7) which provide that the Exchange may designate Portfolio Depository Receipts or Index Fund Shares, respectively, for trading during the pre-market and post-market sessions offered on the Exchange; (3) Rule 14.11(f)(2)(B), which provides that transactions in Trust Issued Receipts may be effected until 5:00 p.m. ET each business day; and (4) Rule 14.11(j)(2), which provides that the Exchange must distribute an information circular for UTP Derivative Securities that, among other things, includes information about the risks of trading during the Exchange's various trading sessions.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5) of the Act[15] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change will benefit market participants by providing additional opportunities to transact on the Exchange later in the trading day.

As explained in the purpose section of this proposed rule change, the Exchange currently accepts orders in its After Hours Trading Session until 5:00 p.m. ET, while two of its affiliated exchanges (*i.e.,* EDGX and EDGA) currently have a Post-Closing Session that ends at 8:00 p.m. ET.[16] The Exchange believes that market participants would benefit from a longer After Hours Trading Session on the Exchange too, and is therefore proposing to extend its After Hours Trading Session to the same time as its affiliated markets. The Exchange believes that this change will provide additional opportunities for firms to source liquidity for their orders on the Exchange. Furthermore, the proposed rule change will ensure that Members have a similar experience when trading on all four Cboe equities markets. For the reasons set forth above, the Exchange believes the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

In addition, the Exchange believes that the proposed changes to its listing rules are consistent with the Act because these changes update those rules with references to the proposed 8:00 p.m. ET time that the Exchange would accept orders in the After Hours Trading Session. No further substantive changes to those rules are proposed. The Exchange believes that it is appropriate to update all rules that specifically reference the Exchange's hours of operation so that the rules properly reflect the changes to the After Hours Trading Session being implemented in this proposed rule change.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange does not believe that the

[5] ''Early Trading Session'' means the time between 7:00 a.m. and 8:00 a.m. ET. *See* Rule 1.5(ee).

[6] ''Pre-Opening Session'' means the time between 8:00 a.m. and 9:30 a.m. ET. *See* Rule 1.5(r).

[7] ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. ET. *See* Rule 1.5(w).

[8] ''After Hours Trading Session'' means the time between 4:00 p.m. and 5:00 p.m. ET. *See* Rule 1.5(c).

[9] ''User'' means any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. *See* Rule 1.5(cc).

[10] *See* Rule 11.9(b).

[11] *See* EDGX and EDGA Rule 1.5(r), which both define ''Post-Closing Session'' as the time between 4:00 p.m. and 8:00 p.m. ET.

[12] *See* Securities Exchange Act Release No. 73745 (December 4, 2014), 79 FR 73359 (December 10, 2014) (SR–BATS–2014–062).

[13] *See* SR–CboeBYX–2018–013 (pending publication).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* supra note 11.

proposed rule change would have any significant impact on inter-market competition as the Exchange's affiliated exchanges already allow after hours trading until 8:00 p.m. ET, and other markets are free to provide similar trading hours. Furthermore, the Exchange does not believe that the proposed rule change would have any significant impact on intra-market competition as all Members would be able to enter orders later in the day due to the extended After Hours Trading Session.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative for 30 days after the date of its filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange represents that waiver of the 30-day operative delay will allow the Exchange to immediately provide a venue for market participants to source liquidity until 8:00 p.m. ET, similar to the operation of other exchanges. Because the proposed rules previously have been approved by the Commission for, and are substantively identical to those of, another listing exchange, the Commission believes does not believe that the proposal raises any novel or unique regulatory issues.[21] Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the 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–CboeBZX–2018–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2018–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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 Number SR–CboeBZX–2018–057 and should be submitted on or before September 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17490 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See supra* note 11.

[22] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83815; File No. SR–FINRA–2018–023]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Relating to ATS Reporting to TRACE of Transactions in U.S. Treasury Securities

August 9, 2018.

I. Introduction

On June 5, 2018, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 6730 to require certain alternative trading systems (''ATSs'') that report transactions in U.S. Treasury Securities to the Transaction Reporting and Compliance Engine (''TRACE'') to identify non-FINRA-member subscribers on those transaction reports. The proposed rule change was published for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comment in the **Federal Register** on June 13, 2018.[3] The Commission received three comment letters regarding the proposed rule change.[4] On July 26, 2018, the Commission extended until September 11, 2018, the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] FINRA submitted a response to the comments on August 6, 2018.[6] This order approves the proposed rule change.

II. Description of Proposed Rule Change

As described in further detail below, FINRA has proposed to add Supplementary Material .07 to existing FINRA Rule 6730 to require an ATS, as defined in Rule 300(a) of Regulation ATS,[7] that effects transactions in U.S. Treasury Securities above a certain volume threshold to identify in its TRACE reports any counterparty to a Treasury transaction that is a non-FINRA member, using a market participant identifier (''MPID'') assigned by FINRA.[8]

A. Background

On October 18, 2016, the Commission approved a proposed rule change that required FINRA members to report secondary market transactions in U.S. Treasury Securities to TRACE.[9] FINRA members began reporting such transactions to TRACE on July 10, 2017.[10] Information in TRACE regarding transactions in U.S. Treasury Securities is for regulatory purposes only and is not disseminated publicly.[11]

Under FINRA's rules, each FINRA member that is a Party to a Transaction in a TRACE-Eligible Security must report the transaction.[12] A TRACE transaction report must include, among other things, the contra-party's identifier (*i.e.,* MPID, customer, or a non-member affiliate, as applicable).[13] Transactions in U.S. Treasury Securities that occur on an ATS generally must be reported to TRACE by the counterparties, if they are FINRA members, and by the ATS itself.[14] On a TRACE report, an ATS must identify a FINRA member counterparty by that counterparty's MPID.[15] However, for a transaction involving a non-FINRA-member customer, the ATS must report the trade utilizing a generic customer identifier (''C'').[16]

A significant amount of trading activity in U.S. Treasury Securities on ATSs involves market participants that are not registered as broker-dealers or are not FINRA members, including hedge funds, banks, and principal trading firms (''PTFs'').[17] The Department of the Treasury stated in its October 2017 Capital Markets Report that ''[t]rading activity [in U.S. Treasury Securities] on the major electronic interdealer platforms is dominated by PTFs, . . . and collectively they account for over half of all transaction volumes in the interdealer broker segment of the [cash Treasury] market.'' [18] The Capital Markets Report stated that ''a significant portion of PTF activity is anonymized in the TRACE data.'' [19] The Treasury Department recommended requiring ATSs that facilitate transactions in U.S. Treasury Securities to identify customers in their trade reports.[20] FINRA believes that requiring additional counterparty information in ATS TRACE reports for transactions in U.S. Treasury Securities would improve the effectiveness of FINRA's surveillance patterns and help FINRA to identify potentially manipulative activity, including wash sales and prearranged trading activity.[21] FINRA further believes that such information would facilitate a better understanding of Treasury market structure and liquidity.[22]

B. Proposed Changes to ATS Reporting Obligations

FINRA has proposed to add Supplementary Material .07 to existing FINRA Rule 6730 to require each ''covered ATS,'' as described below, to provide FINRA with a list of all of its non-FINRA-member subscribers and to obtain from FINRA an MPID for each such subscriber. Each covered ATS would then be required to identify a non-FINRA-member subscriber in the contra-party field of a TRACE report of a U.S. Treasury Security transaction using the MPID assigned by FINRA. A covered ATS would no longer be permitted to identify a contra-party to such a transaction using the ''customer'' or ''non-member affiliate'' identifier. Based on the list of non-FINRA-member subscribers that a covered ATS provides to FINRA, FINRA will assign each non-FINRA-member subscriber a unique MPID (to be used consistently across ATSs) and provide a list of those MPIDs to the ATS.[23] This approach is designed to preserve the confidentiality of an individual ATS's subscriber list, because FINRA will provide a covered ATS with a list of MPIDs only for its own subscribers.[24]

Proposed Supplementary Material .07(b) of FINRA Rule 6730 defines a ''covered ATS'' as an ATS, as that term is defined in Rule 300 of Regulation

[3] *See* Securities Exchange Act Release No. 83393 (June 7, 2018), 83 FR 27643 (''Notice'').

[4] *See* letter to Secretary, Commission, from Stephen John Berger, Managing Director, Government and Regulatory Policy, Citadel, dated July 5, 2018 (''Citadel Letter''); letter to Robert W. Errett, Deputy Secretary, Commission, from Theodore Bragg, Chief Executive Officer, Execution Access, LLC, dated July 3, 2018 (''Execution Access Letter''); letter to Brent J. Fields, Secretary, Commission, from Tyler Gellasch, Executive Director, The Healthy Markets Association, dated July 5, 2018 (''Healthy Markets Letter'').

[5] *See* Securities Exchange Act Release No. 83722 (July 26, 2018), 83 FR 37544 (Aug. 1, 2018).

[6] *See* letter to Brent J. Fields, Secretary, Commission, from Racquel L. Russell, FINRA, dated August 6, 2018 (''FINRA Response'').

[7] 17 CFR 242.300(a).

[8] FINRA Rule 6710(p) defines ''U.S. Treasury Security'' to mean ''a security, other than a savings bond, issued by the U.S. Department of the Treasury to fund the operations of the federal government or to retire such outstanding securities. The term 'U.S. Treasury Security' also includes separate principal and interest components of a U.S. Treasury Security that has been separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (STRIPS) program operated by the U.S. Department of Treasury.''

[9] *See* Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (SR–FINRA–2016–027) (''2016 Order'').

[10] *See* Notice, 83 FR at 27644; FINRA Regulatory Notice 16–39 (October 2016).

[11] *See* FINRA Rule 6750(c)(5) (providing that FINRA will not disseminate information on a transaction in a U.S. Treasury Security). *See also* Notice, 83 FR at 27644.

[12] *See* FINRA Rule 6730(a). *See also* FINRA Rules 6710(a) and (e) (defining ''TRACE-Eligible Security'' and ''Party to a Transaction,'' respectively).

[13] *See* FINRA Rule 6730(c)(6).

[14] *See* Notice, 83 FR at 27644. *See also* FINRA's Regulatory Notice 14–53 (November 2014) (reminding ATSs and ATS subscribers of their reporting obligations in TRACE-Eligible Securities). While there are limited exceptions to the reporting requirement that are available when all the counterparties are FINRA members, these exceptions do not apply to transactions on an ATS involving a non-FINRA member. *See* Notice, 83 FR at 27644, n. 6. FINRA has stated that, because each current ATS is a FINRA member, each ATS must report to TRACE all trading activity in TRACE-Eligible Securities that occurs on the ATS. *See* Notice, 83 FR at 27644.

[15] *See* Notice, 83 FR at 27644.

[16] *See id.* In addition, if the non-FINRA member is an affiliate, the ATS must report the trade as a generic trade with a non-member affiliate by denoting the counterparty with an ''A'' identifier. *See* FINRA Rule 6730(c)(6).

[17] *See* Notice, 83 FR at 27644.

[18] Notice, 83 FR at 27644 (citing Treasury Department, A Financial System That Creates Economic Opportunities: Capital Markets, Report to President Donald J. Trump, Executive Order 13772 on Core Principles for Regulating the United States Financial System, at 79–80 (October 2017) (''Capital Markets Report''), *https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-Capital-Markets-FINAL-FINAL.pdf*).

[19] *See id.* (citing Capital Markets Report at 80).

[20] *See id.* (citing Capital Markets Report at 80).

[21] *See id.*

[22] *See id.*

[23] *See* proposed FINRA Rule 6730, Supplementary Material .07(a). *See also* Notice, 83 FR at 27645.

[24] *See* Notice, 83 FR at 27645.

ATS, that executed transactions in U.S. Treasury Securities against non-FINRA-member subscribers of $10 billion or more in monthly par value, computed by aggregating buy and sell transactions, for any two months in the preceding calendar quarter.[25] FINRA has stated that, based on a review of U.S. Treasury Security transaction data reported to FINRA during a sample period, six ATSs would currently be considered covered ATSs.[26] According to FINRA, these ATSs currently account for over 99% of the trade reports submitted by ATSs to TRACE for transactions in U.S. Treasury Securities.[27] FINRA believes that limiting the proposed counterparty identification requirement in this manner balances the burdens associated with complying with the proposed rule (*i.e.,* providing FINRA a list of all non-FINRA-member subscribers, obtaining MPIDs, and using the assigned MPIDs in TRACE reporting) with the benefits sought to be achieved (*i.e.,* obtaining additional granularity that will enhance the quality of U.S. Treasury Security transaction data).[28] FINRA further believes that the proposal would improve the completeness of the information on U.S. Treasury Security transactions available to FINRA and the official sector, and that the absence of more detailed counterparty information from ATSs with activity levels below the proposed threshold would not materially affect the completeness of the audit trail.[29]

FINRA believes that the proposed rule change would result in an improvement to the effectiveness of FINRA's surveillance patterns from the standpoint of greater granularity and thus more accurate pattern detection, including the increased ability to identify potentially manipulative activity.[30] FINRA has stated that its ability to detect wash sales or prearranged trading activity would be improved if the audit trail included the identity of the non-FINRA-member counterparty rather than the generic customer indicator received today.[31] The identity of the particular ATS subscriber allows the surveillance pattern to narrow down the potential universe of matching trades and thus more accurately detect instances of potential manipulation.[32] FINRA concluded that the more granular detail that would be added to transaction reports by identifying non-FINRA-member counterparties would enhance FINRA's surveillance program for U.S. Treasury Securities.[33]

FINRA has stated that it will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval of the proposal, and that the effective date will be no later than 180 days following publication of that *Regulatory Notice.*[34] Covered ATSs will be required to submit a list of their non-FINRA-member subscribers to FINRA at least 60 days in advance of the effective date.[35] An ATS that becomes a covered ATS in the future would be required to begin complying with the requirements of Supplementary Material .07 of FINRA Rule 6730 within 60 calendar days of the end of the calendar quarter in which it becomes a covered ATS.[36] This 60-day period is designed to provide sufficient time for a newly covered ATS to provide FINRA with a list of, and obtain MPIDs for, its non-FINRA-member subscribers, and perform any necessary programming changes.[37] Once an ATS is deemed a covered ATS, it must continue complying with the new counterparty reporting requirements even if its volume of executed transactions in U.S. Treasury Securities against non-FINRA-member subscribers falls below the threshold.[38]

III. Summary of Comments and FINRA's Response

The Commission received three comment letters regarding the proposal.[39] Two commenters strongly supported the proposal.[40] One of these commenters noted that making more Treasury market data readily available to the official sector would improve general monitoring and surveillance capabilities, including those designed to detect prohibited trading practices and potential risks to market stability.[41] Similarly, the second commenter noted that the absence of information regarding the identity of non-FINRA-member counterparties is ''a significant limitation for effective surveillance and oversight.'' [42]

The third commenter generally supported the goal of increased transparency in the U.S. Treasury market but did not think that the proposal ''is sufficient or even necessarily an appropriate means of facilitating transparency among non-FINRA member participants in the Treasury market.'' [43] This commenter warned that the proposal ''may actually result in reduced transparency'' because it might cause non-FINRA members to shift their trading in U.S. Treasury Securities ''from FINRA member firms to non-FINRA member and bank affiliates that have no reporting responsibilities.'' [44] The commenter concluded that ''Congress or the SEC should consider requiring PTFs to register as broker-dealers such that FINRA, in turn, may require them to centrally clear their transactions and report their transactions to TRACE. Until such a requirement exists, the problem of market opacity will persist.'' [45]

In its response letter, FINRA acknowledged that reporting by non-FINRA members would provide a more complete picture of Treasury market activity, but believes that the proposal represents an appropriate next step to improve the usefulness of the Treasury transaction data currently reported through TRACE, given the limits of its jurisdictional authority.[46] FINRA further noted that the Department of the Treasury, the Commission, the Federal Reserve Bank of New York, and the CFTC have stated that they are assessing effective means to ensure the collection of data regarding Treasury cash securities market transactions is comprehensive and includes information from institutions that are

[25] FINRA stated that any member that meets the definition of ''alternative trading system'' set forth in Rule 300(a) of Regulation ATS will be required to comply with the new counterparty reporting requirements, regardless of whether the member is excepted from the requirements applicable to ATSs provided in Rule 301(b) of Regulation ATS (*e.g.,* the exception applicable if the ATS limits its securities activities to government securities). *See* Notice, 83 FR at 27644, n. 12 (citing 17 CFR 242.301(a)(4)(ii)(A)).

[26] *See* Notice, 83 FR at 27645, n. 13.

[27] *See id.*

[28] *See* Notice, 83 FR at 27645.

[29] *See id.* FINRA also noted that, if the proposal is approved, FINRA intends to monitor the continued appropriateness of the $10 billion threshold, the impact of the exception on its audit trail, and potential negative impacts or changes in ATS or non-FINRA-member subscriber behavior. *See id.*

[30] *See id.,* 83 FR at 27644.

[31] *See id.*

[32] *See id.*

[33] *See id.*

[34] *See id.,* 83 FR at 27645.

[35] *See id.*

[36] *See* proposed FINRA Rule 6730, Supplementary Material .07(c).

[37] *See* Notice, 83 FR at 27645.

[38] *See* proposed FINRA Rule 6730, Supplementary Material .07(d).

[39] *See supra* note 4.

[40] *See* Citadel Letter; Healthy Markets Letter.

[41] *See* Citadel Letter at 1.

[42] Healthy Markets Letter at 3.

[43] Execution Access Letter at 2.

[44] *Id.* Another commenter agreed that banks should be subject to reporting requirements, but expressed the view that the ''important effort'' represented by the proposal should not be delayed or limited pending action with respect to the establishment of reporting obligations for banks. *See* Heathy Markets at 3.

[45] Execution Access Letter at 3.

[46] *See* FINRA Response at 1–2.

not FINRA members.[47] FINRA also noted that the Federal Reserve Board has announced that it plans to collect data from banks for secondary market transactions in U.S. Treasury Securities and is discussing with FINRA whether TRACE could be leveraged to potentially serve as the Board's collection agent for the data.[48]

Similarly, this commenter believed that ''ATS participants whose trades are presently reported to TRACE only as 'customer' trades—including banks, hedge funds, and PTFs—may choose to not become an ATS subscriber or refrain from trading on ATS's to maintain anonymity and avoid regulatory oversight.'' [49] FINRA acknowledged that the proposal could result in a change in behavior by non-FINRA members, but reiterated its understanding, expressed in the Notice, that most trading in the Treasury cash market is electronic and that member firms and non-FINRA venues do not currently have the capability to facilitate the volume of orders and trades that FINRA-member ATSs can facilitate through electronic systems.[50] Accordingly, FINRA believes that the proposal is designed to apply to the trading venues most likely not to see a shift in volume away to other venues.[51] FINRA also reiterated that it would monitor activity in U.S. Treasury Securities with respect to the operation of the proposal.[52]

The commenter also argued that the proposal ''unfairly allocates to ATSs the significant operational costs and regulatory burdens of trade reporting'' [53] and that ''ATS's will likely need to recoup these costs by passing them through to their customers.'' [54] FINRA responded that it is sensitive to the need to balance the regulatory objectives of a proposal with the burdens and costs imposed on member firms, and sought to narrowly tailor the proposal by establishing a minimum volume threshold below which the identification requirements would not apply.[55] FINRA also noted that, because firms currently must populate the counterparty field in their TRACE reports, the proposal will not require ATSs to undertake programming related to populating a new field, but rather will require them to use a FINRA-assigned MPID in place of the current generic contra-party identifiers for ''customer'' or ''non-member affiliate.'' [56] FINRA further noted that it intends to set an effective date for the proposal of approximately 180 days from the date of the *Regulatory Notice* announcing a Commission approval of the proposal, which is designed to provide ATSs with enough time to determine whether they are covered and, if so, to obtain MPIDs for non-FINRA-member subscribers and make any necessary programming changes.[57]

Finally, one of the commenters who broadly supported the proposal suggested that FINRA ultimately should require identification using the legal entity identifiers (''LEIs'') rather than MPIDs.[58] FINRA responded that, at this time, MPIDs are the most appropriate identifier for TRACE reports because MPIDs are established and widely used by its members for purposes of reporting trade and counterparty information to FINRA.[59]

IV. Discussion and Commission Findings

After carefully considering the proposal, the comments submitted, and FINRA's response to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[60] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[61] which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission called FINRA's 2016 proposal to expand TRACE reporting to include member transactions in U.S. Treasury Securities ''an important first step in providing the official sector with more comprehensive data about the Treasury cash market.'' [62] Currently, TRACE reports require specific identification only of FINRA member counterparties; non-FINRA-member counterparties are reported only as ''C'' for customer or ''A'' if the counterparty is a non-member affiliate. FINRA has now proposed to require covered ATSs to specifically identify all non-FINRA-member counterparties in their TRACE reports of U.S. Treasury Security transactions. The Commission concurs with FINRA's assessment that ''the additional detail that would be added to transaction reports by identifying non-FINRA member counterparties would enhance FINRA's surveillance program for U.S. Treasury Securities.'' [63] The Commission concludes, therefore, that expanding TRACE reporting of Treasury transactions in the manner described in the proposal is reasonably designed to help FINRA fulfill its mandate in Section 15A(b)(6) of the Act to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission further believes that expanded reporting of counterparty identities in the manner described in the proposal will help to establish a more complete audit trail for transactions in U.S. Treasury Securities, thereby assisting regulators in detecting and deterring improper trading activity. More complete information regarding counterparty identity also will provide the official sector with a better understanding of the structure and characteristics of the U.S. Treasury cash market. The Commission notes that the proposal is consistent with the Treasury Department's recommendation in the Capital Markets Report that FINRA members that facilitate transactions in U.S. Treasury Securities be required to identify customers in their reports of transactions in U.S. Treasury Securities.[64]

The Commission acknowledges the concerns of one commenter who argued that the proposal ''does not do enough to achieve full transparency in the Treasury Market and may actually result in reduced transparency'' and that some non-FINRA-member market participants

[47] *See id.* at 2 (citing Joint Press Release, Department of the Treasury, *et al.,* Statement Regarding Progress on the Review of the U.S. Treasury Market Structure since the July 2015 Joint Staff Report (August 2, 2016), *https://www.sec.gov/news/pressrelease/2016-155.html;* Joint Press Release, U.S. Department of the Treasury, *et al.,* Statement on Trade Reporting in the U.S. Treasury Market (May 16, 2016), *https://www.sec.gov/news/pressrelease/2016-90.html).*

[48] *See id.* at 2 (citing Press Release, Board of Governors of the Federal Reserve System (October 21, 2016), *https://www.federalreserve.gov/newsevents/pressreleases/other20161021a.htm*).

