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

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COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

5 CFR Part 9800

RIN 3219–AA01

Revision of Freedom of Information Act Regulations

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Interim final rule.

SUMMARY: The Council of the Inspectors General on Integrity and Efficiency (CIGIE) is issuing this interim final rule to amend its regulations under the Freedom of Information Act (FOIA) to incorporate certain changes made to FOIA by the FOIA Improvement Act of 2016. The rule also implements changes in accordance with the Inspector General Empowerment Act of 2016.

DATES: This interim final rule is effective October 3, 2018. Written comments may be submitted by November 2, 2018.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@cigie.gov.*
- *Fax:* (202) 254–0162.
- *Mail:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW, Suite 825, Washington, DC 20006.
- *Hand Delivery/Courier:* Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW, Suite 825, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Atticus J. Reaser, General Counsel, CIGIE, (202) 292–2600.

SUPPLEMENTARY INFORMATION:

Background Information

This rule amends CIGIE's regulations under the Freedom of Information Act (FOIA) to incorporate certain changes made to FOIA, 5 U.S.C. 552, by the FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (June 30, 2016). The FOIA Improvement Act requires all agencies to review and update their FOIA regulations in accordance with its provisions. CIGIE is making changes to its regulations accordingly, including highlighting the electronic availability of records, notifying requesters of their right to seek assistance from the FOIA Public Liaison and the Office of Government Information Services, changing the time limit for appeals, and describing limitations on assessing search fees if the response time is delayed.

Additionally, on December 16, 2016, the Inspector General Empowerment Act of 2016, Public Law 114–317, 130 Stat. 1595 (IGEA) was signed into law by the President thereby amending the Inspector General Act of 1978, as amended, 5 U.S.C. app., (Inspector General Act) and expanding CIGIE's records maintenance responsibilities to include maintenance of the records of CIGIE's Integrity Committee (IC) by CIGIE's Chairperson. IC records were previously maintained pursuant to the Inspector General Act by the Federal Bureau of Investigation (FBI). To conform to the IGEA and meet its obligations thereunder, CIGIE is amending its regulations implementing FOIA to reflect that CIGIE has a centralized FOIA program and requesters should no longer submit FOIA requests for IC-related records to the FBI.

In addition, CIGIE is restructuring its regulations under FOIA to more closely conform to the format recommended by the Department of Justice Office of Information Policy. Accordingly, due to the restructuring and number of changes, CIGIE is reissuing its FOIA regulations in their entirety.

In 2008, Congress established CIGIE as an independent entity within the executive branch to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General (OIG). CIGIE's membership is comprised of all Inspectors General whose offices are established under section 2 or section 8G of the Inspector General Act (*i.e.,* those Inspectors General that are Presidentially-appointed/Senate-confirmed and those that are appointed by agency heads) as well as the Controller of the Office of Federal Financial Management, a designated official of the FBI, the Director of the Office of Government Ethics, the Special Counsel of the Office of Special Counsel, the Deputy Director of the Office of Personnel Management, the Deputy Director for Management of the Office of Management and Budget (OMB), and the Inspectors General for the Intelligence Community, Central Intelligence Agency, Library of Congress, Capitol Police, Government Publishing Office, Government Accountability Office, and Architect of the Capitol. The Deputy Director for Management of OMB serves as the Executive Chairperson of CIGIE.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(d)(3), CIGIE has found that good cause exists for waiving the general notice of proposed rulemaking and public comment procedures as to these amendments and for issuing this interim final rule without a delayed effective date. The notice and comment procedures are being waived because most of the revisions are being made in accordance with the mandates of the FOIA Improvement Act of 2016 and the IGEA and CIGIE is not exercising discretion on substantive matters in issuing these revisions.

Executive Orders 12866 and 13563

In promulgating this rule, CIGIE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. OMB has determined that this rule is not ''significant'' under Executive Order 12866.

Regulatory Flexibility Act

These regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided by the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting and recordkeeping requirements. Therefore, clearance by OMB is not required.

Federalism (Executive Order 13132)

This rule does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 5 CFR Part 9800

Administrative practice and procedure, Freedom of Information, Privacy.

■ Accordingly, for the reasons set forth in the preamble, 5 CFR part 9800 is revised to read as follows:

PART 9800—FREEDOM OF INFORMATION ACT REGULATIONS

Sec.

9800.101 General provisions.
9800.102 Requirements for making FOIA requests.
9800.103 Consultations, referrals, and coordination.
9800.104 Timing of responses to requests.
9800.105 Responses to requests.
9800.106 Confidential commercial information.
9800.107 Administrative appeals.
9800.108 Preservation of records.
9800.109 Fees.
9800.110 Public reading room.
9800.111 Other rights and services.

Authority: Section 11 of the Inspector General Act of 1978, as amended, 5 U.S.C. app.; Section 3 of the Inspector General Empowerment Act of 2016, Pub. L. 114–317, 130 Stat. 1595; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 9701.

§ 9800.101 General provisions.

(a) *In general.* This part contains the rules that the Council of the Inspectors General on Integrity and Efficiency (CIGIE) follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. These rules should be read in conjunction with the text of FOIA and the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget (OMB Guidelines). Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, are processed under part 9801 as well as under this part.

(b) *Centralized system.* CIGIE has a centralized system for processing FOIA requests, with one office receiving and coordinating the processing of all FOIA requests made to CIGIE.

(c) *Authority to grant or deny requests.* The Executive Director of CIGIE, or designee, is authorized to grant or deny any requests for records that are maintained by CIGIE. For purposes of any request for records maintained by the CIGIE Integrity Committee (IC) established under section 11(d) of the Inspector General Act of 1978, as amended, 5 U.S.C. app. (Inspector General Act), the designees are the IC Chairperson and IC Vice Chairperson.

§ 9800.102 Requirements for making FOIA requests.

(a) *Requests generally.* (1) A request for CIGIE records under FOIA must be made in writing. The request must be sent by:

(i) Regular mail addressed to: FOIA Officer, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW, Suite 825, Washington, DC 20006; or

(ii) By fax sent to the FOIA Officer at (202) 254–0162; or

(iii) By email to *FOIASTAFF@cigie.gov*.

(2) For the quickest handling, both the request letter and envelope or any fax cover sheet or email subject line should be clearly marked ''FOIA Request.'' Whether sent by mail, fax, email, or other prescribed electronic method, a FOIA request will not be considered to have been received by CIGIE until it reaches the FOIA office.

(3) A requester who is making a request for records about himself or herself, as a parent or guardian of a minor, or as the guardian of someone determined by a court to be incompetent, must comply with the verification of identity provisions set forth in part 9801.

(4) Where a request for records pertains to another individual, a requester may receive greater access by submitting either a notarized authorization signed by that individual or a declaration made in compliance with the requirements set forth in 28 U.S.C. 1746 by that individual authorizing disclosure of the records to the requester, or by submitting proof that the individual is deceased (*e.g.,* a copy of a death certificate or an obituary). As an exercise of administrative discretion, CIGIE can require a requester to supply additional information if necessary to verify that a particular individual has consented to disclosure.