[49] Execution Access Letter at 2.

[50] *See* FINRA Response at 2.

[51] *See id.*

[52] *See id.* A second commenter who broadly supported the proposal also noted that the new counterparty reporting requirements ''may lead to trading shifting to non-ATS or other venues'' and observed that ''it might be valuable to further expand the reporting obligations in the future.'' Healthy Markets Letter at 3.

[53] Execution Access Letter at 2–3.

[54] *Id.* at 3.

[55] *See* FINRA Response at 3.

[56] *See id.*

[57] *See id.* In addition, an ATS that becomes a covered ATS in the future will have 60 calendar days from the end of the calendar quarter in which it becomes covered to begin complying with the requirements. *See id.*

[58] *See* Healthy Markets Letter at 3–4.

[59] *See* FINRA Response at 4.

[60] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[61] 15 U.S.C. 78o–3(b)(6).

[62] 2016 Order, 81 FR at 73174.

[63] Notice, 83 FR at 27644.

[64] *See supra* note 18 and accompanying text.

might elect not to trade on covered ATSs ''to maintain anonymity and avoid regulatory oversight.'' [65] The Commission believes, nevertheless, that this comment does not preclude approval of the proposal at this time. Although some Treasury transactions will continue to be outside the scope of the new requirements, the new counterparty information reported by covered ATSs should greatly enhance surveillance capabilities and provide additional insights into the Treasury cash market. The Commission notes that other public sector authorities have expressed their intention to continue to assess effective means to ensure that reported data regarding the Treasury cash market is comprehensive and includes information from institutions that are not FINRA members.[66] Furthermore, although theoretically possible, it might not be practical for non-FINRA members to shift their trading activity away from covered ATSs if covered ATSs continue to serve as significant pools of liquidity for U.S. Treasury Securities. The Commission notes that FINRA ''intends to monitor . . . for any potential negative impacts or changes in ATS or non-member subscriber behavior.'' [67]

The Commission believes that the proposal is reasonably designed to minimize burdens on ATSs while still fulfilling the important policy objectives discussed above. The new non-FINRA-member identification requirements will apply only to ATSs that exceed the $10 billion threshold. These ATS currently account for the vast majority of ATS transaction reports for transactions in U.S. Treasury Securities against non-FINRA members.[68] Furthermore, the proposal does not appear likely to require covered ATSs to undertake significant programming work because new reporting fields will not be necessary. All ATSs that report to TRACE already utilize fields for counterparty identifiers and are familiar with the use of MPIDs for FINRA member counterparties. For Treasury transactions on covered ATSs, the proposal eliminates use of the generic ''C'' and ''A'' identifiers and instead requires the ATS to populate the counterparty identifier field with an MPID in all cases, regardless of whether a particular counterparty is a FINRA member. Under the new rule, FINRA will assign MPIDs to all non-FINRA-member subscribers of covered ATSs who engage in Treasury transactions without employing a *de minimis* cut-off. The Commission believes that this is a reasonable means of simplifying compliance with the rule because covered ATSs will not have to analyze the transaction volume of non-FINRA-member subscribers to ascertain whether any of them become subject to or subsequently fall outside the scope of the rule. In addition, an ATS that reaches the $10 billion threshold will remain a covered ATS even if its volume of executed transactions in U.S. Treasury Securities subsequently falls below the $10 billion threshold.[69] The Commission believes that this will simplify compliance with the new rule because an ATS will not be required to continue monitoring its volume of executions in U.S. Treasury Securities against non-FINRA-member subscribers once it has reached the $10 billion threshold. Finally, the Commission notes that the new rule will impose duties only on covered ATSs and not on any of their subscribers.

Pursuant to Section 19(b)(5) of the Act,[70] the Commission consulted with and considered the views of the Treasury Department in determining to approve the proposed rule change. The Treasury Department supports FINRA's proposal to require covered ATSs to identify non-FINRA-member counterparties in their TRACE reports of Treasury transactions.[71] Pursuant to Section 19(b)(6) of the Act,[72] the Commission has considered the sufficiency and appropriateness of existing laws and rules applicable to government securities brokers, government securities dealers, and their associated persons in approving the proposal. As discussed above, ATSs currently report Treasury transactions using generic identifiers that do not specifically identify non-FINRA-member counterparties. By requiring covered ATSs to identify non-FINRA-member counterparties in their TRACE reports of Treasury transactions, the new rule will enhance FINRA's surveillance program for U.S. Treasury Securities and provide the official sector with important additional information concerning activity in the U.S. Treasury cash market.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[73] that the proposed rule change (SR–FINRA–2018–023) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

Eduardo A. Aleman,

Assistant Secretary.

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[65] Execution Access Letter at 2.

[66] *See supra* notes 47–48 and accompanying text.

[67] Notice, 83 FR at 27645.

[68] FINRA stated that, based on a review of TRACE data over a sample period, only six ATSs that accounted for 99% of trade reports exceeded the proposed threshold. *See* Notice, 83 FR at 27645, at n. 13.

[69] *See* FINRA Rule 6730, Supplementary Material .07(d).

[70] 15 U.S.C. 78s(b)(5) (providing that the Commission ''shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor'').

[71] Telephone conversation with Treasury Department staff and Brett Redfearn, Director, Division of Trading and Markets, *et al.,* on August 3, 2018.

[72] 15 U.S.C. 78s(b)(6).

[73] 15 U.S.C. 78s(b)(2).

[74] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83814; File No. SR–PEARL–2018–17]

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC To Amend the MIAX PEARL Fee Schedule

August 9, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2018, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section 1(a) of the Fee Schedule to (i) decrease Maker (as defined below) rebates in Tier 6 for options transactions in Penny classes (as defined below) and non-Penny classes (as defined below) for Priority Customers;[3] (ii) increase Taker (as defined below) fees in certain Tiers for options transactions in Penny classes and in all Tiers for options transactions in non-Penny classes for MIAX PEARL Market Makers,[4] and (iii) increase the Taker fees in all Tiers for options transactions in non-Penny classes for Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers (collectively herein ''Professional Members'').

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[5] on MIAX PEARL in the relevant, respective origin type (not including Excluded Contracts)[6] expressed as a percentage of TCV.[7] In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[8] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX PEARL System,[9] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program[10] (''Penny classes'') than for order executions in standard option classes which are not in the Penny Pilot Program (''non-Penny classes''), where Members are assessed higher transaction fees and receive higher rebates. Transaction rebates and fees in Section 1(a) of the Fee Schedule are currently assessed according to the following tables:

Origin	Tier	Volume criteria (percent)	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker	Taker *	SPY taker	QQQ, IWM, VXX taker	Maker	Taker
Priority Customer ..	1	0.00–0.10	($0.25)	$0.48	$0.44	$0.47	($0.85)	$0.87
	2	Above 0.10–0.35 ..	(0.40)	0.46	0.43	0.46	(0.95)	0.86
	3	Above 0.35–0.50 ..	(0.45)	0.44	0.42	0.44	(1.00)	0.85
	4	Above 0.50–0.75 ..	(0.52)	0.44	0.41	0.43	(1.03)	0.84
	5	Above 0.75–1.25 ..	(0.53)	0.44	0.40	0.42	(1.04)	0.84
	6	Above 1.25	(0.54)	0.43	0.38	0.40	(1.05)	0.84

* For all Penny Classes other than SPY, QQQ, IWM, and VXX.

[3] ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100, including Interpretations and Policies .01.

[4] ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[6] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[7] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[8] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[9] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[10] *See* Securities Exchange Act Release No. 83517 (June 25, 2018), 83 FR 30792 (June 29, 2018) (SR–PEARL–2018–14).

Origin	Tier	Volume criteria (percent)	Per contract rebates/fees for penny classes		Per contract rebates/fees for non-penny classes	
			Maker	Taker	Maker **	Taker **
All MIAX PEARL Market Makers.	1	0.00–0.15	($0.25)	$0.50	($0.30)	$1.05
	2	Above 0.15–0.40	(0.40)	0.50	(0.30)	1.05
	3	Above 0.40–0.65	(0.40)	0.48	(0.60)	1.03
	4	Above 0.65–1.00 or Above 2.25 in SPY.	(0.47)	0.43	(0.65)	1.02
	5	Above 1.00–1.40	(0.48)	0.43	(0.70)	1.02
	6	Above 1.40	(0.48)	0.43	(0.85)	1.02

Origin	Tier	Volume criteria (percent)	Per contract rebates/fees for penny classes		Per contract rebates/fees for non-penny classes	
			Maker ∧	Taker	Maker **∧	Taker **
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00–0.15	($0.25)	$0.50	($0.30)	$1.05
	2	Above 0.15–0.40	(0.40)	0.50	(0.30)	1.05
	3	Above 0.40–0.65	(0.40)	0.48	(0.60)	1.04
	4	Above 0.65–1.00	(0.47)	0.48	(0.65)	1.04
	5	Above 1.00–1.40	(0.48)	0.48	(0.70)	1.04
	6	Above 1.40	(0.48)	0.48	(0.85)	1.04

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

∧ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 1.50% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

Except as otherwise set forth herein, the Volume Criteria is calculated based on the total monthly volume executed by the Member in all options classes on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) TCV (as the denominator). In Tier 4 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 2.25% in SPY) is calculated based on the total monthly volume executed by the Market Maker solely in SPY options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY TCV (as the denominator). The per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the threshold has been reached by Member. The Exchange aggregates the volume of Members and their Affiliates in the Add/Remove Tiered Fees. The per contract transaction rebates and fees shall be waived for transactions executed during the opening and for transactions that uncross the ABBO.

Maker Rebates

The Exchange proposes to decrease the Maker rebate amounts in Tier 6 as described below for Penny and non-Penny classes for Priority Customers. Specifically, for Priority Customer options transactions in Penny classes, the Exchange proposes to decrease the Maker rebate in Tier 6 from ($0.54) to ($0.53). For Priority Customer options transactions in non-Penny classes, the Exchange proposes to decrease the Maker rebate in Tier 6 from ($1.05) to ($1.04).

Taker Fees

The Exchange proposes to: (i) Increase the Taker fees assessable to MIAX PEARL Market Makers in certain Tiers for options transactions in Penny classes and in all Tiers for options transactions in non-Penny classes, and (ii) increase the Taker fees assessable to Professional Members in all tiers for options transactions in non-Penny classes. Specifically, the Exchange proposes to increase the Taker fees for MIAX PEARL Market Makers orders in options in Penny classes in Tier 4 from $0.43 to $0.47, in Tier 5 from $0.43 to $0.45 and in Tier 6 from $0.43 to $0.44. The Exchange also proposes to increase the Taker fee for MIAX PEARL Market Makers for options transactions in non-Penny classes in Tier 1 from $1.05 to $1.10, in Tier 2 from $1.05 to $1.10, in Tier 3 from $1.03 to $1.09, in Tier 4 from $1.02 to $1.08, in Tier 5 from $1.02 to $1.07 and in Tier 6 from $1.02 to $1.06. The Exchange proposes to increase the Taker fees for Professional Members for options transactions in non-Penny classes in Tier 1 from $1.05 to $1.10, in Tier 2 from $1.05 to $1.10, in Tier 3 from $1.04 to $1.10, in Tier 4 from $1.04 to $1.09, in Tier 5 from $1.04 to $1.08 and in Tier 6 from $1.04 to $1.07.

The purpose of increasing the specified Taker fees and decreasing the specified Maker rebates is for business and competitive reasons. As a new exchange, in order to attract order flow, the Exchange initially set its Maker rebates and Taker fees so that they were meaningfully higher/lower than other options exchanges that operate comparable maker/taker pricing models.[11] The Exchange now believes that it is appropriate to further adjust these specified Maker rebates and Taker fees so that they are more in line with

[11] *See* Securities Exchange Act Release Nos. 80915 (June 13, 2017), 82 FR 27912 (June 19, 2017) (SR–PEARL–2017–29); 80914 (June 13, 2017), 82 FR 27910 (June 19, 2017) (SR–PEARL–2017–30).

other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.[12]

Cboe BZX Exchange, Inc. (''Cboe BZX'') generally provides for similar fees and rebates. For example, under threshold criteria similar to MIAX PEARL's proposed rebates in Priority Customer Tier 6 for Penny Classes, Cboe BZX's Customer Penny Pilot Add Tiers 5, 6 and 7 provides for a rebate of $0.53.[13] Additionally, under threshold criteria similar to MIAX PEARL's proposed rebates in Priority Customer Tier 6 for non-Penny Classes, Cboe BZX provides for a rebate of $1.02 in its Customer Non-Penny Pilot Add Tier 3, and a rebate of $1.05, in Tier 4.[14] Further, under threshold criteria similar to MIAX PEARL's proposed Taker fees for Market Makers in Tiers 4, 5 and 6, in Penny Classes, Cboe BZX charges fees of $0.44 and $0.47 in its non-Customer Penny Pilot Take Volume Tiers for Market Makers.[15] Additionally, similar to the Taker fees proposed by MIAX PEARL for Market Makers in non-Penny Classes, Cboe BZX charges Market Makers a fee of $1.07 in its non-Customer, Non-Penny Pilot Take Volume Tiers.[16] Furthermore, similar to the Taker fees proposed by MIAX PEARL for Professional Members in Non-Penny Classes, Cboe BZX charges Professionals a fee of $1.07 in its Non-Customer, Non-Penny Pilot Take Volume Tiers.[17]

With all proposed changes, Section 1)a) of the Fee Schedule shall be the following:

Origin	Tier	Volume criteria (percent)	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker	Taker *	SPY taker	QQQ, IWM, VXX taker	Maker	Taker
Priority Customer ..	1	0.00–0.10	($0.25)	$0.48	$0.44	$0.47	($0.85)	$0.87
	2	Above 0.10–0.35 ..	(0.40)	0.46	0.43	0.46	(0.95)	0.86
	3	Above 0.35–0.50 ..	(0.45)	0.44	0.42	0.44	(1.00)	0.85
	4	Above 0.50–0.75 ..	(0.52)	0.44	0.41	0.43	(1.03)	0.84
	5	Above 0.75–1.25 ..	(0.53)	0.44	0.40	0.42	(1.04)	0.84
	6	Above 1.25	(0.53)	0.43	0.38	0.40	(1.04)	0.84

* For all Penny Classes other than SPY, QQQ, IWM, and VXX.

Origin	Tier	Volume criteria (percent)	Per contract rebates/fees for penny classes		Per contract rebates/fees for non-penny classes	
			Maker	Taker	Maker **	Taker **
All MIAX PEARL Market Makers.	1	0.00–0.15	($0.25)	$0.50	($0.30)	$1.10
	2	Above 0.15–0.40	(0.40)	0.50	(0.30)	1.10
	3	Above 0.40–0.65	(0.40)	0.48	(0.60)	1.09
	4	Above 0.65–1.00 ..... or Above 2.25 in SPY	(0.47)	0.47	(0.65)	1.08
	5	Above 1.00–1.40	(0.48)	0.45	(0.70)	1.07
	6	Above 1.40	(0.48)	0.44	(0.85)	1.06

Origin	Tier	Volume criteria (percent)	Per contract rebates/fees for penny classes		Per contract rebates/fees for non-penny classes	
			Maker ∧	Taker	Maker **∧	Taker **
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00–0.15	($0.25)	$0.50	($0.30)	$1.10
	2	Above 0.15–0.40	(0.40)	0.50	(0.30)	1.10
	3	Above 0.40–0.65	(0.40)	0.48	(0.60)	1.10
	4	Above 0.65–1.00	(0.47)	0.48	(0.65)	1.09
	5	Above 1.00–1.40	(0.48)	0.48	(0.70)	1.08
	6	Above 1.40	(0.48)	0.48	(0.85)	1.07

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

∧ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 1.50% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

[12] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees.''

[13] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Customer Penny Pilot Add Tiers.''

[14] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Customer Non-Customer Penny Pilot Add Volume Tier.''

[15] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Non-Customer Penny Pilot Take Volume Tiers.''

[16] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Non-Customer Non-Penny Pilot Take Volume Tiers.''

[17] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Non-Customer Non-Penny Pilot Take Volume Tiers.''

Except as otherwise set forth herein, the Volume Criteria is calculated based on the total monthly volume executed by the Member in all options classes on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) TCV (as the denominator). In Tier 4 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 2.25% in SPY) is calculated based on the total monthly volume executed by the Market Maker solely in SPY options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY TCV (as the denominator). The per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the threshold has been reached by Member. The Exchange aggregates the volume of Members and their Affiliates in the Add/Remove Tiered Fees. The per contract transaction rebates and fees shall be waived for transactions executed during the opening and for transactions that uncross the ABBO.

The proposed changes are scheduled to become operative August 1, 2018.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [18] in general, and furthers the objectives of Section 6(b)(4) of the Act,[19] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[20] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed Maker rebate decrease in Penny classes and non-Penny classes applicable to Priority Customers in Tier 6 is reasonable, equitable and not unfairly discriminatory because all similarly situated market participants are subject to the same tiered rebates and fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange believes it is equitable and not unfairly discriminatory to only offer this reduced taker fee to Priority Customer orders because a Priority Customer is, by definition, not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, who will generally submit a higher number of orders than Priority Customers. For competitive and business reasons, the Exchange initially set its Maker rebates for Priority Customer orders higher than certain other options exchanges that operate comparable maker/taker pricing models.[21] The Exchange now believes that it is appropriate to further decrease those specified Maker rebates so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.[22]

The proposed Taker fee increases in certain specified Tiers applicable to orders submitted by MIAX PEARL Market Makers and Professional Members are reasonable, equitable and not unfairly discriminatory because all option orders of the same origin type are subject to the same tiered Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. For competitive and business reasons, the Exchange initially set its Taker fees for MIAX PEARL Market Maker and Professional Member orders lower than certain other options exchanges that operate comparable maker/taker pricing models.[23] The Exchange now believes that it is appropriate to further increase those specified Taker fees so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share. The Exchange notes that, even as amended, its Taker fees for MIAX PEARL Market Makers and Professional Members are generally lower than certain other options exchanges operating competing models.[24] The Exchange believes for these reasons that increasing certain Taker fees for MIAX PEARL Market Maker and Professional Member transactions in the specified Tiers is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

Furthermore, the proposed increases to the Taker fees for MIAX PEARL Market Maker and Professional Member transactions promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the increases, the Exchange's proposed Taker fees for MIAX PEARL Market Maker and Professional Member orders still remain highly competitive with certain other options exchanges offering comparable pricing models, and should enable the Exchange to continue to attract order flow and maintain market share.[25] The Exchange believes that the amount of such fees, as proposed to be increased, will continue to encourage those market participants to send orders to the Exchange. To the extent that order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates than certain other competing options exchanges. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX PEARL does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes in the specified Maker rebates and Taker fees for the applicable market participants should continue to encourage the provision of liquidity that enhances the quality of the Exchange's market and increases the number of trading opportunities on MIAX PEARL for all participants who will be able to compete for such opportunities. The proposed rule change should enable the Exchange to continue to attract and compete for order flow with other exchanges. However, this competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of competitive pricing.

The proposed Maker rebate decreases and Taker fee increases are intended to keep the Exchange's fees highly competitive with those of other

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4).

[20] 15 U.S.C. 78f(b)(1) and (b)(5).

[21] *See supra* note 11.

[22] *See supra* note 12

[23] *See supra* note 11.

[24] *See supra* note 12

[25] *See id.*

exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[26] and Rule 19b–4(f)(2) [27] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2018–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2018–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2018–17, and should be submitted on or before September 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17495 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(3)(A)(ii).

[27] 17 CFR 240.19b–4(f)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 17f–1(c) and Form X–17F–1A. SEC File No. 270–29, OMB Control No. 3235–0037.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17f–1(c) and Form X–17F–1A (17 CFR 249.100) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17f–1(c) requires approximately 10,100 entities in the securities industry to report lost, stolen, missing, or counterfeit securities certificates to the Commission or its designee, to a registered transfer agent for the issue, and, when criminal activity is suspected, to the Federal Bureau of Investigation. Such entities are required to use Form X–17F–1A to make such reports. Filing these reports fulfills a statutory requirement that reporting institutions report and inquire about missing, lost, counterfeit, or stolen securities. Since these reports are compiled in a central database, the rule facilitates reporting institutions to access the database that stores information for the Lost and Stolen Securities Program.

We estimate that 10,100 reporting institutions will report that securities are either missing, lost, counterfeit, or stolen annually and that each reporting institution will submit this report 30 times each year. The staff estimates that the average amount of time necessary to comply with Rule 17f–1(c) and Form X–17F–1A is five minutes. The total burden is approximately 25,250 hours annually for respondents (10,100 times 30 times 5 divided by 60).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; 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. Consideration will be given to comments and suggestions submitted in

writing within 60 days of this publication.

Rule 17f–1(c) is a reporting rule and does not specify a retention period. The rule requires an incident-based reporting requirement by the reporting institutions when securities certificates are discovered to be missing, lost, counterfeit, or stolen. Registering under Rule 17f–1(c) is mandatory to obtain the benefit of a central database that stores information about missing, lost, counterfeit, or stolen securities for the Lost and Stolen Securities Program. Reporting institutions required to register under Rule 17f–1(c) will not be kept confidential; however, the Lost and Stolen Securities Program database will be kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 9, 2018.

Eduardo A. Aleman.

Assistant Secretary.

[FR Doc. 2018–17487 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83808; File No. SR–FICC–2018–007]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Correct Certain References, Provide Transparency to Existing Processes and Amend Existing Practices in Connection With the Mortgage-Backed Securities Division Electronic Pool Notification Rules

August 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2018, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the FICC Mortgage-Backed Securities Division (''MBSD'') electronic pool notification (''EPN'') Rules (the ''EPN Rules'') [3] as described below.

FICC is proposing to correct the EPN Rules by (i) deleting references to the term ''EPN Procedures,'' (ii) amending the definition of the term ''Interested Person'' to delete the reference to ''Comparison Only System,'' (iii) deleting the defined term for ''Par Amount,'' (iv) replacing references to the term ''Vice President'' with the term ''Executive Director,'' (v) amending Sec. 3 (Agreements of EPN User) in EPN Rule 1 (Requirements Applicable to EPN Users) of *Article III (EPN Users)* to clarify an EPN User's obligation to process Messages through the EPN system during a system disruption, and (vi) amending EPN Rule 4 (Admission to Premises of Corporation; Power of Attorney) of *Article III (EPN Users)* to replace a reference to ''he'' with ''such person.''

FICC is proposing to amend various sections in the EPN Rules to provide transparency to FICC's existing processes. Specifically, FICC is proposing to amend EPN Rule 1 (Definitions) of *Article I (Definitions and General Provisions);* Section 2 (Limitations) in EPN Rule 1 (Accounts) and Section 1 (Availability of Reports), Section 2 (Message Detail Report), Section 3 (Message Summary Report), and Section 5 (Good Delivery; Time Stamps) in EPN Rule 2 (Reports) of *Article II (Messages Processed by the Corporation);* and EPN Rule 5 (Use of EPN Service) of *Article III (EPN Users).*

FICC is also proposing to amend its existing practice in connection with an EPN User's submission of a cancel and correct Message.[4] Specifically, FICC is proposing to establish one good delivery time stamp (referred to as the ''T2'' [5] time stamp) that reflects the same processing time on the pool seller's and the pool buyer's cancel and correct Message, respectively. The proposed change would not affect FICC's guarantee and novation of transactions submitted by Clearing Members through MBSD's Clearing System.[6]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing to correct the EPN Rules by (i) deleting references to the term ''EPN Procedures'' because FICC does not maintain EPN Procedures, (ii) amending the definition of the term ''Interested Person'' to delete the reference to ''Comparison Only System'' because MBSD does not maintain a Comparison Only System, (iii) deleting the defined term for ''Par Amount'' because this term is not used in the EPN Rules, (iv) replacing references to the term ''Vice President'' with the term ''Executive Director'' because FICC no longer utilizes the Vice President title, (v) amending Sec. 3 (Agreements of EPN User) in EPN Rule 1 (Requirements Applicable to EPN Users) of *Article III (EPN Users)* to clarify an EPN User's obligation to process Messages through the EPN system during a system disruption because this change would be an accurate reflection of FICC's existing practice, and (vi) amending EPN Rule 4 (Admission to Premises of Corporation; Power of Attorney) of *Article III (EPN User)* to replace a reference to ''he'' with ''such person'' because the reference to ''such person'' would be gender neutral.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Terms not defined herein are defined in the EPN Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.*

[4] *See* Article II, EPN Rule 2, Sec. 5, *supra* note 3.

[5] The reference to ''T2'' does not relate to the two business days settlement cycle for broker-dealer securities transactions, known as ''T+2.''

[6] MBSD maintains two sets of rulebooks. The EPN Rules govern MBSD's EPN Service, and the MBSD Clearing Rules (the ''MBSD Rules'') govern MBSD's clearance and settlement service. The MBSD Rules are *available at http://www.dtcc.com/legal/rules-and-procedures.* Pursuant to the MBSD Rules, the term ''Clearing System'' means the (i) system of services provided by MBSD to persons that are Clearing Members thereof, including trade comparison, to-be-announced netting, pool comparison, pool netting, and settlement, as applicable, and (ii) operations carried out by MBSD in the course of providing such services, as provided in the MBSD Rules. *See* MBSD Rule 1, Definitions.

FICC is proposing to amend various sections in the EPN Rules to provide transparency to FICC's existing processes. Specifically, FICC is proposing to amend EPN Rule 1 (Definitions) of *Article 1 (Definitions and General Provisions);* Section 2 (Limitations) in EPN Rule 1 (Accounts) and Section 1 (Availability of Reports), Section 2 (Message Detail Report), Section 3 (Message Summary Report), and Section 5 (Good Delivery; Time Stamps) in EPN Rule 2 (Reports) of *Article II (Messages Processed by the Corporation);* and EPN Rule 5 (Use of EPN Service) of *Article III (EPN Users).*

FICC is also proposing to amend its existing practice in connection with an EPN User's submission of a cancel and correct Message.[7] Specifically, FICC is proposing to establish one good delivery T2 time stamp [8] that reflects the same processing time on the pool seller's and the pool buyer's cancel and correct Message, respectively. As a result of this change, in the event that the T2 time stamp reflects a time that does not meet the good delivery requirements in accordance with the Securities Industry and Financial Markets Association's (''SIFMA'') Uniform Practices Manual for the Clearance and Settlement of Mortgage-Backed Securities and Other Related Securities (referred to in the EPN Rules as the ''SIFMA Guidelines''),[9] the financing of the mortgage pools associated with the Message, if any, would be the responsibility of the counterparties to such Message, as determined by such parties, in accordance with the SIFMA Guidelines. FICC is proposing this change because it would be consistent with the SIFMA Guidelines, and FICC believes that the parties to the Message are best positioned to ensure that a cancel and correct Message meets the good delivery requirements. The proposed change would not affect FICC's guarantee and novation of transactions submitted by Clearing Members through MBSD's Clearing System.

The proposed changes are described in detail below.

(1) MBSD's EPN Service

MBSD's electronic pool notification service (referred to in the EPN Rules as the ''EPN Service'') enables users to reduce risk and streamline their operations by providing an automated manner for market participants that have an obligation to deliver pools (''pool sellers'') to transmit pool information efficiently and reliably to their counterparties (''pool buyers'') in real time. Market participants that wish to utilize the EPN Service are required to submit an application to MBSD. The application process and the use of the EPN Service are governed by the EPN Rules.[10] The EPN Rules are designed to be consistent with the SIFMA Guidelines, which reflect common industry practices for the trading, clearance and settlement of mortgage-backed securities transactions. MBSD's Clearing Members are required to be EPN Users; however, one can be an EPN User and not a Clearing Member.[11]

(2) Proposed Changes To Correct the EPN Rules

FICC is proposing to amend the EPN Rules in order to correct various provisions in the EPN Rules. The proposed changes would help ensure that the EPN Rules are clear and accurate. The proposed changes reflect MBSD's existing practices and FICC believes that these changes would help EPN Users better understand their rights and obligations under the EPN Rules. The proposed changes are described in detail below.

a. Article I—Definitions and General Provisions

Proposed Changes to EPN Rule 1—Definitions

FICC is proposing to delete the term ''EPN Procedures.'' EPN Rule 11 of Article V empowers FICC to adopt EPN Procedures as FICC ''deems necessary or desirable.'' [12] It appears that when FICC instituted the EPN Service and the related EPN Rules, EPN Procedures were not adopted at that time.[13] Since FICC does not currently maintain EPN Procedures, FICC has decided to conform the EPN Rules to its practices by deleting this definition and the related references throughout the EPN Rules because this inchoate power is itself not necessary.

FICC is proposing to amend the term ''EPN Service'' to delete the reference to EPN Procedures.

FICC is proposing to amend the term ''EPN User Profile'' to delete the reference to EPN Procedures. In connection with this change, FICC is proposing to make a grammatical correction to this definition by replacing the word ''in'' with ''by'' so that the definition would state that ''the EPN User Profile would be on a form specified 'by' FICC.''

FICC is proposing to amend the term ''Interested Person'' to delete the reference to Comparison Only System because MBSD does not maintain a Comparison Only System. FICC believes that the inclusion of this term in the EPN Rules was an error.

FICC is proposing to delete the term ''Par Amount'' because this term is not otherwise referred to in the EPN Rules. FICC believes that the inclusion of this term in the EPN Rules was an error and that it has no practical effect because this term is not used in the EPN Rules. FICC notes that this term was included and not defined in a version of the EPN Rules that was filed with the Commission on October 20, 1999.[14]

b. Article III—EPN Users

i. Proposed Changes to EPN Rule 1—Requirements Applicable to EPN Users

Section 3 (*Agreements of EPN Users*) sets forth a list of terms that an applicant is required to agree to, as specified in the EPN User Agreement. This list states, in part, that an applicant shall agree (i) to abide by and be bound by the EPN Rules and EPN Procedures, (ii) that the EPN Rules and EPN Procedures are incorporated into every contract or Message, (iii) that the EPN User shall pay fines that are imposed in accordance with the EPN Rules and EPN Procedures, and (iv) that it is bound by any amendment to the EPN Rules and EPN Procedures. FICC is proposing to delete all references in this section to the EPN Procedures.

Section 3 also includes a paragraph that states that in the event of an EPN

[7] *See supra* note 4.

[8] The good delivery T2 time stamp indicates whether good delivery has occurred with respect to a Message—meaning, if the T2 time stamp reflects a time that is at or before the established deadline, then good delivery has been established and the pool buyer will accept the Message with respect to the allocated securities.

[9] The SIFMA Guidelines are *available at https://www.sifma.org/resources/general/tba-market-governance/.*

[10] *See* Article III, EPN Rule 1, *supra* note 3.

[11] Pursuant to the MBSD Rules, the term ''Clearing Member'' means any entity admitted into membership pursuant to MBSD Rule 2A. *See* MBSD Rule 1, Definitions, *supra* note 6.

[12] *See supra* note 3.

[13] FICC instituted the EPN Service and the related EPN Rules on a pilot basis in February 1995. The Commission's temporary approval order notes that Amendment No. 2 to the proposed rule change clarified that ''the only MBS rules and procedures applicable to EPN users are the rules and procedures located in Articles VI, VII, VIII, IX, and X of MBS's rules.'' *See* Release No. 35009 (November 25, 1994) 59 FR 61913 (December 2, 1994) (SR–MBS–94–02). The Commission granted permanent approval of the EPN Service and the related EPN Rules in November 1995. *See* Release No. 36540 (November 30, 1995) 60 FR 63089 (December 8, 1995) (SR–MBS–95–09). It should be noted FICC submitted a proposed rule change in June 2017 which, among other things, renumbered the references of Articles VI, VII, VIII, IX, and X to refer to Articles I, II, III, IV and V, respectively. *See* Release No. 81002 (June 22, 2017) 82 FR 29355 (June 28, 2017) (SR–FICC–2017–015).

[14] Release No. 42721 (April 25, 2000) 65 FR 25778 (May 3, 2000) (SR–MBSCC–99–8).

system disruption and an extension of the cut-off times for communicating pool allocation information pursuant to the SIFMA Guidelines, EPN Users ''will'' be relieved of their obligation to process Messages through the EPN Service until the beginning of the next Business Day after the EPN system has been recovered. FICC is proposing to amend this provision to state that EPN Users ''may'' be relieved of their obligation to process Messages through the EPN Service until ''later in the Business Day or'' the beginning of the next Business Day after the EPN system has been recovered.

FICC is proposing this change because the nature of the EPN system disruption and MBSD's ability to promptly fix such disruption determines whether the cut-off time would be extended to later in the Business Day or the next Business Day. In the event that FICC has the ability to promptly fix the EPN system disruption, EPN Users may be required to process their Messages in accordance with the applicable timeframes for the remainder of the Business Day. However, if FICC cannot promptly fix the EPN system disruption, MBSD would relieve EPN Users of their obligation to process Messages through the EPN Service until the beginning of the next Business Day. In all cases, FICC coordinates with EPN Users and, to the extent necessary, SIFMA to communicate whether an extension of the cut-off time is necessary. Though EPN system disruptions are rare, the proposed change is consistent with MBSD's existing practice of handling system disruptions that impact the EPN Service.

Section 5 (*EPN Users Bound by EPN Rules, EPN Procedures and Applicable Laws*) states, in part, that the use of FICC's facilities by an EPN User shall constitute such EPN User's agreement with FICC and with all other EPN Users to be bound by the provisions of, and by any action taken or order issued by FICC pursuant to the EPN Rules and any amendment thereto, and to such EPN Procedures that FICC from time to time may adopt. FICC is proposing to amend the title of this section and the paragraph in this section to delete all references to EPN Procedures.

Section 6 (*EPN Rules and EPN Procedures Incorporated in EPN User Messages*) states that the EPN Rules and the EPN Procedures adopted from time to time by FICC shall be deemed incorporated in each Message that occurs through the EPN Service. It also states that if the terms contained in any other agreement between EPN Users are inconsistent with the provisions of the EPN Rules or the EPN Procedures, the EPN Rules and the EPN Procedures shall be controlling. FICC is proposing to amend the title of this section and the paragraph in this section to delete all references to EPN Procedures.

ii. Proposed Changes to EPN Rule 3—When the Corporation Declines To Act for an EPN User

Section 1 (*Ceasing to Act for an EPN User*) in EPN Rule 3 states, in part, that FICC may at any time cease to act for an EPN User if the EPN User has (i) failed to perform its obligations to FICC or other EPN Users under the EPN Rules or the EPN Procedures or (ii) materially violated any of the EPN Rules, EPN Procedures or any agreement with FICC. FICC is proposing to amend this section to delete all references to the EPN Procedures.

iii. Proposed Changes to EPN Rule 4—Admission to Premises of Corporation; Powers of Attorney

EPN Rule 4 states, in part, that no person shall be permitted to enter FICC's premises as the representative of any EPN User unless ''he'' has first been approved by FICC. FICC is proposing to delete the reference to ''he'' and replace it with ''such person'' because FICC believes that it would be more appropriate to use gender neutral terminology.

c. Article V—Miscellaneous

i. Proposed Changes to EPN Rule 1—Action by the Corporation

EPN Rule 1 states that except where action by the Board, or any committee of the Board, is specifically required by the By-Laws or the EPN Rules, FICC may act by its President, any Managing Director or any Vice President or by such person as may be designated from time to time by the Board. FICC is proposing to amend this sentence to delete the reference to Vice President and replace it with Executive Director. FICC is proposing this change because FICC no longer utilizes the Vice President title. This category of officers is currently referred to as Executive Directors.

ii. Proposed Changes to EPN Rule 3—Fines and Other Sanctions

EPN Rule 3 states that FICC may impose a fine on an EPN User for a violation of the EPN Rules or EPN Procedures. FICC is proposing to amend this paragraph to delete the reference to EPN Procedures.

iii. Proposed Changes to EPN Rule 4—Communications

Section 1 (*Communications*) states, in part, that each EPN User maintaining an Account shall be required to maintain such data processing and communications equipment as FICC may specify in the EPN Procedures. FICC is proposing to delete the reference to EPN Procedures and amend this sentence to state that each EPN User maintaining an Account shall be required to maintain such data processing and communications equipment as FICC may specify from time to time. The proposed change is consistent with FICC's existing practice of providing data processing and communications equipment requirements to all approved applicants during the membership onboarding process. In the event that FICC changes or updates its data processing and communications equipment requirements, FICC partners with applicants and EPN Users to help ensure that their equipment is adequate and that such EPN Users are operationally ready. EPN Users are made aware of all changes or updates to FICC's data processing and communications equipment requirements because FICC communicates such changes through various forms of communication including but not limited to important notices, electronic mail and phone.

iv. Proposed Changes to EPN Rule 7—Hearings

Section 1 (*Requests for a Hearing*) states, in part, that if an Interested Person's written statement contests FICC's determination that such Interested Person has violated an EPN Rule or EPN Procedure, the statement must specifically admit or deny each violation alleged and detail the reasons why the EPN Rules or EPN Procedures alleged to have been violated are being contested. FICC is proposing to amend this sentence to delete all references to the EPN Procedures.

v. Proposed Changes to EPN Rule 11—EPN Procedures

FICC is proposing to delete this rule its entirety because FICC does not maintain EPN Procedures. EPN Rule 11 of Article V empowers FICC to adopt EPN Procedures as FICC ''deems necessary or desirable.'' [15] It appears that when FICC instituted the EPN Service and the related EPN Rules, EPN Procedures were not adopted at that time.[16] Since FICC does not currently maintain EPN Procedures, FICC has decided to conform the EPN Rules to its practices by deleting this Rule, the defined term from EPN Rule 1 of *Article*

[15] *See supra* note 3.

[16] *See supra* note 13.

I (as stated above), and related references throughout the EPN Rules because this inchoate power is itself not necessary. FICC would reserve this rule for future use and this rule would be entitled ''Reserved for Future Use.''

vi. Proposed Changes to EPN Rule 12—Waivers, Etc.

EPN Rule 12 states, in part, that the time fixed by the EPN Rules, the EPN Procedures or any regulations issued by FICC for the doing of any act may be extended, waived or suspended by the Board or by any officer of FICC having a rank of Vice President or higher whenever such extension, waiver or suspension is necessary or expedient. FICC is proposing to amend this sentence to delete all references to EPN Procedures and delete all references to regulations issued by FICC. FICC is also proposing to delete the reference to ''Vice President'' and replace it with ''Executive Director'' because FICC no longer utilizes the Vice President title. This category of officers is currently referred to as Executive Directors.

vii. Proposed Changes to EPN Rule 17—Forms

EPN Rule 17 states, in part, that any information required to be delivered to FICC by use of any such forms may be delivered by the use of any media, as shall be prescribed in the EPN Procedures or by FICC from time to time. FICC is proposing to delete the reference to EPN Procedures. In the event that FICC requires that a particular form should be delivered by use of any media, it is FICC's existing practice to provide this information directly to the affected EPN User. To the extent that such requirement is applicable to a group or category of EPN Users, such EPN Users are made aware of FICC's requirements because FICC announces such information through important notices, available at *http://www.dtcc.com/legal/important-notices.*

(3) Proposed Changes To Provide Enhanced Transparency to the EPN Rules

FICC is proposing to amend the EPN Rules to provide transparency to various provisions in the EPN Rules. The proposed changes would help ensure that the EPN Rules are clear and accurate. The proposed changes reflect MBSD's existing practices and FICC believes that these changes would help EPN Users better understand their rights and obligations under the EPN Rules. The proposed changes are described in detail below.

a. Article I—Definitions and General Provisions

Proposed Changes to EPN Rule 1—Definitions

FICC is proposing to amend the term ''Message'' to delete the reference to EPN Procedures. FICC would define this term as all electronic messages sent and received by an EPN User through the EPN Service.

b. Article II—Messages Processed by the Corporation

i. Proposed Changes to EPN Rule 1—Accounts

Section 2 (*Limitations*) states that FICC may specify in the EPN Procedures that certain Messages between EPN Users are not eligible for the EPN Service. FICC is proposing to delete the reference to EPN Procedures and amend this section to state that certain Messages may be ineligible if FICC determines that such Messages are not submitted in a manner that is consistent with the communication links, formats, timeframes, and deadlines established by FICC.