(b) *Description of records sought.* Requesters must describe the records sought in sufficient detail to enable CIGIE personnel to locate them with a reasonable amount of effort. To the extent possible, requesters should include specific information that may assist CIGIE in identifying the requested records, such as the date, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number. In general, requesters should include as much detail as possible about the specific records or the types of records that they are seeking. Before making their requests, requesters may contact CIGIE's FOIA Public Liaison to discuss the records they are seeking and to receive assistance in describing the records. If after receiving a request CIGIE determines that it does not reasonably describe the records sought, CIGIE will inform the requester what additional information is needed to perfect the request or why the request is otherwise insufficient. CIGIE will toll the processing of the request when it notifies the requester that additional information is needed or that the request is otherwise insufficient. CIGIE may toll one time for this purpose. Requesters who are attempting to reformulate or modify such a request may discuss their request with CIGIE's FOIA Public Liaison. If the requester does not provide the additional information within 30 days, the request will be closed.

(c) *Preferred format.* Requests may specify the preferred form or format (including electronic formats) for the records sought. CIGIE will accommodate the request if the record is readily reproducible in that form or format.

(d) *Requester contact information.* Requesters must provide contact information, such as a telephone number, email address, and/or mailing address, to assist CIGIE in communicating with requester and providing released records.

§ 9800.103 Consultations, referrals, and coordination.

(a) *In general.* When reviewing records located by CIGIE in response to a request, CIGIE will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under FOIA. As to any such record, CIGIE will proceed in one of the following ways:

(1) *Consultation.* When records originated with CIGIE, but contain within them information of interest to another agency or office of the Federal Government, CIGIE will typically consult with that other agency prior to making a release determination.

(2) *Referral.* (i) When CIGIE believes that a different agency of the Federal Government is best able to determine whether to disclose the record, CIGIE typically will refer the responsibility for responding to the request regarding that record to that agency. Ordinarily, the agency that originated the record will be presumed to be best able to make the disclosure determination. However, if CIGIE and the originating agency jointly agree that the former is in the best position to respond regarding the record, then the record may be handled as a consultation.

(ii) Whenever CIGIE refers any part of the responsibility for responding to a request to another agency, it will document the referral, maintain a copy of the record that it refers, and notify the requester of the referral and inform the requester of the name(s) of the agency to which the record was referred, including that agency's FOIA contact information.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. For example, if CIGIE, in responding to a request for records on a living third party, locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party was not publicly known, then to disclose that law enforcement interest could cause an unwarranted invasion of the personal privacy of the third party. Similarly, if CIGIE locates within its files material originating with an Intelligence Community agency, and the involvement of that agency in the matter is classified and not publicly acknowledged, then to disclose or give attribution to the involvement of that Intelligence Community agency could cause national security harms. In such instances, to avoid harm to an interest protected by an applicable exemption, CIGIE will coordinate with the originating agency to seek its views on the disclosability of the record. The release determination for the record that is the subject of the coordination will then usually be conveyed to the requester by CIGIE.

(b) *Timing of responses to received consultations and referrals.* All consultations and referrals received by CIGIE will be handled according to the date that the first agency received the perfected FOIA request.

(c) *Agreements regarding consultations and referrals.* CIGIE may establish agreements with other agencies to eliminate the need for consultations or referrals with respect to particular types of records.

(d) *Classified information.* On receipt of any request involving classified information, CIGIE must determine whether the information is currently and properly classified in accordance with applicable classification rules. Whenever a request involves a record containing information that has been classified or may be appropriate for classification by another agency under any applicable Executive order concerning the classification of records, CIGIE must refer the responsibility for responding to the request regarding that information to the agency that classified the information, or that should consider the information for classification. Whenever CIGIE's record contains information that has been derivatively classified (for example, when it contains information classified by another agency), CIGIE must refer the responsibility for responding to that portion of the request to the agency that classified the underlying information.

§ 9800.104 Timing of responses to requests.

(a) *In general.* Ordinarily, CIGIE will have 20 days (excepting Saturdays, Sundays, and legal public holidays) from when a request is received to determine whether to grant or deny the request and will respond to requests according to their order of receipt in each track as addressed in paragraph (b) of this section. In determining which records are responsive to a request, CIGIE ordinarily will include only records in its possession as of the date on which it begins its search for them. If any other date is used, CIGIE will inform the requester of that date.

(b) *Multitrack processing.* (1) CIGIE processes requests using a multitrack processing system. There are four processing tracks: An expedited track, if the request qualifies; a simple track for relatively simple requests; a complex track for more complex and lengthy requests; and a remanded track, when a FOIA appeal is granted. After CIGIE assigns a request to a track for processing, CIGIE will notify the requester of that assignment.

(2) CIGIE may provide requesters in its complex track with an opportunity to limit the scope of their requests to qualify for faster processing within the specified limits of the simple track.

(c) *Unusual circumstances.* Whenever the statutory time limit for processing a request cannot be met because of ''unusual circumstances,'' as defined in FOIA, and CIGIE extends the time limit on that basis, CIGIE will, before expiration of the 20-day period to respond, notify the requester in writing of the unusual circumstances involved and of the date by which processing of the request can be expected to be completed. Where the extension exceeds 10 working days, CIGIE will, as described by FOIA, provide the requester with an opportunity to modify the request or arrange an alternative time period for processing. CIGIE will make available its designated FOIA contact and its FOIA Public Liaison for this purpose. CIGIE will also alert requesters to the availability of the Office of Government Information Services to provide dispute resolution services.

(d) *Aggregating requests.* For the purposes of satisfying unusual circumstances under FOIA, CIGIE may aggregate requests in cases where it reasonably appears that multiple requests, made either by a requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances. CIGIE will not aggregate multiple requests that involve unrelated matters.

(e) *Expedited processing.* (1) Requests and appeals will be processed on an expedited basis whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence.

(2) A request for expedited processing may be made at any time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. For example, under paragraph (e)(1)(ii) of this section, a requester who is not a full-time member of the news media must establish that the requester is a person whose primary professional activity or occupation is information dissemination, though it need not be the requester's sole occupation. Such a requester also must establish a particular urgency to inform the public

about the government activity involved in the request—one that extends beyond the public's right to know about government activity generally. The existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an ''urgency to inform'' the public on the topic. As a matter of administrative discretion, CIGIE may waive the formal certification requirement.

(4) CIGIE will notify the requester within 10 calendar days of the receipt of a request for expedited processing of its decision whether to grant or deny expedited processing. If expedited processing is granted, the request will be given priority, placed in the processing track for expedited requests, and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

§ 9800.105 Responses to requests.

(a) *In general.* CIGIE will, to the extent practicable, communicate with requesters having access to the internet using electronic means, such as email.

(b) *Acknowledgments of requests.* CIGIE will acknowledge the request in writing and assign it an individualized tracking number if it will take longer than 10 working days to process. CIGIE will include in the acknowledgment a brief description of the records sought to allow requesters to more easily keep track of their requests.

(c) *Grants of requests.* Once CIGIE makes a determination to grant a request in full or in part, it will notify the requester in writing. CIGIE also will inform the requester of any fees charged under § 9800.109 and will disclose the requested records to the requester promptly upon payment of any applicable fees. CIGIE will inform the requester of the availability of the FOIA Public Liaison to offer assistance.

(d) *Adverse determinations of requests.* When CIGIE makes an adverse determination denying a request in any respect, it will notify the requester of that determination in writing. Adverse determinations, or denials of requests, include decisions that: The requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to FOIA; the requested record does not exist, cannot be located, or has been destroyed; or the requested record is not readily reproducible in the form or format sought by the requester. Adverse determinations also include denials involving fees or fee waiver matters or denials of requests for expedited processing.