Currently, an EPN User is informed of the requisite communication links, formats, timeframes, and deadlines when such EPN User's application has been approved by MBSD. This information is communicated to all approved applicants during the membership onboarding process. The communication links and formats are also available in MBSD's implementation guidelines at *http://www.dtcc.com/clearing-services/ficc-mbsd/ficc-mbsd-user-documentation*. The timeframes and deadlines are available at *http://www.dtcc.com/~/media/Files/Downloads/Clearing-Services/FICC/MBSD/MBSD-Clearing-Schedules-and-Timeframes.pdf*.

ii. Proposed Changes to EPN Rule 2—Reports

Section 1 (*Availability of Reports*) states that the Message Detail Report and the Message Summary Report are available at a time specified in the EPN Procedures. FICC is proposing to delete the reference to EPN Procedures and amend this section to state that these reports would be available at a time specified in the time schedule posted on FICC's website. This proposed change refers to the timeframes available at *http://www.dtcc.com/~/media/Files/Downloads/Clearing-Services/FICC/MBSD/MBSD-Clearing-Schedules-and-Timeframes.pdf*.

Section 2 (*Message Detail Report*) states that the Message Detail Report shall list the contents of each Message as described in the EPN Procedures. FICC is proposing to delete the reference to EPN Procedures and amend this section to state that for each Eligible Security, the Message Detail Report would include, but would not be limited to, the pool number, original face value, current face value, maturity date, pool factor, CUSIP Number, issue date, principal and interest, and total net money. In connection with this change, FICC is proposing to amend *Article I,* EPN Rule 1 (Definitions) to include a defined term for ''CUSIP Number.'' This term would be defined as the Committee on Uniform Securities Identification Procedures identifying number for an EPN Eligible Security. The proposed change to this section would be consistent with the information that is currently included in the Message Detail Report.

Section 3 (*Message Summary Report*) states that the Message Summary Report shall list the contents of each Message as described in the EPN Procedures. FICC is proposing to delete the reference to EPN Procedures and amend this section to state that for each Eligible Security, the Message Summary Report would include, but would not be limited to, the total original face value, total net money, CUSIP Number, and summary of the number and type of Messages. The proposed change to this section would be consistent with the information that is currently included in the Message Summary Report.

Section 5 (*Good Delivery; Time Stamps*) states that each EPN Message shall include one or more time stamps, one of which will include a good delivery time stamp as described in the EPN Procedures. FICC is proposing to delete the reference to ''EPN'' in the term ''EPN Message'' because ''EPN Message'' is not a defined term, however, ''Message'' is a defined term. FICC is also proposing to delete the reference to EPN Procedures. FICC is also proposing to amend this section to state that the good delivery time stamp would be referred to as ''T2'' and that the application of this time stamp would determine good delivery among EPN Users pursuant to the SIFMA Guidelines. The proposed change would also state that the remainder of the time stamps would be for the EPN Service's operational, processing, and reporting purposes.[17]

[17] Each Message reflects additional time stamps (*e.g.,* T1, T3, T4, and T5) that are solely for FICC's operational, processing and reporting purposes. T1 represents the time when the Message is received by the EPN Service for processing; T3 represents the time when the EPN Service's Message Processor sends the Message to the Outbound Table; T4 represents the time when the Message Processor

In accordance with the SIFMA Guidelines, pool sellers use the EPN Service to transmit pool information in real-time to their pool buyer counterparties. Two Business Days prior to the established settlement date of to-be-announced settlement obligations (known as ''48-Hour Day''), pool sellers that have an obligation to deliver pools to pool buyers must submit pool information that such pool sellers intend to allocate in satisfaction of their settlement obligation. This notification must occur by 3:00 p.m. on 48-Hour Day.[18] The 3:00 p.m. cut-off time establishes that good delivery has occurred for purposes of the established settlement date—meaning that, if a pool seller submits its pool information in a Message by the 3:00 p.m. cut-off time on 48-Hour Day, then the pool buyer is obligated to accept the mortgage pools on the settlement date. In the event that the pool seller's notification does not meet the 3:00 p.m. deadline, the pool buyer will determine whether it is willing to accept the pools subsequent to the settlement date, and either the pool seller or the pool buyer will finance the mortgage pools until the delivery date. The delivery of the mortgage pools and any financing arrangement occur outside of the EPN Service.

Because the timing of each Message is important, the EPN system applies time stamps to each Message that is processed through the EPN Service. The time stamp designated as T2 establishes whether the pool seller has met good delivery—meaning, the 3:00 p.m. cut-off time on 48-Hour Day.[19]

In the event that the pool seller decides to substitute a mortgage pool for which pool information has already been provided, the pool seller must submit a cancel and correct Message by 12:15 p.m. on any Business Day prior to the delivery of the mortgage pool.[20] Upon receipt of the pool seller's Message, the EPN system transmits the Message to the pool buyer. The T2 time stamp on the Message received by the pool buyer establishes whether good delivery has occurred for purposes of the pool seller's pool substitution. In the event that the T2 time stamp on the pool buyer's Message is after 12:15 p.m., FICC is responsible for financing the mortgage pools associated with the Message until the delivery date so long as the T2 time stamp on the pool seller's Message reflects a time that is at or before 12:15 p.m. As set forth in subsection (4) below, FICC is proposing to establish one good delivery T2 time stamp that reflects the same processing time on the pool seller's Message and the pool buyer's Message, respectively. This T2 time stamp would determine whether the pool seller's cancel and correct Message has met the good delivery requirement.

c. Article III—EPN Users

Proposed Changes to EPN Rule 5—Use of EPN Service

EPN Rule 5 states, in part, that all EPN Users will use the EPN Service for EPN Eligible Securities in a manner set forth in the EPN Procedures and that this shall be accomplished by providing (for each Message that an EPN User sends or receives) the pricing and other descriptive information, in the manner, and by the cut-off times, specified in the EPN Procedures. FICC is proposing to delete the references to EPN Procedures and amend this rule to state that the EPN User will use the EPN Service in a manner set forth in the EPN Rules and that this shall be accomplished by providing (for each Message that an EPN User sends or receives) the pricing and other descriptive information, in the manner, and by the times, specified on FICC's website. This information is communicated to all approved applicants during the membership onboarding process. The information that an EPN User is required to include in a Message is available at *http://www.dtcc.com/clearing-services/ficc-mbsd/ficc-mbsd-user-documentation.aspx,* and the timeframes are available at *http://www.dtcc.com/~/media/Files/Downloads/Clearing-Services/FICC/MBSD/MBSD-Clearing-Schedules-and-Timeframes.pdf.*

(4) Proposed Change to the EPN System's Processing of the Good Delivery T2 Time Stamp for Pool Substitutions

As described above in subsection (3)b.ii., if a pool seller decides to substitute a mortgage pool for which pool information has already been provided, the pool seller must submit a cancel and correct Message by 12:15 p.m. on any Business Day prior to the delivery of the mortgage pool. Upon receipt of the pool seller's Message, the EPN system applies a T2 time stamp to the pool seller's Message to reflect the time that the EPN system received the pool seller's Message. The EPN system also applies a T2 time stamp to the pool buyer's Message to reflect the time that the pool buyer received the pool seller's Message. The T2 time stamp on the pool buyer's Message establishes whether good delivery has occurred for purposes of the pool seller's pool substitution. In the event that the T2 time stamp on the pool buyer's Message reflects a time that is after 12:15 p.m., FICC is responsible for financing the mortgage pools that are associated with the Message until the next Business Day.[21]

FICC is proposing to establish one good delivery T2 time stamp that reflects the same processing time on the pool seller's Message and the pool buyer's Message, respectively. This time stamp would determine whether the 12:15 p.m. cut-off time has been met for purposes of establishing good delivery of the pool buyer's pool substitution. As a result of this change, in the event that the T2 time stamp reflects a time that does not meet the 12:15 p.m. cut-off time, the financing of the mortgage pools, if any, would be the responsibility of the counterparties to the Message as determined by such parties in accordance with the SIFMA Guidelines. FICC is proposing this change because it would be consistent with the SIFMA Guidelines and FICC believes that the parties to the Message are best positioned to ensure that the Message meets the good delivery requirements.

The proposed change would be consistent with FICC's proposal to amend Section 5 (Good Delivery; Time Stamps) in EPN Rule 2 (Reports) of *Article II (Messages Processed by the Corporation)* (as referenced above in subsection (3)b.ii.) to state that the good delivery time stamp would be referred to as ''T2'' and the application of this time stamp would determine good delivery among EPN Users pursuant to the SIFMA Guidelines.

The proposed change would not affect FICC's guarantee and novation of transactions submitted by Clearing Members through MBSD's Clearing System.

(5) Implementation of the Proposed Rule Changes

The proposed changes to (i) correct the EPN Rules (as described above in

archives the Message; and T5 represents the time when the EPN Service's Output Formatter writes the Message to the Outbound Table. The Message Processor, Outbound Table and the Output Formatter are operational components of the EPN Service.

[18] *See* MBSD's timeframes, *available at http://www.dtcc.com/~/media/Files/Downloads/Clearing-Services/FICC/MBSD/MBSD-Clearing-Schedules-and-Timeframes.pdf;* and *see* the SIFMA Guidelines, Chapter 7, *supra* note 9.

[19] In the event that a pool seller fails to submit its pool information, such pool seller's obligation to submit the pool information remains ongoing until the pool information is submitted.

[20] *Supra* note 18.

[21] To date, all Messages have met the established good delivery requirements, and as a result, FICC has not had to finance any mortgage pools.

subsection (2)) and (ii) provide transparency to the EPN Rules (as described above in subsection (3)) would become operative on the date of the Commission's approval of this proposed rule change.

The proposed change to the EPN system's processing of the good delivery T2 time stamp for pool substitutions (as described above in subsection (4)) would become operative within 45 Business Days after the date of the Commission's approval of this proposed rule change. FICC would add a legend to *Article II (Messages Processed by the Corporation)* that identifies the implementation date of the proposed change to Section 5 of EPN Rule 2.

2. Statutory Basis

Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (''Act'') requires, in part, that the EPN Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.[22]

The proposed changes to (i) correct the EPN Rules (as described above in subsection (2) of Item II.(A)1) and (ii) provide transparency to the EPN Rules (as described above in subsection (3) of Item II (A)1) would help to ensure that the EPN Rules are accurate and clear to EPN Users. When EPN Users better understand their rights and obligations regarding the EPN Service, such EPN Users are more likely to act in accordance with the EPN Rules, which FICC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, FICC believes that the proposed changes to correct and provide transparency to the EPN Rules would be consistent with Section 17A(b)(3)(F) of the Act.[23]

The proposed change to established one good delivery T2 time stamp (as described above in subsection (4) of Item II (A)1) would be consistent with the SIFMA Guidelines and would further encourage EPN Users to adhere to the 12:15 p.m. deadline for substitutions. Because the proposed change would be consistent with the SIFMA Guidelines, which reflect industry best practices, FICC believes that the proposed change would help the seamless processing of transactions through the EPN Service. As a result, FICC believes the proposed change further promotes the prompt and accurate clearance and settlement of securities transactions. As such, FICC believes that the proposed change would be consistent with Section 17A(b)(3)(F) of the Act.[24]

Rule 17Ad–22(e)(23)(i) under the Act requires, in part, that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for publicly disclosing all relevant rules and material procedures.[25] As described above, the proposed rule changes to (i) correct the EPN Rules (as described above in subsection (2) of Item II (A)1), (ii) provide transparency to the EPN Rules (as described above in subsection (3) Item II (A)1) and (iii) amend the EPN system's processing of T2 time stamps for pool substitutions would better disclose all relevant and material aspects of the EPN Service. Therefore, FICC believes the proposed changes to correct and provide transparency to the EPN Rules are consistent with Rule 17Ad–22(e)(23)(i).[26]

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe the proposed rule changes to (i) correct the EPN Rules (as described above in subsection (2) of Item II(A)1) and (ii) provide transparency to the EPN Rules (as described above in subsection (3) of Item II(A)1) would impact competition. The proposed rule changes would help to ensure that the EPN Rules remain clear and accurate. In addition, the changes would facilitate EPN Users' understanding of the EPN Rules and their obligations thereunder. These changes would apply equally to all EPN Users and would not affect FICC's operations or the rights and obligations of EPN membership. As such, FICC believes the proposed rule changes to correct and provide transparency to the EPN Rules would not have any impact on competition.

FICC believes that the proposed change to establish one good delivery T2 time stamp (as described above in subsection (4) of Item II(A)1) could have an impact on competition among the parties to the Message because either the pool seller or the pool buyer (as determined by the parties in accordance with the SIFMA Guidelines) would be responsible for financing the substituted mortgage pools associated with a Message that does not meet the good delivery requirements. FICC does not believe that the burden on competition would be significant because it would similarly affect both counterparties to a cancel and correct Message that does not meet the good delivery requirements in accordance with the SIFMA Guidelines.

FICC believes that any burden on competition that is created by the proposed change would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.[27] FICC believes that the proposed change would be necessary in furtherance of the Act because it would be consistent with the SIFMA Guidelines, which reflect best practices. The SIFMA Guidelines require either the pool seller or the pool buyer to take responsibility of the mortgage pools in the event that a cancel and correct Message does not meet good delivery requirements. FICC believes the proposed change would be appropriate in furtherance of the Act because EPN Users are parties to each Message, aware of the good delivery requirements and best positioned to ensure that cancel and correct Messages meet the good delivery requirements. As a result, FICC believes any burden on competition that is created by the proposed rule change would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.[28]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] *Id.*

[24] *Id.*

[25] 17 CFR 240.17Ad–22(e)(23)(i).

[26] *Id.*

[27] 15 U.S.C. 78q–1(b)(3)(I).

[28] *Id.*

change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FICC–2018–007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2018–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2018–007 and should be submitted on or before September 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–17489 Filed 8–14–18; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

AGENCY: Selective Service System.

ACTION: Notice.

The following form has been submitted to the Office of Management and Budget (OMB) for extension of clearance with change in compliance with the Paperwork Reduction Act:

SSS Form 1

Title: The Selective Service System Registration Form.

Purpose: Is used to register men and establish a data base for use in identifying manpower to the military services during a national emergency.

Respondents: All 18-year-old males who are United States citizens and those male immigrants residing in the United States at the time of their 18th birthday are required to register with the Selective Service System.

Frequency: Registration with the Selective Service System is a one-time occurrence.

Burden: A burden of two minutes or less on the individual respondent.

Change: Collecting telephone numbers from respondents.

Copies of the above identified form can be obtained upon written request to the Selective Service System, Operations Directorate, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Written comments and recommendations for the proposed extension of clearance with change of the form should be sent within 30 days of the publication of this notice to the Selective Service System, Operations Directorate, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: August 7, 2018.

Donald M. Benton,

Director.

[FR Doc. 2018–17625 Filed 8–14–18; 8:45 am]

BILLING CODE 8015–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 09/09–0465 issued to Levine Leichtman Capital Partners, LP, said license is hereby declared null and void.

United States Small Business Administration.

Dated: April 23, 2018.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2018–17579 Filed 8–14–18; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15626 and #15627; Nebraska Disaster Number NE–00071]

Administrative Declaration of a Disaster for the State of Nebraska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Nebraska dated 08/07/2018.

Incident: Severe Storms and Flooding.

Incident Period: 06/25/2018 through 06/30/2018.

DATES: Issued on 08/07/2018.

Physical Loan Application Deadline Date: 10/09/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 05/07/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Iowa.

Contiguous Counties:

Nebraska: Thurston, Burt, Dakota, Wayne, Monona, Cuming, Dixon, Woodbury.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	7.220
Businesses Without Credit Available Elsewhere	3.610
Non-Profit Organizations With Credit Available Elsewhere	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.610
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15626 B and for economic injury is 15627 0.

The States which received an EIDL Declaration # are Nebraska and Iowa.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 7, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–17577 Filed 8–14–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 05/05–0288 issued to Stonehenge Opportunity Fund II, LP, said license is hereby declared null and void.

United States Small Business Administration.

Dated: April 6, 2018.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2018–17578 Filed 8–14–18; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 02/02–0649 issued to Contemporary Healthcare Senior Lien Fund I, LP, said license is hereby declared null and void.

United States Small Business Administration.

Dated: June 13, 2018.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2018–17580 Filed 8–14–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 10498]

30-Day Notice of Proposed Information Collection: Statement of Political Contributions, Fees, and Commissions Relating to Sales of Defense Articles and Defense Services

ACTION: Notice of request for public comments.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to September 14, 2018.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

Fax: 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political Military Affairs, U.S. Department of State, Washington, DC 20522–0112, via phone at (202) 663–3136, or via email at *battistaal@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Political Contributions, Fees, and Commissions Relating to Sales of Defense Articles and Defense Services.
- *OMB Control Number:* 1405–0025.
- *Type of Request:* Extension.
- *Originating Office:* Directorate of Defense Trade Controls (DDTC).
- *Form Number:* No Form.
- *Respondents:* Persons requesting a license or other approval for the export, reexport, or retransfer of USML-regulated defense articles or defense services valued in an amount of $500,000 or more that are being sold commercially to or for the use of the armed forces of a foreign country or international organization or persons who enter into a contract with the Department of Defense for the sale of defense articles or defense services valued in an amount of $500,000 or more under section 22 of the AECA.
- *Estimated Number of Respondents:* 120.
- *Estimated Number of Responses:* 500.
- *Average Time per Response:* 60 minutes.
- *Total Estimated Burden Time:* 500 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are public

record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: DDTC regulates the export and temporary import of defense articles and services enumerated on the USML in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*) and the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). In accordance with section 39 of the AECA, the Secretary of State must require, in part, adequate and timely reporting of political contributions, gifts, commissions and fees paid, or offered or agreed to be paid in connection with the sales of defense articles or defense services licensed or approved under AECA sections 22 and 38. Pursuant to ITAR § 130.9(a), any person applying for a license or approval required under section 38 of the AECA for sale to the armed forces of a foreign country or international organization valued at $500,000 or more must inform DDTC, and provide certain specified information, when they have paid, offered to, or agreed to pay, (1) political contributions in an aggregate amount of $5,000 or greater; or (2) fees or commissions in an aggregate amount equaling or exceeding $100,000. Similarly, ITAR § 130.9(b) requires any person who enters into a contract with the Department of Defense under section 22 of the AECA, valued at $500,000 or more, to inform DDTC and provide the specified information, when they or their vendors, have paid, or offered or agreed to pay, in respect to any sale (1) political contributions in an aggregate amount of $5,000 or greater; or (2) fees or commissions in an aggregate amount equaling or exceeding $100,000. Respondents are also required to collect information pursuant to Sections 130.12 and 130.13 prior to submitting their report to DDTC.

Methodology: Respondents will submit information as attachments to relevant license applications or requests for other approval.

Anthony M. Dearth,

Chief of Staff (Acting), Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2018–17559 Filed 8–14–18; 8:45 am]

BILLING CODE 4710–25–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 382X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Washington County, Pa.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 7.58-mile rail line extending from milepost EL 11.818 (near Ellsworth) to milepost EL 19.4 (at Marianna) in Washington County, Pa. (the Line). The Line traverses United States Postal Service Zip Codes 15345, 15360, 15331, and 15314.

NSR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending before the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of the complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [1] to subsidize continued rail service has been received, this exemption will be effective on September 14, 2018, unless stayed pending reconsideration. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) [2] must be filed by August 24, 2018. Petitions to stay that do not involve environmental issues must be filed by August 27, 2018.[3] Petitions for reconsideration must be filed by September 4, 2018, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with Board should be sent to NSR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: August 10, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Raina Contee,

Clearance Clerk.

[FR Doc. 2018–17570 Filed 8–14–18; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. *See Offers of Financial Assistance,* EP 729 (STB served June 29, 2017); 82 FR 30,997 (July 5, 2017).