(e) *Content of denial.* The denial will include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reasons for the denial, including any FOIA exemption applied by CIGIE in denying the request;

(3) An estimate of the volume of any records or information withheld, such as the number of pages or some other reasonable form of estimation, although such an estimate is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part or if providing an estimate would harm an interest protected by an applicable exemption; and

(4) A statement that the denial may be appealed under § 9800.107 and a description of the requirements set forth therein.

(5) A statement notifying the requester of the assistance available from the FOIA Public Liaison and the dispute resolution services offered by the Office of Government Information Services.

(f) *Markings on released documents.* Markings on released documents must be clearly visible to the requester. Records disclosed in part will be marked to show the amount of information deleted and the exemption under which the deletion was made unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted will also be indicated on the record, if technically feasible.

(g) *Use of record exclusions.* (1) In the event that CIGIE identifies records that may be subject to exclusion from the requirements of FOIA pursuant to 5 U.S.C. 552(c), CIGIE will confer with the Department of Justice Office of Information Policy (OIP) to obtain approval to apply the exclusion.

(2) Should CIGIE invoke an exclusion, it will maintain an administrative record of the process of invocation and approval of the exclusion by OIP.

§ 9800.106 Confidential commercial information.

(a) *Definitions*—(1) *Confidential commercial information* means commercial or financial information obtained by CIGIE from a submitter that may be protected from disclosure under Exemption 4 of FOIA, 5 U.S.C. 552(b)(4).

(2) *Submitter* means any person or entity, including a corporation, State, or foreign government, but not including another Federal Government entity, that provides information either directly or indirectly to the Federal Government.

(b) *Designation of confidential commercial information.* A submitter of confidential commercial information must use good faith efforts to designate by appropriate markings, either at the time of submission or within a reasonable time thereafter, any portion of its submission that it considers to be protected from disclosure under Exemption 4. These designations shall expire 10 years after the date of the submission unless the submitter requests and provides justification for a longer designation period.

(c) *When notice to submitters is required.* (1) CIGIE will promptly provide written notice to a submitter of confidential commercial information whenever records containing such information are requested under FOIA if, after reviewing the request, the responsive records, and any appeal by the requester, CIGIE determines that it may be required to disclose the records, provided:

(i) The requested information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(ii) CIGIE has a reason to believe that the requested information may be protected from disclosure under Exemption 4, but has not yet determined whether the information is protected from disclosure under that exemption or any other applicable exemption.

(2) The notice will either describe the commercial information requested or include a copy of the requested records or portions of records containing the information. In cases involving a voluminous number of submitters, notice may be made by posting or publishing the notice in a place or manner reasonably likely to accomplish it.

(d) *Exceptions to submitter notice requirements.* The notice requirements of this section will not apply if:

(1) CIGIE determines that the information is exempt under FOIA;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by a statute other than FOIA or by a regulation issued in accordance with the requirements of Executive Order 12600; or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous, except that, in such a case, CIGIE will give the submitter written notice of any final decision to disclose the

information and must provide that notice within a reasonable number of days prior to a specified disclosure date.

(e) *Opportunity to object to disclosure.* (1) CIGIE will specify a reasonable time period within which the submitter must respond to the notice referenced above. If a submitter has any objections to disclosure, it should provide CIGIE a detailed written statement that specifies all grounds for withholding the particular information under any exemption of FOIA. To rely on Exemption 4 as basis for nondisclosure, the submitter must explain why the information constitutes a trade secret or commercial or financial information that is privileged or confidential.

(2) A submitter who fails to respond within the time period specified in the notice shall be considered to have no objection to disclosure of the information. Information received by CIGIE after the date of any disclosure decision shall not be considered by CIGIE. Any information provided by a submitter under this part may itself be subject to disclosure under FOIA.

(f) *Analysis of objections.* CIGIE will consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose the requested information.

(g) *Notice of intent to disclose.* Whenever CIGIE decides to disclose information over the objection of a submitter, CIGIE will provide the submitter written notice, which will include:

(1) A statement of the reasons why each of the submitter's disclosure objections was not sustained;

(2) A description of the information to be disclosed; and

(3) A specified disclosure date, which will be a reasonable time subsequent to the notice.

(h) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of confidential commercial information, CIGIE will promptly notify the submitter.

(i) *Requester notification.* CIGIE will notify a requester whenever it provides the submitter with notice and an opportunity to object to disclosure; whenever it notifies the submitter of its intent to disclose the requested information; and whenever a submitter files a lawsuit to prevent the disclosure of the information.

§ 9800.107 Administrative appeals.

(a) *Appeals of adverse determinations.* A requester may appeal a determination denying a FOIA request in any respect to the CIGIE Chairperson c/o Office of General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW, Suite 825, Washington, DC 20006. The appeal must be in writing, and must be submitted either by:

(1) Regular mail sent to the address listed in this subsection, above; or

(2) By fax sent to the FOIA Officer at (202) 254–0162; or

(3) By email to *FOIAAPPEAL@cigie.gov.*

(b) *Submission and content.* The Office of General Counsel must receive the appeal within 90 calendar days of the date of the letter denying the request. For the quickest possible handling, the appeal letter and envelope or any fax cover sheet or email subject line should be clearly marked ''FOIA Appeal.'' The appeal letter must clearly identify the CIGIE determination (including the assigned FOIA request number, if known) being appealed.

(c) *Adjudication of appeals.* (1) The CIGIE Chairperson or designee will act on all appeals under this section.

(2) An appeal ordinarily will not be adjudicated if the request becomes a matter of FOIA litigation.

(3) On receipt of any appeal involving classified information, CIGIE will take appropriate action to ensure compliance with applicable classification rules.

(d) *Decisions on appeals.* Ordinarily, CIGIE will have 20 days (excepting Saturdays, Sundays, and legal public holidays) from receipt of the appeal to issue an appeal decision. 5 U.S.C. 552(a)(6)(A)(ii). CIGIE will provide its decision on an appeal in writing. A decision that upholds CIGIE's determination in whole or in part will contain a statement that identifies the reasons for the affirmance, including any FOIA exemptions applied. The decision will provide the requester with notification of the statutory right to file a lawsuit and will inform the requester of the dispute resolution services offered by the Office of Government Information Services of the National Archives and Records Administration as a non-exclusive alternative to litigation. If CIGIE's decision is remanded or modified on appeal, CIGIE will notify the requester of that determination in writing. CIGIE will then further process the request in accordance with that appeal determination and will respond directly to the requester.

(e) *Engaging in dispute resolution services provided by the Office of Government Information Services.* Mediation is a voluntary process. If CIGIE agrees to participate in the mediation services provided by the Office of Government Information Services, it will actively engage as a partner to the process in an attempt to resolve the dispute.

(f) *When appeal is required.* Before seeking review by a court of CIGIE's adverse determination, a requester generally must first submit a timely administrative appeal.

§ 9800.108 Preservation of records.

CIGIE will preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code and the relevant approved records retention schedule. Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under FOIA.

§ 9800.109 Fees.

(a) *In general.* CIGIE will charge for processing requests under FOIA in accordance with the provisions of this section and with the OMB Guidelines. To resolve any fee issues that arise under this section, CIGIE may contact a requester for additional information. CIGIE will ensure that searches, review, and duplication are conducted in the most efficient and the least expensive manner. CIGIE ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* is a request that asks for information for a use or a purpose that furthers a commercial, trade, or profit interest, which can include furthering those interests through litigation. CIGIE's decision to place a requester in the commercial use category will be made on a case-by-case basis based on the requester's intended use of the information. CIGIE will notify requester if requester is placed in the commercial use category.