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,800. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: QSA Customer Feedback Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information is collected from holders of FAA production approvals and selected suppliers in the form of a feedback survey, to obtain their input on how well the agency is performing the administration and conduct of the Aircraft Certification Systems Quality System Audit (QSA).

DATES: Written comments should be submitted by October 15, 2018.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov;* phone: 940–594–5913.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2120–0605.

Title: QSA Customer Feedback Report.

Form Numbers: FAA Form 8100–7.

Type of Review: Renewal of an information collection.

Background: The information collection is voluntary and is collected by way of a self-addressed stamped envelope. The information collected is used by the local field offices, manufacturing inspection offices and the surveillance and oversight policy section of AIR–600 to improve the administration and conduct of the QSA at the local and national levels. Improvements to FAA Order 8120.23, Certificate Management of Production Approval Holders, have been and will continue to be incorporated as a result of the on-going collection of data. It will also be used for reporting as a Customer Service Standard in fulfillment of Executive Order 12862, Setting Customer Service Standards, dated September 11, 1993.

Respondents: Approximately 150 holders of FAA production approvals and selected suppliers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: 100 hours.

Issued in Washington, DC, on August 9, 2018.

Robin Darden,

Management Support Specialist, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2018–17598 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0322; FMCSA–2013–0122; FMCSA–2013–0123; FMCSA–2015–0329]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 19 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On June 18, 2018, FMCSA published a notice announcing its decision to renew exemptions for 19 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (83 FR 28330). The public comment period ended on July 18, 2018, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based upon its evaluation of the 19 renewal exemption applications, FMCSA announces its' decision to exempt the following drivers from the hearing requirement in 49 CFR 391.41 (b)(11):

As of April 21, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (83 FR 6673).

Andrew Alcozer (IL)
Michael Beebe (NJ)
Shayne Bumbalough (WA)
Barry Carpenter (SC)
Roman Landa (CA)
Bryan McFarland (OH)

Jacob Paulin (WI)
Ryan Pope (CA)
Ronald Rutter (CA)
Fernando R. Savon (TX)
Russel Smith (OH)

The drivers were included in docket number FMCSA–2012–0123. Their exemptions are applicable as of April 21, 2018, and will expire on April 21, 2020.

As of April 23, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 2 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (83 FR 6673).

Donald Lynch (SC); and Zachery Rietz (TX).

The drivers were included in docket number FMCSA–2012–0322. Their exemptions are applicable April 23, 2018, and will expire on April 23, 2020.

As of April 24, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 3 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (83 FR 6673).

Kwinton Carpenter (OH); Darren Norquist (WI); and Andery Shevechenko (MN).

The drivers were included in docket number FMCSA–2013–0122. Their exemptions are applicable as of April 24, 2018, and will expire on April 24, 2020.

As of April 27, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 3 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (83 FR 6673).

Tonya Bland, (MD); John Ferguson, (IL); and Michael McCarthy.

The drivers were included in docket number FMCSA–2015–0329. Their exemptions are applicable as of April 27, 2018, and will expire on April 27, 2020.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 9, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17589 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0188; FMCSA–2012–0164; FMCSA–2014–0019; FMCSA–2014–0020; FMCSA–2016–0043; FMCSA–2016–0216; FMCSA–2016–0218; FMCSA–2016–0219]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 192 individuals from its prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before September 14, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2010–0188; FMCSA–2012–0164; FMCSA–2014–0019; FMCSA–2014–0020; FMCSA–2016–0043; FMCSA–2016–0216; FMCSA–2016–0218; FMCSA–2016–0219 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding diabetes found in

49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

The 192 individuals listed in this notice have requested renewal of their exemptions from the diabetes standard in 49 CFR 391.41(b)(3), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 192 applicants has satisfied the renewal conditions for obtaining an exemption from the diabetes requirement (75 FR 42477; 75 FR 57329; 77 FR 46149; 77 FR 59450; 79 FR 47702; 79 FR 47711; 79 FR 63210; 81 FR 51541; 81 FR 52505; 81 FR 52947; 81 FR 59718; 81 FR 67421; 81 FR 72640; 81 FR 72651; 81 FR 84688; 82 FR 12899). They have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of September and are discussed below:

As of September 7, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 29 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (81 FR 51541, 81 FR 72651):

Larry S. Ankerson (WI)
Kenneth D. Beatty (MS)
Brandon J. Brown (TN)
Justin D. Campbell (AL)
Vito J. Dambra (PA)
Linda D. Davis (IN)
Frank A. DeCarolis (KS)
Orlando Dominguez (CA)
Scott L. Fetzer (PA)
Carl E. Fisher (PA)
Ryan A. Gehrke (MN)
Shane R. Gousie (MA)
Randal E. Hampton (NV)
Reginald M. Hart (GA)
Dennis J. Kniffen (SD)
Allen E. Lemaster (SC)
Wayne F. Leonard (IL)
Joshua W. Lockwood (MD)
Brian P. McCabe (WA)
Charles M. McKenzie (OH)
Michael C. McNamara (SC)
Michael S. Meulenberg (MI)
Timothy J. Newton (IA)
David T. Petty (CA)
Ronald K. Roe (PA)
Harry W. Roebuck (TX)
James D. Tichnor (NJ)
Scott W. Waterman (SD)
Richard A. Wojciak (CT)

The drivers were included in docket number FMCSA–2016–0043. Their exemptions are applicable as of September 7, 2018, and will expire on September 7, 2020.

As of September 8, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 33 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (81 FR 52505, 81 FR 84688):

Robert C. Bartleson (WI)
Melvin J. Bowers (SC)
Howard A. Cambridge (PA)
Donald J. Charette (CT)
Robert C. Davis (PA)
Matthew P. Delaney (MA)
Scot D. Dragon (CT)
Patrick J. Flynn (IA)
Tyson E. Frazier (NH)
Charles R. Hurston (LA)
Lovie L. Ivory (AL)
Rodrigo Jackson (TX)
Keith L. Jaynes (ME)
James J. Jopp (MN)
Evan D. Keese (TN)
Michael J. Kelly (NY)
Mark A. Lewis (SD)
Lloyd I. Lynn (IA)
Vincent Marino (WV)
Dean A. McCoy (IA)
Bruce A. Miller (IA)
Eric J. O'Neal (MD)
Eugene E. Patterson III (TX)
Michael G. Schleining (WA)
Ryan A. Scopino (ME)
Robert W. Shafer (SD)
Terry J. Southards (KS)
Timothy T. Stanton (MN)
Eric W. Thomason (KS)
Glenn M. Turley (WV)
Randy R. Wallace (MO)
Merle L. Weyer (SD)
Norman D. Zamarche (UT)

The drivers were included in docket number FMCSA–2016–0218. Their exemptions are applicable as of September 8, 2018, and will expire on September 8, 2020.

As of September 10, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 31 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (81 FR 52947, 81 FR 67421):

Dale E. Bliss (WI)
Charles W. Bobbitt (WA)
Thomas Buckmaster (FL)
Carlos A. Chapa (TX)
David E. Colorado (UT)
Francis J. Crawford (NY)
James W. Creech (IN)
Kirk A. Devitis (NJ)
Melinda L. Echols (WA)
Justin W. Garriott (WY)
David J. Goergen (MN)
Pedro L. Gonzalez (MA)
Jeffrey K. Hagen (WI)
Charles D. Hall (CA)
Bonita K. Hunt (NC)
John M. Isley (NC)
Jeffrey A. Kidd (MD)
Craig T. Kite (OH)
Kevin E. Lester (VA)
Eric T. Maier (CA)
Javier Melendez (TX)
Terry L. Neiman (PA)
Peter Z. Pall (FL)
Vernon Piper (NY)
Sean A. Rivera (AZ)
James R. Sauceda (NM)
Tony B. Wetherell (MN)
Mark A. Williams (GA)
Steven M. Wilson (IL)
Don E. Wood (TX)
Charles P. Zenns (NY)

The drivers were included in docket number FMCSA–2016–0216. Their exemptions are applicable as of September 10, 2018, and will expire on September 10, 2020.

As of September 16, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 58 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from

driving CMVs in interstate commerce (79 FR 47702, 79 FR 47711, 79 FR 63210, 82 FR 12899):

Vincent M. Branch (VA)
James M. Brooks (VA)
Perry C. Bullis (PA)
Richard E. Campney (IA)
James E. Cantrell, Jr. (AL)
Steven J. Causie (MI)
Wesley A. Chain (TX)
Kristy S. Clark (VA)
Richard M. Cohen (NJ)
Dwayne P. Daniels (IL)
James T. Dodge (CO)
Richard D. Domingo (NV)
John J. Dominguez (TX)
Bradley C. Dunlap (IL)
Gary W. Giles (TX)
John A. Gillingham (PA)
Ronald L. Glade (IL)
Brent C. Godshalk (IN)
Benny B. Gonzales (TX)
Jerry W. Gott (IA)
Daniel E. Harris (IL)
Randy S. Holz (IA)
Henderson R. Hughes (NY)
James L. Hummel (WA)
Joseph T. Ingiosi (MI)
Michael J. Javenkoski (MN)
Steven T. Juhl (WI)
Joseph A. Kipus (OH)
Kevin L. Kreakie (OH)
Kevin C. Lewis (LA)
Richard M. Mackey (TX)
Paul J. Marshall (UT)
David L. McDonald (IL)
Kevin J. McGrath (MA)
Thomas K. Miszler (PA)
Jerry W. Murphy (MS)
Christopher D. Murray (NC)
Robert D. Noe (IL)
Kyle W. Parker (CA)
Gary L. Roberts (CT)
Eric D. Roberts (MI)
Tommy A. Rollins (GA)
Janice M. Rowles (PA)
William B. Rupert, Jr. (PA)
Ahmed A. Saleh (MI)
Bradlee R. Saxby (IL)
Robert M. Schmitz (IA)
Barry L. Schwab (MI)
Geoffrey E. Showaker (PA)
Bryce J. Smith (UT)
David R. Sprenkel (PA)
Jeffrey R. Stevens (PA)
Artilla M. Thomas (IL)
Dale W. Tucker (VA)
William C. Vickery (NY)
Robert A. Whitcomb (MA)
Rodney L. Wichman (IL)
Richard D. Wiegartz (IL)

The drivers were included in docket numbers FMCSA–2014–0019, FMCSA–2014–0020. Their exemptions are applicable as of September 16, 2018, and will expire on September 16, 2020.

As of September 20, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 12 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (75 FR 42477, 75 FR 57329, 82 FR 12899):

Tommy S. Boden (ID)
Dustin G. Cook (OH)
Nathan J. Enloe (MO)
Joseph B. Hall (GA)
Mark H. Horne (NH)
Michael J. Hurst (MI)
Chad W. Lawyer (IN)
Thomas A. Mentley (NY)
Justin P. Sibigtroth (IL)
Duane A. Wages (ND)
Michael J. Williams (NY)
Edward L. Winget, Sr. (MS)

The drivers were included in docket number FMCSA–2010–0188. Their exemptions are applicable as of September 20, 2018, and will expire on September 20, 2020.

As of September 27, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (77 FR 46149, 77 FR 59450, 82 FR 12899):

Matthew R. Lanciault (NH)
Steven L. Leslie (MI)
Del A. Meath (MN)
Benny D. Puck (IA)
Bob F. Rice (WA)

The drivers were included in docket number FMCSA–2016–0164. Their exemptions are applicable as of September 27, 2018, and will expire on September 27, 2020.

As of September 30, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 24 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (81 FR 59718, 81 FR 72640):

Scott G. Barr (FL)
John L. Bauers (NE)
Robert J. Borgese (NJ)
Rodger L. Bratton (LA)
John T. Brecken (MI)
Ross L. Christenson (MN)
Daniel B. Cox (WA)
Raymond Davila (NJ)
Craig W. Dennis (MN)
Douglas Endicott (VA)
Thomas P. Fogerty (MA)
M. A. Gandolfo (NY)
Merlyn C. Gerdes (IA)
Fabian Guerrero-Rodriguez (NV)
James C. Holcomb (LA)
Robert J. Lockwood (CT)
Adam W. Martin (MI)
Lucas J. Preston (ND)
William B. Robinson (AR)
F. Marino M. Sanchez (NY)
Andrew D. Sanford (TN)
Michael A. Taylor (CT)
Jerry W. Thomas (NC)
Ray E. Vaughan (MN)

The drivers were included in docket number FMCSA–2016–0219. Their exemptions are applicable as of September 30, 2018, and will expire on September 30, 2020.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must submit an annual ophthalmologist's or optometrist's report; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 192 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17610 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA 2012–0294; FMCSA 2013–0442; FMCSA–2013–0445; FMCSA–2015–0321]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for four individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before September 14, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket Nos. FMCSA 2012–0294; FMCSA 2013–0442; FMCSA–2013–0445; FMCSA–2015–0321 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The four individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the four applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The four drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's

Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of July and are discussed below:

As of July 5, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Brian Checkley, Jr. (NJ).

This driver was included in docket number FMCSA–2015–0321. His exemption is applicable as of July 5, 2018, and will expire on July 5, 2020.

As of July 8, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Samuel Beverly (VA) and Michael Duprey (CT).

The drivers were included in docket numbers FMCSA 2012–0294 and FMCSA–2013–0442. Their exemptions are applicable as of July 8, 2018, and will expire on July 8, 2020.

As of July 14, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Ronald Blount (GA).

This driver was included in docket number FMCSA–2013–0445. His exemption is applicable as of July 14, 2018, and will expire on July 14, 2020.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the four exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17569 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0389; FMCSA–2012–0294; FMCSA–2013–0109; FMCSA–2013–0442; FMCSA–2014–0380; FMCSA 2015–0321]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 20 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before September 14, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket Nos. FMCSA–2011–0389; FMCSA–2012–0294; FMCSA–2013–0109; FMCSA–2013–0442; FMCSA–2014–0380; FMCSA 2015–0321 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these

comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The 20 individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the 20 applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The 20 drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of April and are discussed below:

As of April 8, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Jeffrey F. Ballweg (WI)
Harold J. Durkee (WI)
Michael C. Ranalli (PA)
Lonnie M. Rieker (IL)

The drivers were included in docket numbers FMCSA–2011–0389; FMCSA–2012–0294; FMCSA–2013–0109; FMCSA–2014–0380. Their exemptions are applicable as of April 8, 2018, and will expire on April 8, 2020.

As of April 11, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 12 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Robert P. Brackett (ME)
Kelly L. Frederick (LA)
Scott W. Gessner (PA)
Jerry L. Henderson (IN)
Preston R. Kanagy (TN)
Scott A. Lowe (MA)
Steven D. Shirley (UT)
Matthew J. Staley (CO)
Mohammad S. Warrad (IA)
Richard J. Wenner (MN)
John C. Wolfe (PA)
Dennis R. Zayic (MN)

The drivers were included in docket number FMCSA–2015–0321. Their exemptions are applicable as of April 11, 2018, and will expire on April 11, 2020.

As of April 23, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Raymond Lobo (NJ)
Randy L. Pinto (PA)
James M. Spece (PA)
Joseph A. Thomas (MD)

The drivers were included in docket number FMCSA–2013–0442. Their exemptions are applicable as of April 23, 2018, and will expire on April 23, 2020.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption

will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 20 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41 (b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: August 9, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17566 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–1999–6156; FMCSA–2001–11426; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0086; FMCSA–2010–0050; FMCSA–2010–0082; FMCSA–2011–0092; FMCSA–2011–0299; FMCSA–2011–0366; FMCSA–2011–0379; FMCSA–2012–0039; FMCSA–2012–0104; FMCSA–2012–0106; FMCSA–2013–0029; FMCSA–2013–0165; FMCSA–2013–0166; FMCSA–2013–0168; FMCSA–2013–0174; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2015–0056; FMCSA–2015–0070; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0027; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0347]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 114 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On June 18, 2018, FMCSA published a notice announcing its decision to renew exemptions for 114 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (83 FR 28325). The public comment period ended on July 18, 2018, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based upon its evaluation of the 114 renewal exemption applications and comments received, FMCSA confirms its' decision to exempt the following drivers from the vision requirement in 49 CFR 391.41 (b)(10):

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of July and are discussed below:

As of July 8, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 57 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (63 FR 66226; 64 FR 16517; 66 FR 41656; 68 FR 44837; 68 FR 74699; 69 FR 10503; 70 FR 41811; 70 FR 57353; 70 FR 72689; 71 FR 6826; 71 FR 14566; 71 FR 16410; 71 FR 19602; 71 FR 30227; 72 FR 62896; 72 FR 67340; 73 FR 1395; 73 FR 6242; 73 FR 11989; 73 FR 15567; 73 FR 16950; 73 FR 27014; 73 FR 27015; 74 FR 19267; 74 FR 28094; 74 FR 43221; 74 FR 65845; 75 FR 9477; 75 FR 9480; 75 FR 13653; 75 FR 14656; 75 FR 19674; 75 FR 20881; 75 FR 22176; 75 FR 27622; 75 FR 28682; 76 FR 25766; 76 FR 37885; 76 FR 44652; 76 FR 53708; 76 FR 73769; 76 FR 78728; 77 FR 3547; 77 FR 5874; 77 FR 13689; 77 FR 15184; 77 FR 17107; 77 FR 17108; 77 FR 17115; 77 FR 17117; 77 FR 20879; 77 FR 23797; 77 FR 26816; 77 FR 27847; 77 FR 27850; 77 FR 29447; 77 FR 31427; 77 FR 38386; 78 FR 34143; 78 FR 47818; 78 FR 52602; 78 FR 62935; 78 FR 63302; 78 FR 63307; 78 FR 76395; 78 FR 76704; 78 FR 76705; 78 FR 77780; 78 FR 78477; 79 FR 1908; 79 FR 2248; 79 FR 10606; 79 FR 13085; 79 FR 14328; 79 FR 14331; 79 FR 14333; 79 FR 14571; 79 FR 17641; 79 FR 18391; 79 FR 18392;

79 FR 21996; 79 FR 22003; 79 FR 23797; 79 FR 27043; 79 FR 27681; 79 FR 28588; 79 FR 29495; 79 FR 29498; 79 FR 38649; 80 FR 59230; 80 FR 67476; 80 FR 67481; 80 FR 80443; 81 FR 1284; 81 FR 1474; 81 FR 14190; 81 FR 15401; 81 FR 15404; 81 FR 17237; 81 FR 20433; 81 FR 20435; 81 FR 21655; 81 FR 26305; 81 FR 28138; 81 FR 39100; 81 FR 48493; 81 FR 52516; 81 FR 66718; 81 FR 66724; 81 FR 91239; 81 FR 96196):

Dean R. Allen (OR)
Scott E. Ames (ME)
Alan A. Andrews (NE)
Marvin D. Bass (KY)
Dwight A. Bennett (MD)
Marvin J. Bensend, Jr. (MS)
Kolby Blackner (UT)
Bobby R. Brooks (GA)
Levi A. Brown (MT)
William Bucaria, Jr. (FL)
John A. Carroll, Jr. (AL)
Juan Castanon (NM)
William C. Christy (FL)
Gerard J. Cormier (MA)
Michael T. Craddock (CA)
Jon C. Dillon (MN)
Paul W. Fettig (SD)
Hector O. Flores (MD)
Brian R. Gallagher (TX)
Horace N. Goss (TX)
James B. Grega (PA)
Todd C. Grider (IN)
Jimmy G. Hall (NC)
Taras G. Hamilton (TX)
Joshua G. Hansen (ID)
Britt D. Hazelwood (IL)
Lowell E. Jackson (MO)
William D. Jackson (MN)
Danny J. Johnson (MN)
Glenn K. Johnson, Jr. (NC)
Thomas M. Kaley (PA)
Allen J. Kunze (ND)
Kerry M. Leeper (WA)
Craig R. Martin (TX)
Ty N. Mason (PA)
Thomas J. Mavraganis (IL)
Eric M. Moats, Sr. (MD)
Gary T. Murray (GA)
Elmore Nicholson, Jr. (AL)
Thomas G. Ohlson (NY)
Michael Pace (TX)
Raffaelo Petrillo (NJ)
Barry L. Pylant (GA)
Roy A. Quesada (PA)
Jamey D. Reed (OK)
Glennis R. Reynolds (KY)
Jose H. Rivas (NM)
Joe A. Root (MN)
Bobby W. Sanders (TN)
James S. Seeno (NV)
Thomas W. Smith (PA)
Harry Smith, Jr. (NC)
Greg W. Story (NC)
Elston L. Taylor (VA)
Michael J. Tisher (AK)
Dwight Tullis (IL)
Richard W. Wylie (CT)

The drivers were included in docket numbers FMCSA–1998–4334; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0086; FMCSA–2010–0050; FMCSA–2011–0092; FMCSA–2011–0299; FMCSA–2011–0366; FMCSA–2011–0379; FMCSA–2012–0039; FMCSA–2012–0104; FMCSA–2013–0029; FMCSA–2013–0165; FMCSA–2013–0166; FMCSA–2013–0168; FMCSA–2013–0174; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2015–0056; FMCSA–2015–0070; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0027; FMCSA–2016–0347. Their exemptions are applicable as of July 8, 2018, and will expire on July 8, 2020.