(2) *Direct costs* are those expenses that an agency incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. For example, direct costs include the salary of the employee performing the work (*i.e.,* the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment, such as photocopiers and scanners. Direct costs do not include overhead expenses, such as the costs of space, and of heating or lighting a facility.

(3) *Duplication* is reproducing a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, audiovisual materials, or electronic records, among others.

(4) *Educational institution* is any school that operates a program of scholarly research. A requester in this fee category must show that the request is made in connection with the requester's role at the educational institution. CIGIE may seek assurance from the requester that the request is in furtherance of scholarly research and will advise requesters of their placement in this category.

(5) *Noncommercial scientific institution* is an institution that is not operated on a ''commercial'' basis, as defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and are not for a commercial use. CIGIE will notify requester if requester is placed in the noncommercial scientific institution category.

(6) *Representative of the news media* is any person or entity that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations that broadcast ''news'' to the public at large and publishers of periodicals that disseminate ''news'' and make their products available through a variety of means to the general public, including news organizations that disseminate solely on the internet. A request for records supporting the news-dissemination function of the requester will not be considered to be for a commercial use. ''Freelance'' journalists who demonstrate a solid basis for expecting publication through a news media entity will be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, CIGIE will also consider a requester's past publication record in making this determination. CIGIE will notify requester if requester is placed in the representative of the news media category.

(7) *Review* is the examination of a record located in response to a request to determine whether any portion of it is exempt from disclosure. Review time includes processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting the record and marking the appropriate exemptions. Review costs are properly charged even if a record ultimately is not disclosed. Review time also includes time spent both obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under § 9800.106, but it does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* is the process of looking for and retrieving records or information responsive to a request. Search time includes page-by-page or line-by-line identification of information within records and the reasonable efforts expended to locate and retrieve information from electronic records.

(c) *Charging fees.* In responding to FOIA requests, CIGIE will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (k) of this section. Because the fee amounts provided below already account for the direct costs associated with a given fee type, CIGIE will not add any additional costs to charges calculated under this section.

(1) *Search.* (i) Requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media are not subject to search fees. Search fees will be charged for all other requesters, subject to the restrictions of paragraph (d) of this section. CIGIE may properly charge for time spent searching even if they do not locate any responsive records or if they determine that the records are entirely exempt from disclosure.

(ii) For each quarter hour spent by personnel searching for requested records, including electronic searches that do not require new programming, the fees will be as follows: Professional—$10.00; and clerical/administrative—$4.75.

(iii) Requesters will be charged the direct costs associated with conducting any search that requires the creation of a new computer program to locate the requested records. Requesters will be notified of the costs associated with creating such a program and must agree to pay the associated costs before the costs may be incurred.

(iv) For requests that require the retrieval of records stored by an agency at a Federal records center operated by National Archives and Records Administration, additional costs will be charged in accordance with the Transactional Billing Rate Schedule established by National Archives and Records Administration.

(2) *Duplication.* Duplication fees will be charged to all requesters, subject to the restrictions of paragraph (d) of this section. CIGIE will honor a requester's preference for receiving a record in a particular form or format where it is readily reproducible by CIGIE in the form or format requested. Where photocopies are supplied, CIGIE will provide one copy per request at a cost of five cents per page. For copies of records produced on tapes, disks, or other media, CIGIE will charge the direct costs of producing the copy, including operator time. Where paper documents must be scanned to comply with a requester's preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials. For other forms of duplication, CIGIE shall charge the direct costs.

(3) *Review.* Review fees shall be charged to requesters who make commercial use requests. Review fees shall be assessed in connection with the initial review of the record, *i.e.,* the review conducted by CIGIE to determine whether an exemption applies to a particular record or portion of a record. No charge will be made for review at the administrative appeal stage of exemptions applied at the initial review stage. However, if a particular exemption is deemed to no longer apply, any costs associated with CIGIE's re-review of the records in order to consider the use of other exemptions may be assessed as review fees. Review fees shall be charged at the same rates as those charged for a search under paragraph (c)(1)(ii) of this section.

(d) *Restrictions on charging fees.* (1) No search fees will be charged for requests by educational institutions (unless the records are sought for a commercial use), noncommercial scientific institutions, or representatives of the news media.

(2) If CIGIE fails to comply with FOIA's time limits in which to respond to a request, it may not charge search fees, or, in the instances of requests from requesters described in paragraph (d)(1) of this section, may not charge duplication fees, except as described in paragraphs (d)(2)(i) through (iii) of this section.

(i) If CIGIE has determined that unusual circumstances, as defined by FOIA, apply and CIGIE provided timely written notice to the requester in accordance with FOIA, a failure to comply with the time limit will be excused for an additional 10 days.

(ii) If CIGIE has determined that unusual circumstances as defined by FOIA apply, and more than 5,000 pages are necessary to respond to the request, CIGIE may charge search fees, or, in the case of requesters described in paragraph (d)(1) of this section, may charge duplication fees if the following steps are taken. CIGIE will have provided timely written notice of unusual circumstances to the requester in accordance with FOIA and CIGIE will have discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, CIGIE may charge all applicable fees incurred in the processing of the request.

(iii) If a court has determined that exceptional circumstances exist, as defined by FOIA, a failure to comply with the time limits will be excused for the length of time provided by the court order.

(3) No search or review fees will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(4) Except for requesters seeking records for a commercial use, CIGIE will provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent for other media); and

(ii) The first two hours of search.

(5) When, after first deducting the 100 free pages (or its cost equivalent) and the first two hours of search, a total fee calculated under paragraph (c) of this section is $25.00 or less for any request, no fee will be charged.

(e) *Notice of anticipated fees in excess of $25.00.* (1) When CIGIE determines or estimates that the fees to be assessed in accordance with this section will exceed $25.00, CIGIE will notify the requester of the actual or estimated amount of the fees, including a breakdown of the fees for search, review, or duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, CIGIE will advise the requester accordingly. If the requester is a noncommercial use requester, the notice will specify that the requester is entitled to the statutory entitlements of 100 pages of duplication at no charge and, if the requester is charged search fees, two hours of search time at no charge, and will advise the requester whether those entitlements have been provided.

(2) In cases in which a requester has been notified that the actual or estimated fees exceed $25.00, the request shall not be considered received and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee, or designates some amount of fees the requester is willing to pay, or in the case of a noncommercial use requester who has not yet been provided with the requester's statutory entitlements, designates that the requester seeks only that which can be provided by the statutory entitlements. The requester must provide the commitment or designation in writing, and must, when applicable, designate an exact dollar amount the requester is willing to pay. CIGIE is not required to accept payments in installments.

(3) If the requester has indicated a willingness to pay some designated amount of fees, but CIGIE estimates that the total fee will exceed that amount, CIGIE shall toll the processing of the request when it notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. CIGIE will inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the time to respond will resume from where it was at the date of the notification.

(4) CIGIE will make available their FOIA Public Liaison or other FOIA professional to assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(f) *Charges for other services.* Although not required to provide special services, if CIGIE chooses to do so as a matter of administrative discretion, the direct costs of providing the service shall be charged. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(g) *Charging interest.* CIGIE may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges shall be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received by CIGIE. CIGIE will follow the provisions of the Debt Collection Act of 1982, Public Law 97–365, 96 Stat. 1749, as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(h) *Aggregating requests.* When CIGIE reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a single request into a series of requests for the purpose of avoiding fees, CIGIE may aggregate those requests and charge accordingly. CIGIE may presume that multiple requests of this type made within a 30-day period have been made to avoid fees. For requests separated by a longer period, CIGIE will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraph (i)(2) or (3) of this section, CIGIE will not require the requester to make an advance payment before work is commenced or continued on a request. Payment owed for work already completed (*i.e.,* payment before copies are sent to a requester) is not an advance payment.

(2) When CIGIE determines or estimates that a total fee to be charged under this section will exceed $250.00, it may require that the requester make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. CIGIE may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(3) Where a requester has previously failed to pay a properly charged FOIA fee to CIGIE or another agency within 30 days of the billing date, CIGIE may require that the requester pay the full amount due, plus any applicable interest on that prior request, and CIGIE may require that the requester make an advance payment of the full amount of any anticipated fee before CIGIE begins to process a new request or continues to process a pending request or any pending appeal. Where CIGIE has a reasonable basis to believe that a requester has misrepresented the requester's identity to avoid paying outstanding fees, it may require that the requester provide proof of identity.

(4) In cases in which CIGIE requires advance payment, the request shall not be considered received and further work will not be completed until the required payment is received. If the requester does not pay the advance payment within 30 days after the date of CIGIE's fee determination, the request will be closed.

(j) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute that specifically requires an agency to set and collect fees for particular types of records. In instances where records responsive to a request are subject to a statutorily-based fee schedule program, CIGIE shall inform the requester of the contact information for that program.

(k) *Requirements for waiver or reduction of fees.* (1) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) CIGIE will furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. In deciding whether this standard is satisfied CIGIE will consider the factors described in paragraphs (k)(2)(i) through (iii) of this section.

(i) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(ii) Disclosure of the requested information would be likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(B) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public must be considered. CIGIE will presume that a representative of the news media will satisfy this consideration.

(iii) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, CIGIE will consider the following criteria:

(A) CIGIE must identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters must be given an opportunity to provide explanatory information regarding this consideration.

(B) If there is an identified commercial interest, CIGIE must determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (k)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. CIGIE ordinarily will presume that when a news media requester has satisfied the requirements of paragraphs (k)(2)(i) and (ii) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to CIGIE and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester shall be required to pay any costs incurred up to the date the fee waiver request was received.

§ 9800.110 Public reading room.

CIGIE maintains an electronic public reading room on its website, *http://www.ignet.gov,* which contains the records that FOIA requires be regularly made available for public inspection and copying, as well as additional records of interest to the public. CIGIE is responsible for determining which of its records must be made publicly available, for identifying additional records of interest to the public that are appropriate for public disclosure, and for posting and indexing such records. CIGIE must ensure that its website of posted records and indices is reviewed and updated on an ongoing basis. CIGIE's FOIA Public Liaison can assist individuals in locating records at CIGIE.

§ 9801.111 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under FOIA.

Dated: September 26, 2018.

Michael E. Horowitz,

Chairperson of the Council of the Inspectors General on Integrity and Efficiency.

[FR Doc. 2018–21548 Filed 10–2–18; 8:45 am]

BILLING CODE 6820–C9–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Doc. No. AMS–SC–17–0077; SC18–945–1 FR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Modification of Handling Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the Idaho-Eastern Oregon Potato Committee (Committee) to revise the varietal classifications that determine the size requirements for Irish potatoes grown in certain designated counties of Idaho, and Malheur County, Oregon. As provided under section 8e of the Agricultural Marketing Agreement Act of 1937, this modification also applies to all imported long type Irish potatoes. This final rule also makes administrative revisions to the subpart headings to bring the language into conformance with the Office of Federal Register requirements.

DATES: Effective November 2, 2018.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, or Gary D. Olson, Regional Manager, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email:

Barry.Broadbent@usda.gov or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Agreement No. 98 and Order No. 945, as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. Part 945 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of potato producers and handlers operating within the production area.

Section 8e of the Act provides that whenever certain specified commodities, including potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this final rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this final rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Under the terms of the Order, fresh market shipments of Idaho-Eastern Oregon potatoes are required to be inspected and are subject to minimum grade, size, quality, maturity, pack, and container requirements. This final rule revises the varietal classifications that determine the size requirements for potatoes handled under the Order. As required under section 8e of the Act, the revisions to the Order's varietal classifications will also be applied to imported long type potatoes.

At its meeting on November 8, 2017, the Committee unanimously recommended revising the varietal classifications that determine the size requirements for U.S. No. 2 grade potatoes. Sections 945.51 and 945.52 provide authority for the establishment and modification of grade, size, quality, and maturity regulations applicable to the handling of potatoes.

Section 945.341 establishes minimum grade, size, quality, maturity, pack, and container requirements for potatoes handled subject to the Order. The Order's handling regulations currently have two different size requirements for U.S. No. 2 grade potatoes. The requirements are applied based upon the varietal classification of the subject potato. Prior to this action, the varietal classifications that determine which of the different size requirements are applicable are designated as ''round varieties'' in § 945.341(a)(2)(i) and as ''all other varieties'' in § 945.341(a)(2)(ii).

This final rule removes the designation ''round varieties'' in § 945.341(a)(2)(i) to make the size requirements in that paragraph applicable to all U.S. No. 2 grade potatoes, unless otherwise specified. In addition, this final rule changes the designation for ''all other varieties'' in § 945.341(a)(2)(ii) to ''Russet types,'' maintaining the larger size requirements for ''Russet types'' only.

Committee members reported that the Idaho-Eastern Oregon potato industry has been producing and shipping an increasing number of non-traditional potato varieties, such as oblong, fingerling, and banana potatoes. Prior to this final rule, the size requirements contained in the handling regulations did not adequately differentiate between the various types of potatoes to effectively regulate the unique varieties that are now being marketed from the production area. Without a clear distinction, there existed the potential to inhibit orderly marketing of such potatoes by requiring them to adhere to size requirements that were never intended to be applied to that type or variety. Designating potatoes as ''round varieties'' and ''all other varieties'' was appropriate when the regulations were initially established, but potatoes from the production area are now segmented into two different market sectors: Russet type potatoes and all other non-Russet varieties. The characteristics of each of these market sectors continues to need different minimum size requirements. However, with the previous size requirement classifications in the handling regulations, some varieties of potatoes were being required to meet size requirements that did not match their natural characteristics or their intended market outlet.

For example, Russet varieties are primarily utilized as baked potatoes or are peeled and further prepared by the consumer as products such as french fries, potato salad, or mashed potatoes. The Committee intends for the size requirements for these potatoes to be greater than for other varieties of potatoes and those size requirements match the likely utilization of such potatoes. Non-Russet type potatoes are typically marketed fresh and are prepared and consumed whole. These types, while predominantly round varieties, include unique varieties that could not be described as ''round'' but are also not comparable to Russet types. Requiring non-Russet type potatoes to meet size requirements intended for potatoes used for baking or french fries puts those potatoes at a marketing disadvantage.

The Committee believes that potato size is a significant consideration of potato buyers. Providing potato buyers with the sizes desired by their customers for the type of potato that is being marketed is important to promoting potato sales. The size requirements intended to facilitate

orderly marketing should not unintentionally inhibit a market segment, even if that segment is a minor one. Modifying the size requirement classifications to meet the intent of the Committee will help facilitate the growth of the emerging market for unique potato varieties. This change is expected to improve the marketing of Idaho-Eastern Oregon potatoes and enhance overall returns to handlers and producers.