As of July 12, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (75 FR 9481; 75 FR 22178; 75 FR 25917; 75 FR 25918; 75 FR 39729; 77 FR 36338; 79 FR 35220; 81 FR 81230; 81 FR 96196):

Clare H. Buxton (MI)
Chadwick S. Chambers (AL)
Miguel H. Espinoza (CA)
Ricky P. Hastings (TX)
Leland B. Moss (VT)

The drivers were included in docket numbers FMCSA–2009–0011; FMCSA–2010–0082. Their exemptions are applicable as of July 12, 2018, and will expire on July 12, 2020.

As of July 19, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 16 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (81 FR 39320; 81 FR 66720):

John P. Brooks (IL)
Ronald A. Donsbach (MT)
Pedro Guzman (TX)
Bradley C. Helsel (OR)
Darrell E. Hunter (NC)
Kenneth B. Julian (OK)
Keith Kebschull (IL)
Jeffrey N. Lake (IL)
Jayme M. Leonard (VT)
James K. Matthey (PA)
Mario A. Quezada (TX)
J. B. Rodriguez Mata (TX)
Joseph Sais (NM)
Chad M. Smith (IA)
Corey L. Spring (AR)
James C. Wechsler (OR)

The drivers were included in docket number FMCSA–2016–0028. Their exemptions are applicable as of July 19, 2018, and will expire on July 19, 2020.

As of July 20, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 54948; 65 FR 159; 67 FR 10471; 67 FR 10475; 67 FR 19798; 68 FR 74699; 69 FR 8260; 69 FR 10503; 69 FR 19611; 71 FR 6824; 71 FR 6829; 71 FR 14567; 71 FR 26602; 71 FR 30229; 71 FR 32183; 71 FR 41310; 73 FR 11989; 73 FR 27018; 73 FR 28187; 73 FR 36955; 75 FR 36778; 75 FR 36779; 77 FR 38384; 79 FR 35212; 79 FR 35218; 79 FR 47175; 81 FR 90050; 81 FR 96196):

Daniel R. Franks (OH)
Walter D. Hague, Jr. (VA)
William G. Hix (AR)
Larry L. Jarvis (VA)
Clarence H. Jacobsma (IN)
Charles E. Johnston (MO)
William F. Mack (WA)
Ronald M. Price (MD)
Alton M. Rutherford (FL)

The drivers were included in docket numbers FMCSA–1999–6156; FMCSA 2001–11426; FMCSA 2003–16564; FMCSA 2006–24015; FMCSA 2006–24783; FMCSA 2014–0006. Their exemptions are applicable as of July 20, 2018, and will expire on July 20, 2020.

As of July 22, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 35212; 79 FR 47175; 81 FR 96196):

Abdulahi Abukar (KY)
Gregory K. Banister (SC)
Amanuel W. Behon (WA)
Brian L. Elliott (MO)
Bradley C. Hansell (OR)
Samuel L. Klaphake (MN)
Timothy L. Klose (PA)
Phillip E. Mason (MO)
Ruel W. Reed (IA)
Loren Smith (SD)
Seth D. Sweeten (ID)

The drivers were included in docket number FMCSA–2016–0006. Their exemptions are applicable as of July 22, 2018, and will expire on July 22, 2020.

As of July 29, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following ten individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (81 FR 42054; 81 FR 66722):

Dudley G. Diebold (CT)
David L. Evers (MN)
Raymond E. Hogue (PA)

Michael E. Jones (IL)
Darius R. Law (FL)
Robert C. Martin (WA)
Mark W. McTaggart (IL)
Noel V. Munoz (NM)
Ivan Romero (IL)
Steve A. Taylor (NC)

The drivers were included in docket number FMCSA–2016–0029. Their exemptions are applicable as of July 29, 2018, and will expire on July 29, 2020.

As of July 30, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following six individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (71 FR 32183; 71 FR 41310; 73 FR 36955; 75 FR 25917; 75 FR 36779; 75 FR 39729; 77 FR 33017; 77 FR 36338; 77 FR 38384; 77 FR 44708; 79 FR 37843; 79 FR 38661; 81 FR 96196):

Lester M. Ellingson, Jr. (ND)
Damon G. Gallardo (CA)
Daniel L. Grover (KS)
Larry A. Nienhuis (MI)
Gregory A. Reinert (MN)
Joseph B. Shaw, Jr. (VA)

The drivers were included in docket numbers FMCSA–2006–24783; FMCSA–2010–0082; FCMSA–2012–0106. Their exemptions are applicable as of July 30, 2018, and will expire on July 30, 2020.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17594 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0555]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from 39 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy*.

II. Background

FMCSA received applications from 39 individuals who requested an exemption from the FMCSRs prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV from operating CMVs in interstate commerce.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8).

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

IV. Conclusion

The Agency has determined that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). Therefore, the 39 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following 35 applicants do not meet the minimum time requirement for being seizure-free, either on or off of anti-seizure medication:

David M. Allyn (CT)
Daniel Bailey (NY)
Tiffany Banks (NV)
Lorenzo Barber (IL)
Richard Benjamin (AL)
Edward Blankenstein II (PA)
Charles Border (NM)
Andrew Browder (AL)
Pietro Capobianco (NJ)
Jon Cole (ID)
Michael Cole (NJ)
Charles Cournoyer (MA)
Ryan Daws (MN)
Shawn Durbin (UT)
William Everett (OH)

Taxhidin Ferati (WI)
Terry Friedrichs (MN)
Adam Fyle (NC)
Keith Hubbard (WV)
Thomas R. James (MN)
Kevin Jandreau (ME)
David Johnston (MN)
Douglas Kelbley (OH)
Timothy T. Leonard (CA)
Steven W. Massman (MN)
Kevin Mathis (NJ)
John McGhee (ND)
Brian Nelson (MO)
Raymond Phillips (FL)
Timothy Picot (MD)
Luis Tirado (PA)
William E. Turner (VA)
Blaine T. Weinsensel (WI)
Jeffrey J. Werner (WI)
Scott Wesner (WI)

The following four applicants do not meet the minimum time requirement for a stable anti-seizure medication dosage:

Steven L. Amell, Sr. (VT)
Thomas H. Lee (VA)
Gregory Long (CT)
Christopher Phillips (PA)

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17565 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0031]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 53 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on July 19, 2018. The exemptions expire on July 19, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On June 18, 2018, FMCSA published a notice announcing receipt of applications from 53 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (83 FR 28310). The public comment period ended on July 18, 2018, and two comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

III. Discussion of Comments

FMCSA received two comments in this proceeding. Vicky Johnson from the Minnesota Department of Public Safety stated that Minnesota has no objections to granting diabetes exemptions to Bobby R. Isaacson, and Heath A. Woodiwiss.

Mick Torok from N.A.T. Transportation, Inc. stated that he has no objections to granting a diabetes exemption to Zachary Fairbanks.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the June 18, 2018, **Federal Register** notice (83 FR 28310) and will not be repeated in this notice.

These 53 applicants have had ITDM over a range of 1 to 34 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage

diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 53 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Jason M. Abbott (OH)
Casey L. Alt (CO)
Joseph E. Beach (OH)
Eli A. Berkowitz (NJ)
Todd O. Blackwell (ID)
Joel H. Blancett, Jr. (NM)
Robert H. Blowers (OH)
David R. Booth (CT)
Travis W. Bradford (KY)
Darrel L. Burke (SD)
Bryan D. Cash (MI)
Marty A. Collins (OK)
Gino R. Couch (IN)
James D. Denison (IA)
David L. Derossett, Jr. (IN)
John L. Enterkin (IN)
William H. Ervin (NC)
Scot A. Etgen (OH)
Zachary D. Fairbanks (OH)
Ward W. Genzel (MT)
Kasey D. Green (CA)
Justin A. Hamic (AL)
Philip F. Headington (IA)
Jason A. Hendrickson (WA)
Bobby R. Isaacson (MN)
John W. Johnson (FL)
Douglas E. Kanesky, Jr. (AZ)
William D. Kincaid, Jr. (MA)
David W. Koch (PA)
Christopher N. Lacy (WV)
John G. Lopez (TX)
David E. Marvin (IA)
Bruce R. McDaniel (OK)
Edward A. Oikemus, Jr. (MD)
Tony L. Pennywell (FL)
Blake T. Pinkston (IN)
Dustin C. Riley (NY)
Wes D. Rodrigue (NH)
Jonathan C. Shultz (IA)
Michael P. Scott (SC)
Patrick E. Sevier (IA)
Keith O. Shaw, Sr. (IL)
Rosalie A. Silva (CA)
James R. Sizemore (VA)
David A. Stedford (CT)
Geraldine St-Germain (NJ)
Theodore F. Stuard II (IN)
Richard J. Taylor (IL)
Chris A. Voelker (IA)
Benjamin B. Webb (NC)
Donnie E. Winters (MS)
Heath A. Woodiwiss (MN)
Anthony K. Zelinsky (NJ)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17592 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0060]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 30 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on June 30, 2018. The exemptions expire on June 30, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

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Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On May 29, 2018 FMCSA published a notice announcing receipt of applications from 30 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (83 FR 24552). The public comment period ended on June 28, 2018, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or

without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Discussion of Comments

FMCSA received one comment in this proceeding. Vicky Johnson, of the Minnesota Department of Safety wrote that the Minnesota Department of Safety has no objections to Gary T. Nagel obtaining a hearing exemption.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on current medical information and literature, and the 2008 Evidence Report, ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety.'' The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS), for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). Each applicant's record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce, the Agency believes the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the hearing standard in 49 CFR 391.41(b)(11) is likely to achieve a level of safety equal to that existing without the exemption.

IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 30 exemption applications, FMCSA exempts the following drivers from the hearing standard, 49 CFR 391.41(b)(11), subject to the requirements cited above:

Alan M. Bridgeford (NV)
Mataio Brown (MS)
Leroy Carter (OH)
Robert M. Cates (NM)
Rocky R. Chin (WA)
Ralph E. Craig (IL)
Cesar DeLeon (TX)
Brody DiPasquale (MD)
Edward J. Duhon (AL)
Lyle Eash (OH)
Richard R. Fisher (PA)
Kinberly I. Foss (CA)
Bradley Ledford (TN)
Dustin McFadden (TX)
Francisco M. Mendoza (CA)
Jack W. Mitchell (TX)
Eugene Mostepan (CA)
Steven Moorehead (OH)
Gary T. Nagel (MN)
Marcel Paul (WA)
Dexter E. Perez (WI)
Connie Ralston (GA)
Noble D. Reed (TX)
Kurt Sanders (VA)
David L. Schibilla (IL)
Pamela Singleton (TX)
Robert W. Slate (NM)
Willine D. Smith (GA)
Michael R. Tayman (ME)
Jason R. Winemiller (IL)

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 9, 2018

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17607 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0016]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from 110 individuals who requested an exemption from the vision standard in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a CMV in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the

West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

FMCSA received applications from 110 individuals who requested an exemption from the vision standard in the FMCSRs.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(10).

III. Basis for Exemption Determination

Under 49 U.S.C.31136(e) and 31315, FMCSA may grant an exemption if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater then, the level that would be achieved absent such an exemption.

The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

IV. Conclusion

The Agency has determined that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(10). Therefore, the 110 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(10).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitute final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following six applicants did not have sufficient driving experience over the past three years under normal highway operating conditions:

Emma D. Hyde Howe (WA)
Wallace T. Kraus (IN)
Luis M. Perez-Francisco (NJ)
Darrell Potteiger (PA)
Jeffrey J. Winter (KS)
Scott E. Zinn (CA)

The following 35 applicants had no experience operating a CMV:

Eurico F. Barbosa (MA)
Michael A. Barone (TX)
Celine Burgos (NJ)
Geovanny J. Cano-Cruz (NJ)
Luis Cardona (CA)
Eduardo Carrasco (AZ)
Nelson D. Carvalho (TX)
Sergio Chavez-Nunez (IL)
Jeffrey M. Colson (NY)
Hunter W. Cook (MS)
James F. Duffy (NJ)
Michael S. Engel (CO)
David W. Frieze (MN)
Christopher D. Gilbert (ND)
Jose S. Hernandez (TX)
Jesse J. James (MI)
Tammy L. Loran (ND)
Jonathan B. Lovette (TN)
Russell T. Meyers (OH)
Giedrius Morkunas (IL)
Michael D. Narveson (MN)
Jose L. Olvera-Hernandez (PA)
Mohammed A. Omer (MN)
Timothy L. Porter (AL)
Robert L. Price (CO)
Jerad J. Riddle (IL)
Doral W. Robinson (MD)
Nicholas A. Smyth (NE)
Anes Tabakovic (IA)
Anthony R. VanAcker (IN)
John T. Vanderbeek (UT)
Andry A. Vargas (MA)
McKenley M. Victor (DE)
David W. Wiard (MI)
Tarrence R. Williams (MS)

The following 23 applicants did not have three years of experience driving a CMV on public highways with their vision deficiencies:

Matthew R. Beggs (IL)
Richard W. Bullard (FL)
Paulo G. Clemente (NC)
Hector A. Davila (GA)
Chad M. Diamond (HI)
Paul A. Gulotta (NV)
Burl V. Ingebretsen (MN)
Russell L. Kelly (SC)
Nicholas J. Luksha (TN)
Jerred R. Murray (NY)
Christopher J. Neville (ME)
Eric L. Nydick (KS)
Robert F. Reed (NV)
Wesley C. Riley (IL)
Dennis E. Sanches (CO)
Alexander P. Scardino (NY)
Jeffrey A. See (FL)
Don J. Smith (VA)
Terry L. Stanger (IL)
Robert B. Sundvor (ND)
Leonard H. Wesselman (IL)
Tommy A. Williamson (OK)
Ananias E. Yoder (IA)

The following 14 applicants did not have three years of recent experience driving a CMV on public highways with their vision deficiencies:

David G. April (NH)
Jason W. Beer (NE)
David L. Dellinger (IN)
John D. Flatten (MN)
Armand P. Fortier (NH)
Jeri P. Hollingsworth (ND)
Suad Jukic (NY)
Jimmy R. Kite (TN)
William J. Mason (AR)
Akbar H. Mokhtarani (ID)
Scott A. Murphy (PA)
Asa R. Sessions (WI)
Stephen C. Stenberg (NY)
Blair D. Tunell (DE)

The following seven applicants did not have sufficient driving experience over the past three years under normal highway operating conditions (gaps in driving record):

Wayne O. Campbell (FL)
James P. Flaherty (KY)
Aaron L. Knoblock (TX)
Ronald M. Lytle (PA)
Chad O'Brien (MN)
Reginald Smart (TX)
Levi J. Tindall (TX)

The following applicant, Gregory P. Grimes (OK), had more than two commercial motor vehicle violations during three-year period and/or application process.

The following applicant, Randall L. Bauman (IN), contributed to accident(s) in which the applicant was operating a CMV, which is a disqualifying offense.

The following applicant, Daniel W. Schraven (IA), did not demonstrate the level of safety required for interstate driving (excessive moving/non-moving violations during three-year period).

The following 16 applicants were denied for multiple reasons:

Jose G. Batres (PA)
Guillermo Casio Gamero (WA)
Edward J. Delehant (OK)
Kevin DeMarco (PA)
Anthony M. Goodman (TX)
Eduardo L. Gutierrez (CA)
Michael L. Johnson (SC)
Patrick E. Kuempel (IA)
Michael T. McGinty (PA)
Michael E. McGregor (ID)
Steven Ramirez (CA)
Robert L. Schwartz (ND)

Emmanuel A. Sepulveda (CA)
Tyrone Sipp (TN)
Calvin R. Stoltzfus (PA)
Latasha M. Williams-Barnes (CT)

The following four applicants have not had stable vision for the preceding three-year period:

Miguel M. Levario (NM)
Markell D. Riley (NC)
Michael J. Smith (MN)
Vernon L. Speakman (GA)

The following applicant, Charles E. Chamberlain (KY), does not meet the vision standard in his better eye.

The following applicant, Jerry B. Gibson (KY), drove interstate while restricted to intrastate driving.

Issued on: August 9, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17597 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–2000–8398; FMCSA–2001–9561; FMCSA–2003–14504; FMCSA–2003–14504; FMCSA–2003–15268; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2007–27333; FMCSA–2007–27515; FMCSA–2007–27897; FMCSA–2007–28695; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2011–0092; FMCSA–2011–0124; FMCSA–2011–0140; FMCSA–2011–0141; FMCSA–2013–0027; FMCSA–2013–0028; FMCSA–2013–0029; FMCSA–2013–0030; FMCSA–2014–0007; FMCSA–2014–0300; FMCSA–2014–0304; FMCSA–2015–0048; FMCSA–2015–0052; FMCSA–2015–0053; FMCSA–2015–0055]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 86 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

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Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On June 18, 2018, FMCSA published a notice announcing its decision to renew exemptions for 86 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (83 FR 28307). The public comment period ended on July 18, 2018, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based upon its evaluation of the 86 renewal exemption applications and comments received, FMCSA confirms its' decision to exempt the following drivers from the vision requirement in 49 CFR 391.41 (b)(10):

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of September and are discussed below:

As of September 6, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 35 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (65 FR 78256; 66 FR 16311; 66 FR 30502; 66 FR 41654; 68 FR 13360; 68 FR 44837; 70 FR 17504; 70 FR 25878; 70 FR 30997; 70 FR 41811; 72 FR 12666; 72 FR 21313; 72 FR 25831; 72 FR 27624; 72 FR 28093; 72 FR 32703; 72 FR 40362; 74 FR 19270; 74 FR 23472; 74 FR 26461; 74 FR 26464; 74 FR 34395; 74 FR 34630; 76 FR 25762; 76 FR 25766; 76 FR 32017; 76 FR 34135; 76 FR 37168; 76 FR 37169; 76 FR 37885; 76 FR 44652; 76 FR 50318; 78 FR 24798; 78 FR 26106; 78 FR 27281; 78 FR 32708; 78 FR 34140; 78 FR 34143; 78 FR 37270; 78 FR 41188; 78 FR 41975; 78 FR 46407; 78 FR 51269; 78 FR 52602; 78 FR 56986; 78 FR 56993; 79 FR 4531; 79 FR 38659; 79 FR 53514; 80 FR 2473; 80 FR 14223; 80 FR 18693; 80 FR 26139; 80 FR 26320; 80 FR 29154; 80 FR 31640; 80 FR 33007; 80 FR 33009; 80 FR 33011; 80 FR 35699; 80 FR 36395; 80 FR 37718; 80 FR 40122; 80 FR 44185; 80 FR 44188; 80 FR 48404; 80 FR 48409; 80 FR 50917; 80 FR 62161; 80 FR 62163):

Robert D. Arkwright (MS)
Roger Bell (IL)
Phillip J. Boes (MN)
Dale E. Bunke (ID)
Daniel G. Cohen (VT)
Jeffrey W. Cotner (OR)
Jeffrey S. Daniel (VA)
John J. Davis (SC)
Roy H. Degner (IA)
David S. Devine (ID)
John C. Dimassa (WA)
Mark J. Dufresne (NH)
Donnie H. Eagle (WV)
Dennis C. Edler (PA)
Steven G. Garrett (CA)
Eric M. Grayson (KY)

William K. Gullett (KY)
David A. Hayes (GA)
John T. Johnson (NM)
Jay D. Labrum (UT)
Spencer E. Leonard (OH)
Brian P. Millard (SC)
Gonzalo Pena (FL)
Richard E. Perry (CA)
Timothy J. Slone (KY)
Hoyt V. Smith (SC)
Dennis W. Stubrich (PA)
Lee T. Taylor (FL)
Michael J. Thane (OH)
Jon C. Thompson (TX)
James L. Tinsley, Jr. (VA)
George F. Treece (IL)
Harlon C. VanBlaricom (MN)
Jeff L. Wheeler (IA)
Zachary J. Workman (ID)

The drivers were included in docket numbers FMCSA–2000–8398; FMCSA–2001–9561; FMCSA–2005–20560; FMCSA–2007–27333; FMCSA–2007–27515; FMCSA–2009–0121; FMCSA–2011–0092; FMCSA–2011–0140; FMCSA–2013–0027; FMCSA–2013–0028; FMCSA–2013–0029; FMCSA–2013–0030; FMCSA–2014–0007; FMCSA–2014–0300; FMCSA–2014–0304; FMCSA–2015–0048; FMCSA–2015–0052; FMCSA–2015–0053; FMCSA–2015–0055. Their exemptions are applicable as of September 6, 2017, and will expire on September 6, 2019.