This final rule relaxes the current handling regulations for non-round potatoes that are also not Russet type. Such potatoes will be subject to the smaller size requirements that have been, and will continue to be, applied to round varieties of potatoes. The Committee believes that, while these potatoes represent a small market segment relative to the total output from the production area, the market is expected to grow, and the Order's handling regulations should be responsive to it.

Section 8e mandates the regulation of certain imported commodities whenever those same commodities are regulated by a domestic marketing order. Irish potatoes are one of the commodities specifically covered by section 8e in the Act. In addition, section 8e stipulates that whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas are concurrently in effect, imports must comply with the provisions of the order which regulates the commodity produced in the area with which the imported commodity is in the ''most direct competition.'' 7 CFR 980.1(a)(2)(iii) contains the determination that imports of long type potatoes during each month of the year are in most direct competition with potatoes of the same type produced in the area covered by the Order.

Minimum grade, size, quality, and maturity requirements for potatoes imported into the United States are currently in effect under § 980.1. Section 980.1(b)(2) stipulates that, through the entire year, the grade, size, quality, and maturity requirements of the Order applicable to potatoes of all long types shall be the respective grade, size, quality, and maturity requirements for imported potatoes of all long types. Therefore, this action relaxes the minimum size requirements for imports of non-round U.S. No. 2 grade long type potatoes, other than Russet types, accordingly.

This final rule also allows potato importers to respond to the changing demands of domestic consumers. The domestic market's increasing preference for unique potato varieties applies to imported potatoes as well as to domestically produced potatoes. In addition, the higher prices that the unique potatoes are expected to command will also apply to imported product. Thus, importers are expected to benefit along with domestic producers and handlers by increased sales of U.S. No. 2 grade potatoes and increased total revenue.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 32 handlers of Idaho-Eastern Oregon potatoes who are subject to regulation under the Order and about 450 potato producers in the regulated area. In addition, there are approximately 255 importers of all types of potatoes, many of which import long types, who are subject to regulation under the Act. Small agricultural service firms, which include potato handlers and importers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000 (13 CFR 121.201).

During the 2016–2017 fiscal period, the most recent full year of statistics available, 37,449,300 hundredweight of Idaho-Eastern Oregon potatoes were inspected under the Order and sold into the fresh market. Based on information provided by the National Agricultural Statistics Service, the average producer price for the 2016 Idaho potato crop was $6.75 per hundredweight. Multiplying $6.75 by the shipment quantity of 37,449,300 hundredweight yields an annual crop revenue estimate of $252,782,775. The average annual fresh potato revenue for each of the 450 producers is therefore calculated to be $561,740 ($252,782,775 divided by 450), which is less than the SBA threshold of $750,000. Consequently, on average, most of the Idaho-Eastern Oregon potato producers may be classified as small entities.

In addition, based on information reported by USDA's Market News Service, the average f.o.b. shipping point price for the 2016–2017 Idaho potato crop was $11.79 per hundredweight. Multiplying $11.79 by the shipment quantity of 37,449,300 hundredweight yields an annual crop revenue estimate of $441,527,247. The average annual fresh potato revenue for each of the 32 handlers is therefore calculated to be $13,797,726 ($441,527,247 divided by 32), which is above the SBA threshold of $7,500,000 for agricultural service firms. Therefore, most of the Idaho-Eastern Oregon potato handlers would be classified as large entities.

Further, based on information from USDA's Foreign Agricultural Service (FAS), potato importers imported 11,157,190 hundredweight of potatoes into the U.S. in 2016 (the most recent full year for which statistics are available). FAS also reported the total value of potato imports for 2016 to be $212,331,000. The average annual revenue of the estimated 255 potato importers is therefore calculated to be $832,670 ($212,331,000 divided by 255), which is significantly less than the SBA threshold of $7,500,000. Consequently, on average, most of the entities importing potatoes into the U.S. may be classified as small entities.

This final rule revises the varietal classifications that determine the size requirements for U.S. No. 2 grade potatoes handled under the Order. Specifically, this action removes the designation ''round varieties'' in § 945.341(a)(2)(i) to make the size requirements in that paragraph applicable to all U.S. No. 2 grade potatoes, unless otherwise specified. In addition, this final rule changes the designation for ''all other varieties'' in § 945.341(a)(2)(ii) to ''Russet types,'' maintaining the larger size requirements that have been applied to all non-round varieties, but will now only apply them to ''Russet types.''

Pursuant to section 8(e) of the Act, this revision to the Order's varietal classifications that determine the size requirements for U.S. No. 2 grade potatoes will also be applied to imported long type Irish potatoes.

This action was recommended by the Committee to ensure that the size profile of non-round, non-Russet type U.S. No. 2 grade potatoes will consistently be a size preferred by consumers. This change is expected to improve the marketability of Idaho-Eastern Oregon potatoes and increase returns to

handlers and producers. Authority for this final rule is provided in §§ 945.51 and 945.52 of the Order.

At the November 8, 2017, meeting, the Committee discussed the impact of this change on handlers and producers. The change to the varietal classifications that determine the size requirements is a relaxation in regulation. The regulatory change is expected to have a positive, or neutral, impact on industry participants.

The Committee relied on the opinions of producers and handlers familiar with the industry to draw its conclusions regarding the recommended handling regulation change. The Committee received anecdotal evidence from industry members at the November 8, 2017, meeting that there is some confusion in the industry with regards to which size requirements apply to which varieties of potatoes and that some varieties are being inspected and sized to requirements that were not intended by the Committee. The change to the size requirements clarifies which size requirements are applicable to which potatoes.

This change is expected to lead to increased revenue for handlers and producers. Prior to this action, non-round potato varieties that are not Russet type are required to conform to the larger size requirements, even though the Committee does not believe that this meets its intent with regards to the handling regulation. Better defining the distinct classifications of potatoes will allow more of the non-round, non-Russet type potatoes to enter the market, thereby allowing the sale of potatoes that would have otherwise been restricted. The benefits derived from this action are not expected to be disproportionately greater or less for small handlers or producers than for larger entities.

The Committee discussed alternatives to this change. One consideration was making no change at all to the current regulation. Another alternative was to further differentiate between various varieties and types of potatoes in the handling regulations. There was some discussion of adding another classification. After consideration of all the alternatives, the Committee decided that the changes effectuated by this action will provide the greatest amount of benefit to the industry with the least amount of burden to producers and handlers.

Further, the Committee's meeting was widely publicized throughout the potato industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 8, 2017, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule imposes no additional reporting or recordkeeping requirements on either small or large potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying 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.

A proposed rule concerning this action was published in the **Federal Register** on May 9, 2018 (83 FR 21188). A copy of the proposed rule was provided to the handlers by the Committee. Finally, the proposal was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending July 9, 2018, was provided to allow interested persons to respond to the proposal.

One comment was received. The commenter questioned why the proposed change would only apply to the Order's production area and not to all potato growing regions. Marketing orders only regulate the production area as defined in each respective order. Therefore, this change can only apply to the handling of potatoes in the Order's production area as defined in § 945.4. The commenter did not otherwise address the merits of the proposal. Accordingly, no changes will be made to the rule as proposed, based on the comment received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth above, 7 CFR part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ 1. The authority citation for part 945 continues to read as follows:

Authority: 7 U.S.C. 601–674.

[Subpart Redesignated as Subpart A].

■ 2. Redesignate ''Subpart—Order Regulating Handling'' as ''Subpart A—Order Regulating Handling''.

[Subpart Redesignated as Subpart B and Amended]

■ 3. Redesignate ''Subpart—Rules and Regulations'' as subpart B and revise the heading to read as follows:

Subpart B—Administrative Requirements

[Subpart Redesignated as Subpart C]

■ 4. Redesignate ''Subpart—Assessment Rates'' as ''Subpart C—Assessment Rates''.

[Subpart Redesignated as Subpart D and Amended]

■ 5. Redesignate ''Subpart—Handling Regulations'' as subpart D and revise the heading to read as follows:

Subpart D—Handling Requirements

■ 6. In § 945.341, revise paragraphs (a)(2)(i) and (ii) to read as follows:

§ 945.341 Handling regulation.

* * * * *

(a) * * *

(2) *Size*—(i) *All varieties, except Russet types.* 1⅞ inches minimum diameter, unless otherwise specified on the container in connection with the grade.

(ii) *Russet types.* 2 inches minimum diameter, or 4 ounces minimum weight: *Provided,* That at least 40 percent of the potatoes in each lot shall be 5 ounces or heavier.

* * * * *

Dated: September 27, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–21480 Filed 10–2–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0905; Product Identifier 2017–NM–090–AD; Amendment 39–19424; AD 2018–19–23]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–01–02, which applied to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; and Model 757–200, 757–200PF, and 757–300 series airplanes. AD 2013–01–02 required replacing the control switches of certain cargo doors. This AD requires replacement of certain cargo door control switches with a new, improved switch; installation of an arm switch in certain cargo doors; operational and functional tests; and applicable on-condition actions. This AD also adds airplanes to the applicability. This AD was prompted by reports of uncommanded cargo door operation. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 7, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 7, 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–2017–0905.

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–2017–0905; 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: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013–01–02, Amendment 39–17316 (78 FR 4051, January 18, 2013) (''AD 2013–01–02''). AD 2013–01–02 applied to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; and Model 757–200, 757–200PF, and 757–300 series airplanes. The NPRM published in the **Federal Register** on October 6, 2017 (82 FR 46722). The NPRM was prompted by reports of uncommanded cargo door operation. The NPRM proposed to require replacement of certain cargo door control switches with a new, improved switch; installation of an arm switch in certain cargo doors; operational and functional tests; and applicable on-condition actions. The NPRM also proposed to add airplanes to the applicability. We are issuing this AD to prevent failures of the cargo door control switch from allowing uncommanded movement of the cargo door, which, if not corrected, could lead to injuries to persons and damage to the airplane.

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.

Support for the NPRM

FedEx Express and United Airlines (UAL) stated they had no technical objection to the NPRM.

Request To Withdraw the NPRM

Three commenters requested that the NPRM be withdrawn. Virgin Atlantic Airlines (VAA) and Deutsche Lufthansa AG (DLH) pointed out there have been no reported failures of the cargo door control switches or incidents of uncommanded door operation at VAA or DLH since AD 2013–01–02 was issued. United Parcel Service (UPS) stated that the NPRM appears to be based on a single event of an otherwise reliable cargo door switch configuration, based on industry data that show no significant number of unscheduled removals reported since AD 2013–01–02 was issued. DLH commented that the operational area of the cargo door is a safety critical area that requires the operator to verify that the area is safe and clear, whether an additional arm switch is present or not. All commenters stated that the repetitive inspections required by AD 2013–01–02 should remain in place and that accomplishing the actions in Boeing Special Attention Service Bulletin 747–52–2307, dated May 23, 2017; and Boeing Special Attention Service Bulletin 747–52–2308, dated June 5, 2017; should be an optional terminating action for the inspections.

We disagree with the commenters' request because our risk analysis indicates that the actions mandated by AD 2013–01–02 were inadequate to mitigate the unsafe condition. Although VAA and DLH have had no new incidents, there have been multiple reports of uncommanded cargo door operation within the affected fleets. Therefore, existing procedures for door operation have not been adequate to prevent the unsafe condition. We are mandating the actions in this AD because an unsafe condition exists, which is likely to exist or develop on other products of the same type design. We have not changed this AD in this regard.

Request To Specify Compliance Times Using Flight Cycles

UPS requested that we specify compliance times in terms of flight cycles rather than calendar time because cargo door operation is based on flight cycles. UPS also stated that the compliance interval for both Model 747 and 757 fleets should be the same because the operation of the cargo door control switch is the same across both models. UPS recommended replacing the cargo door control switches every 3,000 flight cycles.

We disagree with the commenter's request because we have not confirmed a causal relationship between switch failure and operating cycles. In developing the compliance time in this AD, we have considered the safety implications, parts availability, and normal maintenance schedules for the timely installation of the cargo door control switches. Further, the compliance time in this AD corresponds with the manufacturer's recommended compliance time for each model. If we receive additional data that justify a different compliance time, we may consider further rulemaking on this issue. In addition, under the provisions of paragraph (j) of this AD, we will consider requests for approval of alternative compliance times if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have not changed this AD in this regard.

Request To Include Latest Service Information Revision

AAL, Delta Airlines (DAL), and FedEx Express requested that we refer to Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017, instead of Boeing Special Attention Service Bulletin 757–52–0093, Revision 1, dated April 21, 2017, which is referenced in the NPRM. DAL stated that the revised service information allows alternatives to Alodine 1200 and 1200S. AAL noted that paragraphs (c)(4) and (g)(4) of the proposed AD would no longer be necessary as the new service information addresses those issues. AAL also requested that we provide credit for Boeing Special Attention Service Bulletin 757–52–0093, Revision 1, dated April 21, 2017.

We agree with the commenters' request. Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017, provides minor corrections, and there is no effect on airplanes on which earlier revisions were done. Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017, also adds variable numbers NP901 through NP904 inclusive to the effectivity. We had referred to those variable numbers in paragraphs (c)(4) and (g)(4) of the proposed AD. Therefore, we have made the following changes to this AD:

- Changed paragraphs (c)(3) and (g)(3) of this AD to refer to Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017.
- Removed paragraphs (c)(4) and (g)(4) of the proposed AD.
- Changed this AD to provide credit for certain actions done before the effective date of this AD using Boeing Special Attention Service Bulletin 757–52–0093, Revision 1, dated April 21, 2017 (reference paragraph (i)(3) of this AD).

Request To Extend Compliance Time

Multiple commenters requested that we extend the compliance times in the proposed AD. DLH requested we extend the compliance time on the Model 747 airplanes from 35 months to 72 months because there have been no recorded cargo door control switch failures since AD 2013–01–02 was issued. American Airlines (AAL) requested that for the requirement to replace the cargo door control switches on Model 757 airplane cargo doors 1 and 2, we extend the compliance time from 24 months to 36 months. AAL explained that new cargo door control switches will have already been installed as part of compliance with AD 2013–01–02, and proposed accomplishing a functional check of the cargo door control switch every 12 months until cargo door control switches are replaced in accordance with Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017.

We disagree with extending the compliance times in this AD because we have determined that the replacements required by AD 2013–01–02 are inadequate, and that new, improved switches are necessary to address the unsafe condition. In developing the compliance times in this AD, we have considered the safety implications, parts availability, and normal maintenance schedules for the timely installation of the cargo door control switches. Further, the compliance times in this AD correspond with the manufacturer's recommended compliance time for each model. If we receive additional data that justify different compliance times, we may consider further rulemaking on this issue. In addition, under the provisions of paragraph (j) of this AD, we will consider requests for approval of alternative compliance times if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have not changed this AD in this regard.