As of September 7, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (76 FR 34136; 76 FR 37169; 76 FR 50318; 76 FR 55463; 78 FR 78477; 80 FR 50915):

Charles E. Carter (MI)
James A. Ellis (NY)
Dale L. Giardine (PA)
Peter M. Shirk (PA)

The drivers were included in docket numbers FMCSA–2011–0124; FMCSA–2011–0140. Their exemptions are applicable as of September 7, 2017, and will expire on September 7, 2019.

As of September 13, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following ten individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (63 FR 66226; 64 FR 16517; 66 FR 41656; 68 FR 44837; 70 FR 41811; 72 FR 39879; 72 FR 40362; 72 FR 52419; 74 FR 41971; 76 FR 54530; 78 FR 78477; 80 FR 48402):

John A. Bridges (GA)
Brian W. Curtis (IL)
Tomie L. Estes (MO)
Ray C. Johnson (AR)
James J. Mitchell (NC)
Andrew M. Nurnberg (GA)
Joshua R. Perkins (ID)
Craig R. Saari (MN)
Jerry L. Schroder (IL)
Larry D. Steiner (MN)

The drivers were included in docket numbers FMCSA–1998–4334; FMCSA–2007–27897. Their exemptions are applicable as of September 13, 2017, and will expire on September 13, 2019.

As of September 16, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (78 FR 27281; 78 FR 34143; 78 FR 41188; 78 FR 41975; 78 FR 52602; 78 FR 56986; 80 FR 48411):

Carl Block (NY)
Christopher Brim (TN)
John Camp (GA)
Ralph Carr (PA)
Phyllis Dodson (IN)
Juan M. Guerrero (TX)
Berl C. Jennings (VA)
Udum Khamsoksavath (WA)
Vincent Marsee, Sr. (NC)
Jerome Paintner (ND)
David Snellings (MD)

The drivers were included in docket numbers FMCSA–2013–0028; FMCSA–2013–0029; FMCSA–2013–0030. Their exemptions are applicable as of September 16, 2017, and will expire on September 16, 2019.

As of September 22, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 15 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (68 FR 19598; 68 FR 33570; 70 FR 17504; 70 FR 25878; 70 FR 30997; 72 FR 28093; 72 FR 40362; 74 FR 20523; 74 FR 34394; 74 FR 37295; 74 FR 48343; 76 FR 34136; 76 FR 53708; 76 FR 54530; 76 FR 55463; 78 FR 78477; 80 FR 49302):

Michael K. Adams (OH)
Eleazar R. Balli (TX)
Darrell W. Bayless (TX)
Lloyd D. Burgess (OH)
Clifford D. Carpenter (MO)
Cecil A. Evey (ID)
Kamal A. Gaddah (OH)
Eric M. Kousgaard (NE)
James F. McMahon, Jr. (NH)
Samuel A. Miller (IN)
Larry T. Rogers (IL)
Marcial Soto-Rivas (OR)
Boyd D. Stamey (NC)
David C. Sybesma (ID)
Matthew K. Tucker (MN)

The drivers were included in docket numbers FMCSA–2003–14504; FMCSA–2005–20560; FMCSA–2009–0154; FMCSA–2011–0124. Their exemptions are applicable as of September 22, 2017, and will expire on September 22, 2019.

As of September 23, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 27027; 64 FR 51568; 66 FR 48504; 68 FR 19598; 68 FR 33570; 68 FR 37197; 68 FR 48989; 68 FR 54775; 70 FR 30999; 70 FR 42615; 70 FR 46567; 70 FR 53412; 72 FR 39879; 72 FR 52419; 72 FR 62896; 74 FR 43221; 76 FR 53708; 78 FR 78477; 80 FR 53383):

Linda L. Billings (NV)
Weldon R. Evans (OH)
Orasio Garcia (TX)
Leslie W. Good (OR)
James P. Guth (PA)
Gregory K. Lilly (WV)
Kenneth A. Reddick (PA)
Leonard Rice, Jr. (GA)
James T. Sullivan (KY)

The drivers were included in docket numbers FMCSA–1999–5578; FMCSA–2003–14504; FMCSA–2003–15268; FMCSA–2005–21254; FMCSA–2007–27897. Their exemptions are applicable as of September 23, 2017, and will expire on September 23, 2019.

As of September 27, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (72 FR 46261; 72 FR 54972; 74 FR 43223; 76 FR 40445; 76 FR 53710; 76 FR 55469; 78 FR 78477): Joe M. Flores, (NM); Kenneth D. Perkins, (NC).

The drivers were included in docket numbers FMCSA–2007–28695; FMCSA–2011–0141. Their exemptions are applicable as of September 27, 2017, and will expire on September 27, 2019.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17602 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0091]

Agency Information Collection Activities; Renewal of Existing Information Collection Request: Commercial Motor Vehicle Marking Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. This ICR will enable FMCSA to document the burden associated with the marking regulations in ''Marking of Self-Propelled CMVs and Intermodal Equipment.'' These regulations require marking of vehicles and intermodal equipment by motor carriers and intermodal equipment providers (IEPs) engaging in interstate transportation. The FMCSA requests approval to renew an ICR titled, ''Commercial Motor Vehicle Marking Requirements.''

DATES: Please send your comments by September 14, 2018. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2018–0091. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Crystal Frederick, Transportation Specialist, Compliance Division, Department of Transportation, Federal Motor Carrier Safety Administration, 6th Floor, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Telephone: 202–366–2904; Email Address: *crystal.frederick@dot.gov.* Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: Commercial Motor Vehicle Marking Requirements

OMB Control Number: 2126–0054.

Type of Request: Renewal of a currently approved collection.

Respondents: Freight carrying commercial motor carriers, passenger carrying commercial motor carriers and intermodal equipment providers.

Estimated Number of Respondents: 218,389 motor carriers and IEPs.

Estimated Time per Response: 26 minutes [12 minutes to affix DOT Number + 14 minutes for affixing a carrier's name = 26].

Expiration Date: August 31, 2018.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 774,249 hours spent by motor carriers and IEPs marking CMVs with a DOT number and carrier information.

Background: The Secretary of Transportation (Secretary) is authorized to require marking of vehicles and intermodal equipment by motor carriers and intermodal equipment providers (IEPs) engaging in interstate transportation based on the authority of 49 U.S.C. 31133(a)(8) and 31133(a)(10). The Secretary has delegated authority pertaining to the marking of commercial motor vehicles (CMVs) pursuant to 49 CFR 1.87(f). The Agency's regulation governing the marking of CMVs is codified at 49 CFR 390.21.

Vehicle marking requirements are intended to ensure that FMCSA, the National Transportation Safety Board (NTSB), and State safety officials are able to identify motor carriers and correctly assign responsibility for regulatory violations during inspections, investigations, compliance reviews, and crash studies. These marking requirements will also provide the public with beneficial information that could assist in identifying carriers for the purposes of commerce, complaints or emergency notification. The marking requirements apply to motor carriers and intermodal equipment providers (IEPs) engaging in interstate transportation. The Agency does not require a specific method of marking as long as the marking complies with FMCSA's regulations. The program change decrease of 76,751 estimated annual burden hours (774,249 proposed estimated annual burden hours–851,000 approved estimated annual burden hours) is due to adjustments in respondent and response estimates. Data, as of September 29, 2017, pulled from FMCSA's MCMIS and SMS databases indicated that there was a decrease in the number of active interstate freight carriers and intrastate hazardous materials carriers and a decrease in the number of power units subject to Component 1 marking requirements, resulting in a decrease of 94,799 burden hours. According to the September 29, 2017 snapshot, there was a decrease in the number of passenger carriers impacted and an increase in the number of passenger-carrying power units impacted by Component 2, resulting in an increase of 17,947 burden hours. Finally, greater precision was used in calculating the number of respondents, responses associated with Component 3, resulting in an increase of 101 burden hours.

Two comments were submitted to the docket during the 60-day comment period, in response to the 60-day **Federal Register**, 83(17885), published on April 24, 2018. One comment was received from Greyhound Lines, Inc. (Greyhound) and the other from Owner-Operator Independent Drivers Association (OOIDA). Greyhound's comment, however, addresses another ICR open during the same time period, ''Leasing and Interchange of Vehicles,'' and not the Markings ICR. The comment submitted by Greyhound will thus be addressed in the Leasing ICR response. The other comment submitted by OOIDA raised two points. The first issue raised deals with the phrasing of the associated regulation, part 390. OOIDA asserts that current wording of the part does not permit certain leasing situations. FMCSA notes that an ICR is not the venue for regulatory change, even if the regulation is related to the subject matter covered in the ICR. The second claim made by OOIDA is that the aforementioned regulation does nothing to improve safety. As we stated in the 2015 final rule the marking requirement enables ''investigators and the general public to identify the passenger carrier responsible for safety'' (80 FR 30164, 30166). Given these considerations FMCSA does not believe changes to the ICR are appropriate based on these comments.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform its

functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87 on August 3, 2018.

G. Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2018–17568 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0326]

Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillator (ICD)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from seven individuals treated with Implantable Cardioverter Defibrillators (ICDs) who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting operation of a commercial motor vehicle (CMV) in interstate commerce by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive heart failure.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

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Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On January 31, 2018, FMCSA published a FR notice (83 FR 4545) announcing receipt of applications from seven individuals treated with ICDs and requested comments from the public. These seven individuals requested an exemption from 49 CFR 391.41(b)(4) which prohibits operation of a CMV in interstate commerce by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive heart failure. The public comment period closed on May 2, 2018 and one comment was received.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(4). A summary of each applicant's medical history related to their ICD exemption request was discussed in the March 2, 2018, **Federal Register** notice and will not be repeated in this notice.

In reaching the decision to deny these exemption requests, the Agency considered information from the Cardiovascular Medical Advisory Criteria, the April 2007 Evidence Report ''Cardiovascular Disease and Commercial Motor Vehicle Driver Safety, and a December 2014 focused research report ''Implantable Cardioverter Defibrillators and the Impact of a Shock in a Patient When Deployed.'' Copies of the reports are included in the docket.

FMCSA has published advisory criteria to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [Appendix A to Part 391—Medical Advisory Criteria, section D, paragraph 4]. The advisory criteria for 49 CFR 391.41(b)(4) indicates that coronary artery bypass surgery and pacemaker implantation are remedial procedures and thus, not medically disqualifying. Implantable cardioverter defibrillators are disqualifying due to risk of syncope.

III. Discussion of Comments

FMCSA received one comment in this proceeding from an individual who is in favor of any ICD treated individual who has not had any issues for six months, and who has clearance from their cardiologist, being allowed to drive a CMV. FMCSA acknowledges the commenters' responses concerning stable medical histories with ICDs. Based on the available medical literature cited above, FMCSA believes that a driver with an ICD is at risk for incapacitation if the device discharges. This risk is combined with the risks associated with the underlying cardiovascular condition for which the ICD has been implanted as a primary or secondary preventive measure.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater then, the level that would be achieved absent such an exemption.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information provided by the applicant, available medical and scientific data concerning ICD's, and public comments received.

In the case of persons with ICDs, the underlying condition for which the ICD was implanted places the individual at high risk for syncope (a transient loss of consciousness) or other unpredictable events known to result in gradual or sudden incapacitation. ICDs may discharge, which could result in loss of ability to safely control a CMV. See the April 2007 Evidence Report on Cardiovascular Disease and Commercial Motor vehicle Driver Safety, April 2007.[1] A focused research report on Implantable Cardioverter Defibrillators and the Impact of a Shock on a Patient When Deployed completed for the FMCSA December 2014 indicates that the available scientific data on persons with ICDs and CMV driving does not support that persons with ICDs who

[1] Now available at *http://ntl.bts.gov/lib/30000/30100/30123/Final_CVD_Evidence_Report_v2.pdf.*

operate CMVs are able to meet an equal or greater level of safety and upholds the findings of the April 2007 report.

V. Conclusion

The Agency has determined that the available medical and scientific literature and research provides insufficient data to enable the Agency to conclude that granting these exemptions would achieve a level of safety equivalent to, or greater than, the level of safety maintained without the exemption. Therefore, the following seven applicants have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(4):

Frank D'Ercole (NJ)
Myles Goodwin (NH)
Cody Hairr (NC)
Dennis R. Pickett (IN)
William E. Richardson, Jr. (MI)
Terry Stephens (VA)
Jeffrey A. Weiner (MN)

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. The list published today summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4).

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17588 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6480; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2002–12294; FMCSA–2004–17195; FMCSA–2005–22194; FMCSA–2006–23773; FMCSA–2006–24783; FMCSA–2008–0021; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2008–0231; FMCSA–2009–0291; FMCSA–2010–0082; FMCSA–2010–0114; FMCSA–2011–0299; FMCSA–2011–0325; FMCSA–2012–0104; FMCSA–2012–0161; FMCSA–2012–0214; FMCSA–2013–0166; FMCSA–2013–0168; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2014–0010; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0031; FMCSA–2016–0033]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 88 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirements in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before September 14, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–1999–6480; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2002–12294; FMCSA–2004–17195; FMCSA–2005–22194; FMCSA–2006–23773; FMCSA–2006–24783; FMCSA–2008–0021; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2008–0231; FMCSA–2009–0291; FMCSA–2010–0082; FMCSA–2010–0114; FMCSA–2011–0299; FMCSA–2011–0325; FMCSA–2012–0104; FMCSA–2012–0161; FMCSA–2012–0214; FMCSA–2013–0166; FMCSA–2013–0168; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2014–0010; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0031; FMCSA–2016–0033 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual

acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

The 88 individuals listed in this notice have requested renewal of their exemptions from the vision standard in 49 CFR 391.41(b)(10), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 88 applicants has satisfied the renewal conditions for obtaining an exemption from the vision requirement (64 FR 68195; 65 FR 20245; 65 FR 33406; 65 FR 57230; 65 FR 57234; 67 FR 46016; 67 FR 57266; 67 FR 57267; 69 FR 17263; 69 FR 51346; 69 FR 52741; 70 FR 57353; 70 FR 72689; 71 FR 6828; 71 FR 19604; 71 FR 32184; 71 FR 50970; 71 FR 53489; 73 FR 15568; 73 FR 27018; 73 FR 35197; 73 FR 35198; 73 FR 35199; 73 FR 36955; 73 FR 38499; 73 FR 46973; 73 FR 48270; 73 FR 48275; 73 FR 51336; 73 FR 54888; 74 FR 65842; 75 FR 9482; 75 FR 25919; 75 FR 34210; 75 FR 34212; 75 FR 36779; 75 FR 39729; 75 FR 44051; 75 FR 47888; 75 FR 50799; 75 FR 52062; 75 FR 52063; 76 FR 73769; 77 FR 539; 77 FR 10606; 77 FR 10608; 77 FR 27847; 77 FR 38384; 77 FR 40945; 77 FR 41879; 77 FR 46153; 77 FR 46793; 77 FR 52388; 77 FR 52389; 77 FR 59245; 78 FR 62935; 78 FR 63302; 78 FR 76395; 79 FR 6993; 79 FR 10606; 79 FR 10607; 79 FR 14328; 79 FR 14571; 79 FR 18392; 79 FR 22003; 79 FR 27681; 79 FR 28588; 79 FR 29498; 79 FR 35212; 79 FR 35218; 79 FR 38659; 79 FR 46153; 79 FR 46300; 79 FR 47175; 79 FR 51643; 79 FR 52388; 79 FR 53514; 79 FR 64001; 80 FR 67476; 80 FR 70060; 81 FR 14190; 81 FR 15404; 81 FR 16265; 81 FR 17237; 81 FR 20433; 81 FR 20435; 81 FR 39100; 81 FR 39320; 81 FR 42054; 81 FR 45214; 81 FR 52514; 81 FR 52516; 81 FR 59266; 81 FR 66720; 81 FR 66722; 81 FR 66726; 81 FR 68098; 81 FR 74494; 81 FR 81230; 81 FR 90050; 81 FR 91239; 81 FR 96196). They have submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of September and are discussed below:

As of September 8, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 30 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (70 FR 57353; 70 FR 72689; 71 FR 6828; 71 FR 19604; 73 FR 27018; 73 FR 35198; 73 FR 36955; 73 FR 48275; 74 FR 65842; 75 FR 9482; 75 FR 25919; 75 FR 36779; 75 FR 39729; 75 FR 44051; 77 FR 539; 77 FR 10606; 77 FR 10608; 77 FR 38384; 77 FR 46153; 78 FR 62935; 78 FR 76395; 79 FR 6993; 79 FR 10607; 79 FR 14328; 79 FR 14571; 79 FR 18392; 79 FR 22003; 79 FR 28588; 79 FR 29498; 79 FR 35212; 79 FR 35218; 79 FR 38659; 79 FR 46153; 79 FR 47175; 79 FR 53514; 80 FR 67476; 80 FR 70060; 81 FR 14190; 81 FR 15404; 81 FR 16265; 81 FR 17237; 81 FR 20433; 81 FR 20435; 81 FR 39100; 81 FR 39320; 81 FR 42054; 81 FR 45214; 81 FR 52514; 81 FR 52516; 81 FR 66720; 81 FR 66722; 81 FR 66726; 81 FR 68098; 81 FR 90050; 81 FR 91239; 81 FR 96196):

Felipe Bayron (WI)
Kenneth W. Bos (MN)
Duane N. Brojer (NM)
Gary A. Brown (PA)
John D. Burns (ID)
Derrick L. Cowan (NC)
Jeffrey D. Davis (NC)
Timothy C. Dotson (MO)
Paul D. Evenhouse (IL)
Hugo A. Galvis Barrera (GA)
Todd M. Harguth (MN)
George F. Hernandez, Jr. (AZ)
Brian D. Hoover (IA)
Gregory R. Johnson (SC)
Michael A. Kafer (KS)
Aaron C. Lougher (OR)
John Lucas (NC)
Joshua L. Marasek (TX)
Carlos A. Mendez-Castellon (VA)
Earl L. Mokma (MI)
John E. O'Boyle (PA)
Mark C. Reineke (NM)
Guadalupe Reyes (FL)
Jacob H. Riggle (OK)
Richard M. Rosales (NM)
Scott D. Russell (WI)
Paul W. Sorenson (UT)
Joshua R. Stanley (OK)
Jerry M. Stearns (AR)
Raymond W. Teemer (NJ)

The drivers were included in docket numbers FMCSA–2005–22194; FMCSA–2006–23773; FMCSA–2008–0106; FMCSA–2009–0291; FMCSA–2010–0082; FMCSA–2011–0325; FMCSA–2013–0166; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0031. Their exemptions are applicable as of September 8, 2018, and will expire on September 8, 2020.

As of September 9, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 23 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 68195; 65 FR 20251; 67 FR 38311; 69 FR 17263; 69 FR 26921; 69 FR 31447; 70 FR 44946; 71 FR 27033; 71 FR 32184; 71 FR 41311; 73 FR 15568; 73 FR 27017; 73 FR 28186; 73 FR 35197; 73 FR 35199; 73 FR 38499; 73 FR 42403; 73 FR 48273; 73 FR 48275; 75 FR 25919; 75 FR 27624; 75 FR 34212; 75 FR 38602; 75 FR 39729; 75 FR 44051; 75 FR 47888; 75 FR 50799; 76 FR 73769; 77 FR 3547; 77 FR 27847; 77 FR 36338; 77 FR 38386; 77 FR 40945; 77 FR 40946; 77 FR 41879; 77 FR 46153; 77 FR 48590; 77 FR 52391; 78 FR 63302; 78 FR 77780; 79 FR 10606; 79 FR 14331; 79 FR 22003; 79 FR 27681; 79 FR 29495; 79 FR 35212; 79 FR 35220; 79 FR 37842; 79 FR 38649; 79 FR 38659; 79 FR 41735; 79 FR 45868; 79 FR 46153; 79 FR 47175; 79 FR 53514; 81 FR 81230):

Don R. Alexander (OR)
Paul J. Bannon (DE)
Tracy L. Bowers (IA)

Thomas L. Corey (IN)
Layne C. Coscorrosa (WA)
James H. Facemyre (WV)
Michael Giagnacova (PA)
Brian G. Hagen (IL)
George M. Hapchuk (PA)
Clarence K. Hill (NC)
Michael J. Hoffarth (WA)
Michael G. Martin (CT)
Shane N. Maul (IN)
Larry McCoy, Sr. (OH)
Daniel S. Rebstad (FL)
Kenneth R. Riener (MT)
Terry L. Rubendall (PA)
James C. Sharp (PA)
Robert Smiley (NM)
Leon F. Stephens (CO)
George R. Tieskoetter (IA)
Bart M. Valiante (CT)
James W. Van Ryswyk (IA)

The drivers were included in docket numbers FMCSA–1999–6480; FMCSA–2004–17195; FMCSA–2006–24783; FMCSA–2008–0021; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2010–0082; FMCSA–2010–0114; FMCSA–2011–0299; FMCSA–2012–0104; FMCSA–2012–0161; FMCSA–2013–0168; FMCSA–2014–0002; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007. Their exemptions are applicable as of September 9, 2018, and will expire on September 9, 2020.

As of September 21, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (65 FR 20245; 65 FR 33406; 65 FR 57230; 65 FR 57234; 67 FR 46016; 67 FR 57266; 67 FR 57267; 69 FR 51346; 69 FR 52741; 71 FR 50970; 71 FR 53489; 73 FR 48270; 73 FR 51336; 75 FR 34210; 75 FR 47888; 75 FR 50799; 75 FR 52062; 77 FR 40945; 77 FR 52389; 79 FR 46300; 81 FR 81230):

Jack D. Clodfelter (NC)
Tommy J. Cross, Jr. (TN)
Daniel K. Davis III (MA)
Joseph A. Dunlap (OH)
James F. Gereau (WI)
Esteban G. Gonzalez (TX)
Reginald I. Hall (TX)
George R. House (MO)
Alfred C. Jewell, Jr. (WY)
Lewis V. McNeice (TX)
Kevin J. O'Donnell (IL)
Gregory M. Preves (GA)
Jeffrey D. Wilson (CO)

The drivers were included in docket numbers FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2002–12294; FMCSA–2010–0114. Their exemptions are applicable as of September 21, 2018, and will expire on September 21, 2020.

As of September 23, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (73 FR 46973; 73 FR 54888; 75 FR 52063; 77 FR 52388; 79 FR 52388; 81 FR 81230):

Terrence L. Benning (WI)
Larry D. Curry (GA)
Kelly M. Greene (FL)
Thomas P. Shank (NY)

The drivers were included in docket number FMCSA–2008–0231. Their exemptions are applicable as of September 23, 2018, and will expire on September 23, 2020.

As of September 26, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (77 FR 46793; 77 FR 59245; 81 FR 81230):

Bryan Brockus (ID)
Erric L. Gomersall (WI)
Larry Johnsonbaugh, Jr. (PA)
John Middleton (OH)

The drivers were included in docket number FMCSA–2012–0214. Their exemptions are applicable as of September 26, 2018, and will expire on September 26, 2020.

As of September 29, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (81 FR 59266; 81 FR 74494):

Gregory M. Anderson (NY)
Richard D. Auger (CA)
Darrin E. Bogert (NY)
Jose D. Chavez (MD)
Philip J. Clements (WI)
Robert H. Nelson (VA)
Harold F. White (SC)

The drivers were included in docket number FMCSA–2016–0033. Their exemptions are applicable as of September 29, 2018, and will expire on September 29, 2020.

As of September 30, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 51643; 79 FR 64001; 81 FR 81230):

Ronald A. Bolyard (WV)
Kelly R. Knopf, Sr. (SC)
Frazier A. Luckerson (GA)
Ross A. Miceli II (PA)
Donald L. Minney (OH)
Philip L. Neff (PA)
Loran J. Weiler (IA)

The drivers were included in docket number FMCSA–2014–0010. Their exemptions are applicable as of September 30, 2018, and will expire on September 30, 2020.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must undergo an annual physical examination (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a certified Medical Examiner, as defined by 49 CFR 390.5, who attests that the driver is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file or keep a copy of his/her driver's qualification if he/her is self- employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 88 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above. In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: August 9, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17604 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2018–0026]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 53 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on June 29, 2018. The exemptions expire on June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On May 29, 2018, FMCSA published a notice announcing receipt of applications from 53 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (83 FR 24555). The public comment period ended on June 28, 2018, and three comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

III. Discussion of Comments

FMCSA received three comments in this proceeding. Vicky Johnson from the Minnesota Department of Public Safety stated that Minnesota has no objections in granting a diabetic exemption to Jeff F. Kress.

Michael Sommer submitted a comment asking what forms he needs to send in to be granted a medical waiver. Information regarding all medical exemptions is available on the FMCSA website at *https://www.fmcsa.dot.gov/medical/driver-medical-requirements/driver-exemption-programs.*

An anonymous commenter stated that they agree with the renewal of the 53 individual exemptions listed in the **Federal Register**. The commenter stated that they feel the guidelines are strict enough to allow individuals with ITDM to drive. They also stated that they did not see in the Handbook that these drivers are required to have a snack, glucometer, or insulin on person while driving. At this time, there is no official FMCSA Medical Examiner's Handbook. The handbook was removed from the FMCSA website in 2015 because the content is not in line with the current regulations and therefore is not endorsed by the Agency for use. However, the current exemption document provides to the driver written requirements for the driver to maintain appropriate medical supplies for glucose management while preparing for the operation of a CMV and during its operation. It explains that the supplies shall include a digital glucose monitor with computerized memory, supplies needed to obtain adequate blood samples and measure blood glucose, insulin, and an amount of rapidly absorbable glucose to be used as necessary.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the May 29, 2018, **Federal Register** notice (83 FR 24555) and will not be repeated in this notice.

These 53 applicants have had ITDM over a range of 1 to 48 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant

complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 53 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Gary M. Athanas (OR)
Gary R. Babcock (CT)
Jennifer L. Baker (NC)
Lesley L. Beasley (AL)
Theresa J. Blackman (IN)
Jeffrey D. Boutin (GA)
Douglas P. Chretien (LA)
Eugene V. Cost (ND)
James R. Crump (VA)
James G. Cucinotta (ME)
Bryan S. Davis (VA)
Jeremy C. Durand (NY)
Connie S. Erwin (TN)
Brendan T Farnam (MA)
Randall S. Feldt (IA)
Travis E. Forrest (PA)
Robert R. Frost (PA)
Alexander A. Hegyi (NJ)
Sergio Hernandez (IL)
Scotty A. Hill (NC)
Billie Hinton (NY)
Arild Johansen (ND)
Kaleb N. Jones (IL)
Reginald Jones (NC)
Kevin R. Kerrigan (MI)
William R. Koepplin (ND)
Jeff F. Kress (MN)
Eric J. Kuster (IA)
Michael P. Labrosse (NY)
Michael J. Mason (GA)
Chad W. Moore (MO)
Walter N. Morphew, Jr. (IN)
Edward C. Mulvenna, Jr. (NJ)
Jeffrey C. Olson (SD)
Robin L. Phillips (PA)
Roosevelt Price (MS)
William P. Raben (AL)
Dennis B. Segel (WA)
Daniel A. Slattery (IN)
Mathew C. Smart (TX)
Jeffrey J. Smith (VA)
Charles D. Smith, Jr. (IN)
Patrick J. Snell (IA)
Rodney M. Stephens (PA)
Robert A. Swasey, Jr. (ME)
Kevin R. Terpstra (IL)
Richard D. Thompson (NY)
William D. Thull (IL)
Billy J. Thurnall (IN)
John T. Tuck, Jr. (NJ)
Roy D. Wendte (IL)
Bailey Westgate (ID)
Walter L. Williams (AR)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Issued on: August 9, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17593 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0202]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 39 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) operating a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before September 14, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2018–0202 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions

regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The 39 individuals listed in this notice have requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population.

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305). Section 4129 requires: (1) Elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the three-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136 (e). Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003, notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003, notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

II. Qualifications of Applicants

Jeffrey L. Barton

Mr. Barton, 53, has had ITDM since 2015. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Barton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Barton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Michael J. Beattie

Mr. Beattie, 60, has had ITDM since 2018. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Beattie understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beattie meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Timothy W. Beeny

Mr. Beeny, 56, has had ITDM since 2018. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Beeny understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beeny meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

Joseph A. Bradley

Mr. Bradley, 54, has had ITDM since 2015. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Bradley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bradley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy.

He holds an operator's license from Indiana.

Harold B. Bryan

Mr. Bryan, 25, has had ITDM since 2016. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Bryan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bryan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Idaho.

Javis B. Cruz

Mr. Cruz, 31, has had ITDM since 2018. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Cruz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cruz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Mexico.

Matthew A. Cunningham

Mr. Cunningham, 57, has had ITDM since 2016. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Cunningham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cunningham meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

Victor J. Da-Chao

Mr. Da-Chao, 61, has had ITDM since 2009. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Da-Chao understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Da-Chao meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Timothy S. Danley

Mr. Danley, 50, has had ITDM since 2014. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Danley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Danley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Richard G. Dattler, Jr.

Mr. Dattler, 51, has had ITDM since 2015. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Dattler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dattler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oregon.

Ellen M. Diggs

Ms. Diggs, 51, has had ITDM since 1994. Her endocrinologist examined her in 2018 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. Her endocrinologist certifies that Ms. Diggs understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Diggs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2018 and certified that she does not have diabetic retinopathy. She holds an operator's license from Kansas.

Marven J. Finken

Mr. Finken, 53, has had ITDM since 2017. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Finken understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Finken meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Randie S. Fisher, Jr.

Mr. Fisher, 22, has had ITDM since 2008. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Fisher understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fisher meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

Jason J. Fleisch

Mr. Fleisch, 43, has had ITDM since 2017. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Fleisch understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fleisch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Ryan M. Galusha

Mr. Galusha, 29, has had ITDM since 2011. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Galusha understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Galusha meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

Raymond M. Hamlin

Mr. Hamlin, 75, has had ITDM since 2011. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Hamlin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hamlin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

Steven L. Hare, Jr.

Mr. Hare, 26, has had ITDM since 1997. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Hare understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hare meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Carolina.

Joshua R. Hedges

Mr. Hedges, 28, has had ITDM since 2011. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Hedges understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hedges meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

Vicky L. Hill

Ms. Hill, 63, has had ITDM since 2010. Her endocrinologist examined her in 2018 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. Her endocrinologist certifies that Ms. Hill understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Hill meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2018 and certified that she has stable nonproliferative diabetic retinopathy. She holds an operator's license from Washington.

Charles O. Hudson

Mr. Hudson, 59, has had ITDM since 2010. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Hudson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hudson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

James A. Keebaugh

Mr. Keebaugh, 57, has had ITDM since 2011. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Keebaugh understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Keebaugh meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Rein R. Kori

Mr. Kori, 22, has had ITDM since 2008. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Kori understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kori meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Thomas C. McGee

Mr. McGee, 35, has had ITDM since 2011. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. McGee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McGee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from South Carolina.

Anton Means

Mr. Means, 58, has had ITDM since 2018. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Means understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Means meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Andrew P. Metze

Mr. Metze, 25, has had ITDM since 2006. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Metze understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Metze meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from South Carolina.

Christopher J. Misner

Mr. Misner, 42, has had ITDM since 1987. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Misner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Misner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Michigan.

Mohamed S. Mohamed

Mr. Mohamed, 46, has had ITDM since 2018. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Mohamed understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mohamed meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Eugene G. Mueller

Mr. Mueller, 72, has had ITDM since 1959. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Mueller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mueller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Wisconsin.

Reginald J. Pokorny

Mr. Pokorny, 41, has had ITDM since 2016. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Pokorny understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pokorny meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Vernon C. Read

Mr. Read, 56, has had ITDM since 1985. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Read understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Read meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from California.

John W. Rosenthal

Mr. Rosenthal, 75, has had ITDM since 2014. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Rosenthal understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rosenthal meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Idaho.

Steve A. Santamaria

Mr. Santamaria, 40, has had ITDM since 2007. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Santamaria understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Santamaria meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Ricky J. Sawyer

Mr. Sawyer, 33, has had ITDM since 1987. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Sawyer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sawyer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Alaska.

Justin G. Simpson

Mr. Simpson, 31, has had ITDM since 1999. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Simpson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Simpson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Jacob H. Turner

Mr. Turner, 24, has had ITDM since 2004. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Turner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Turner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Chad E. Vanscoy

Mr. Vanscoy, 47, has had ITDM since 2012. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Vanscoy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vanscoy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Ohio.

Phillip M. Woods

Mr. Woods, 59, has had ITDM since 2016. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Woods understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Woods meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Michigan.

Robert W. Youdath

Mr. Youdath, 34, has had ITDM since 1992. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Youdath understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Youdath meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

Brian D. Zoll

Mr. Zoll, 53, has had ITDM since 2017. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting

in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Zoll understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zoll meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0202 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0202 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: August 9, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17591 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0013]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 11 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: The exemptions were applicable on July 19, 2018. The exemptions expire on July 19, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On June 18, 2018, FMCSA published a notice announcing receipt of applications from 11 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (83 FR 28335). The public comment period ended on July 18, 2018, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision as well as their driving records and experience driving with the vision deficiency. The qualifications,

experience, and medical condition of each applicant were stated and discussed in detail in the June 18, 2018, **Federal Register** notice (83 FR 28335) and will not be repeated in this notice.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 11 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, complete loss of vision, glaucoma, macular degeneration, macular scar, prosthesis, and retinal scarring. In most cases, their eye conditions were not recently developed. Seven of the applicants were either born with their vision impairments or have had them since childhood. The four individuals that sustained their vision conditions as adults have had it for a range of 4 to 17 years. Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 4 to 81 years. In the past three years, one driver was involved in a crash, and no drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10) and (b) by a certified Medical Examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 11 exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:

Scott B. Barker (WA)
Christopher L. Binkley (NH)
Darrell B. Emery (TX)
Louis D. Faw (NC)
Troy L. Hargrave (MO)
Randall J. Kau (WI)
James M. O'Brien (MA)
Patrick A. Piekkola (SD)
Marco A. Pinto (NY)
Andrew R. Sampson, Jr. (MD)
Khamla Vongvoraseng (NC)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17599 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0242]

Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from four individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against operation of a commercial motor vehicle (CMV) by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive heart failure. If granted, the exemptions would enable these individuals with implantable cardioverter defibrillators (ICDs) to operate CMVs in interstate commerce.

DATES: Comments must be received on or before September 14, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2018–0242 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building

Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov,* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224,Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The four individuals listed in this notice have requested an exemption from 49 CFR 391.41(b)(4). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard found in 49 CFR 391.41(b)(4) states that a person is physically qualified to drive a CMV if that person has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *D. Cardiovascular: § 391.41(b)(4),* paragraph 4.] The advisory criteria states that ICDs are disqualifying due to risk of syncope.

II. Qualifications of Applicants

David Christiansen

Mr. Christiansen is a 42 year old driver in Illinois. A May 2018, report from his cardiologist indicates that Mr. Christiansen's ICD was implanted in May of 2017, and that after a corrective procedure, he has experienced no recurrence of arrhythmia on interrogation of his ICD which provides ''24/7'' assessment for recurrence.

Christopher G. Harville

Mr. Harville is a 37 year old Class B CDL holder in South Carolina. An undated letter from Mr. Harville's cardiologist reports that his ICD was implanted in May 2014, and that as of September 2017, he has remained asymptomatic, without complaints of dizziness, lightheadedness, near syncope/syncope, or chest pain. The letter further states that since ICD placement in 2014, he has never needed/received deployment of his defibrillator and receives ICD checks every 3–6 months.

Terry W. Meredith

Mr. Meredith is a 56 year old driver in Tennessee. An April 2018, letter from his cardiologist states that his ICD was implanted in June 2016, and he has never received therapy from his device. His measured ejection fraction was 30% in June 2017, and was 50–55% after a recheck in October 2017.

Grady C. Stone

Mr. Stone is a 67 year old driver in Georgia. An April 2018, letter from his cardiologist states that his ICD was implanted in September 2017, and since the device implantation, he has not had any arrhythmias detected.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0242 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

period. FMCSA may issue a final determination any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0242 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: August 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–17567 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0059]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that on July 26, 2018, the Grand Canyon Railway (GCRY) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 230, *Steam Locomotive Inspection and Maintenance Standards*. FRA assigned the petition docket number FRA–2018–0059. GCRY maintains and operates No. 29, a 2–8–0 ''Consolidation'' type steam locomotive built by the American Locomotive Works in 1906 for the Lake Superior & Ishpeming Railroad. GCRY occasionally operates No. 29 to pull excursion trains from Williams, AZ, to the Depot at the rim of the Grand Canyon.

GCRY requests relief from performing the 1,472 service day inspection (SDI), for No. 29, as it pertains to the inspection of the boiler every 15 calendar years or 1,472 service days. *See* 49 CFR 230.17. This relief would extend the inspection date from May 2, 2019, to the completion of the GCRY operating season on October 31, 2019. It is expected that they would accrue approximately 15 service days during this extension period. At the last annual inspection, the locomotive accrued 410 service days toward the allowable 1,472 service days. GCRY also requests relief from performing the annual inspection required by 49 CFR 230.16. This relief would extend the current annual inspection by only 15 service days.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 1, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy*. See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

John K. Alexy,

Deputy Associate Administrator for Railroad Safety.

[FR Doc. 2018–17516 Filed 8–14–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Tax and Trade Bureau Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 14, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB)

Title: Drawback on Distilled Spirits Exported.

OMB Control Number: 1513–0042.

Type of Review: Revision of a currently approved collection.

Abstract: Under the Internal Revenue Code (IRC) at 26 U.S.C. 5062, persons who export tax-paid distilled spirits may claim drawback of the excise tax

paid on those spirits, under regulations prescribed by the Secretary of the Treasury (the Secretary). Under the TTB regulations, persons use TTB F 5110.30 to claim drawback of the Federal alcohol excise taxes paid on exported distilled spirits. The form requests, among other information, data regarding the claimant, the tax-paid spirits exported, and the amount of tax to be refunded. This information collection is necessary to protect the revenue as it allows TTB to verify that the excise tax has been paid on the spirits and that the spirits have been exported.

Form: TTB F 5110.30.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 800.

Title: Application and Permit to Ship Puerto Rican Spirits to the United States without Payment of Tax.

OMB Control Number: 1513–0043.

Type of Review: Extension without change of a currently approved collection.

Abstract: The Internal Revenue Code (IRC) at 26 U.S.C. 7652 imposes on Puerto Rican distilled spirits shipped to the United States for consumption or sale a tax equal to the internal revenue tax (excise tax) imposed in the United States on distilled spirits of domestic manufacture. However, the IRC at 26 U.S.C. 5232 provides that distilled spirits imported or brought into the United States in bulk containers may, under regulations prescribed by the Secretary, be withdrawn from Customs custody and transferred to the bonded premises of a domestic distilled spirits plant without payment of the internal revenue tax imposed on such spirits. The IRC at 26 U.S.C. 5314 also states that spirits may be withdrawn from the bonded premises of a distilled spirits plant in Puerto Rico pursuant to an authorization issued under the laws of Puerto Rico. Under those IRC authorities, TTB has issued regulations in 27 CFR part 26, Liquors and Articles from Puerto Rico and the Virgin Islands, which require respondents to use form TTB F 5110.31 to apply for and receive permission to ship Puerto Rican distilled spirits to the United States without payment of Federal excise tax. The form identifies the specific spirits to be shipped, the amount of spirits shipped and received, and the shipment's consignor in Puerto Rico and consignee in the United States. The collected information is necessary to protect the revenue.

Form: TTB F 5110.31.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 375.

Title: Reports of Removal, Transfer, or Sale of Processed Tobacco.

OMB Control Number: 1513–0130.

Type of Review: Revision of a currently approved collection.

Abstract: The Internal Revenue Code at 26 U.S.C. 5722 requires importers and manufacturers of tobacco products, processed tobacco, or cigarette papers and tubes to make reports containing such information, in such form, at such times, and for such periods as the Secretary by regulation prescribes. While processed tobacco is not subject to Federal excise tax under the IRC, tobacco products subject to such taxes may be manufactured using processed tobacco. To protect the revenue by minimizing diversion of processed tobacco to illegal manufacturers, TTB has issued regulations that require persons holding TTB permits as importers or manufacturers of processed tobacco or tobacco products to report all removals, transfers, or sales of processed tobacco made for export or for shipment to any domestic entity that does not hold a such a permit or a permit to operate as an export warehouse proprietor. In general, respondents must report each such shipment by the close of the next business day using form TTB F 5250.2. However, exporters may apply to TTB to report removals made for export using a monthly summary report. TTB F 5250.2 and the monthly summary report require information identifying the TTB permit holder making the processed tobacco shipment, the type and quantity of processed tobacco shipped, the person(s) purchasing (or receiving) and delivering the processed tobacco, and the destination address of the shipment.

Form: TTB F 5250.2.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,613.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 10, 2018.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2018–17581 Filed 8–14–18; 8:45 am]

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