Request for Relief Due to Parts Availability

Cathay requested a non-specific extension of the compliance times due to parts availability issues. Cathay stated that paragraphs (g)(1) and (g)(2) of the proposed AD would require accomplishment of applicable actions in accordance with Boeing Special Attention Service Bulletin 747–52–2307, dated May 23, 2017; and Boeing Special Attention Service Bulletin 747–52–2308, dated June 5, 2017. Cathay noted that both service bulletins specify a compliance time of 35 months after the ''original issue date of the service bulletin'' (*e.g.,* May 23, 2017; and June 5, 2017, respectively). The commenter stated it had received information from Boeing that certain parts were not ready for delivery due to issues during validation of Boeing Special Attention Service Bulletin 747–52–2307, dated May 23, 2017. The commenter also stated that Boeing Special Attention Service Bulletin 747–52–2308, dated June 5, 2017, has not been validated.

Regarding Cathay's comment that certain compliance times are relative to the issue dates of Boeing Special Attention Service Bulletin 747–52–2307, dated May 23, 2017; and Boeing Special Attention Service Bulletin 747–52–2308, dated June 5, 2017, we agree to clarify the required compliance times. Paragraph (g) of this AD states ''Except as required by paragraph (h) of this AD,'' and paragraph (h) of this AD specifies that certain compliance times are relative to the ''effective date of this AD,'' rather than the ''original issue date of this service bulletin.'' Therefore, the compliance times in this AD are based on the effective date of this AD instead of the issue date of applicable service bulletins.

The Boeing Company has completed the validation process for all applicable service information. Revised and validated service information for the Model 747 airplanes is now available. This AD references the revised service information as the appropriate source of service information for affected Boeing Model 747 series airplanes. In addition, Boeing has informed us that parts are currently available for compliance with this AD.

We have changed paragraphs (c)(1) and (g)(1) of this AD to refer to Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018;

and paragraphs (c)(2) and (g)(2) of this AD to reference Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018. We have also changed paragraph (h) of this AD to refer to Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018; and Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018. We have also changed this AD to provide credit for certain actions done before the effective date of this AD using Boeing Special Attention Service Bulletin 747–52–2307, dated May 23, 2017, or Boeing Special Attention Service Bulletin 747–52–2308, dated June 5, 2017, as applicable (reference paragraphs (i)(1) and (i)(2) of this AD).

Since parts and revised service information are available, and since the compliance times are based on the effective date of this AD, rather than the service information, we have not changed the compliance times in this AD in this regard. However, under the provisions of paragraph (j) of this AD, we will consider requests for approval of alternative compliance times if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety.

Request To Remove Replacement Requirement for Certain Airplanes

Boeing requested we revise the language in paragraph (g)(4) of the proposed AD to remove the requirement to replace the nose cargo door control switch from the Model 757 airplane requirements because Model 757 airplanes do not have a nose cargo door.

We agree with the commenter's request for the reasons provided by the commenter. As stated previously, paragraph (g)(4) of the proposed AD is not retained in this AD. The actions for Model 757 airplanes, which are required by paragraph (g)(3) of this AD, are specified in Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017, which does not reference nose cargo door switches.

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 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 AD.

Related Service Information Under 1 CFR Part 51

We reviewed the following Boeing service information.

- Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018; and Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018. The service information describes procedures for replacement of the nose, forward, and aft cargo door control switches with new, improved switches; installation of an arm switch in the forward and aft cargo doors; a nose cargo door normal operation test; forward and aft cargo door open and close functional tests; and applicable on-condition actions. These documents are distinct since they apply to different airplanes in different configurations.
- Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017. This service information describes procedures for replacement of the forward and aft cargo door control switches with new, improved switches; installation of an arm switch in the forward and aft cargo doors; an operational test of the No. 1 and No. 2 cargo doors; repetitive functional tests of the No. 1 and No. 2 cargo doors; and applicable on-condition actions.

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

Costs of Compliance

We estimate that this AD affects 584 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement (Boeing Special Attention Service Bulletin 747–52–2307) (14 airplanes).	78 work-hours × $85 per hour = $6,630.	$12,874	$19,504	$273,056.
Replacement (Boeing Special Attention Service Bulletin 747–52–2308) (94 airplanes).	24 work-hours × $85 per hour = $2,040.	980	3,020	283,880.
Replacement (Boeing Special Attention Service Bulletin 757–52–0093) (476 airplanes).	51 work-hours × $85 per hour = $4,335.	10,626	14,961	7,121,436.
Repetitive Test (Boeing Special Attention Service Bulletin 757–52–0093) (476 airplanes).	3 work-hours × $85 per hour = $255 per test cycle.	0	255 per test cycle	121,380 per test cycle.

According to the manufacturer, some 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 available costs in our cost estimate.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness

Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–01–02, Amendment 39–17316 (78 FR 4051, January 18, 2013), and adding the following new AD:

2018–19–23 The Boeing Company: Amendment 39–19424; Docket No. FAA–2017–0905; Product Identifier 2017–NM–090–AD.

(a) Effective Date

This AD is effective November 7, 2018.

(b) Affected ADs

This AD replaces AD 2013–01–02, Amendment 39–17316 (78 FR 4051, January 18, 2013) (''AD 2013–01–02'').

(c) Applicability

This AD applies to The Boeing Company airplanes; certificated in any category; as identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) Model 747–8F and 747–8 series airplanes as identified in Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018.

(2) Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, as identified in Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018.

(3) Model 757–200, 757–200PF, 757–200CB, and –300 series airplanes, as identified in Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by reports of uncommanded cargo door operation. We are issuing this AD to prevent failures of the cargo door control switch from allowing uncommanded movement of the cargo door, which if not corrected, could lead to injuries to persons and damage to the airplane.

(f) Compliance

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

(g) Required Actions

Except as required by paragraph (h) of this AD: Do the applicable actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) For airplanes identified in Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018.

(2) For airplanes identified in Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018, do all applicable actions identified as RC in, and in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018.

(3) For airplanes identified in Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017, do all applicable actions identified as RC in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017.

(h) Exception to Service Information

Where Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018; Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018; and Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017; specify a compliance time after ''the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (g)(1) of this AD if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 747–52–2307, dated May 23, 2017.

(2) This paragraph provides credit for the actions specified in paragraph (g)(2) of this AD if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 747–52–2308, dated June 5, 2017.

(3) This paragraph provides credit for the actions specified in paragraph (g)(3) of this AD if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 757–52–0093, dated May 5, 2016; or Boeing Special Attention Service Bulletin 757–52–0093, Revision 1, dated April 21, 2017.

(j) 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 (k) 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 (j)(4)(i) and (j)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to

comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

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

(k) Related Information

For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 747–52–2307, Revision 1, dated May 2, 2018.

(ii) Boeing Special Attention Service Bulletin 747–52–2308, Revision 1, dated June 18, 2018.

(iii) Boeing Special Attention Service Bulletin 757–52–0093, Revision 2, dated November 14, 2017.

(3) For The Boeing Company 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 September 14, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21346 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0142; Product Identifier 2018–NE–04–AD; Amendment 39–19368; AD 2018–17–14]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34–8E Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain General Electric Company (GE) CF34–8E turbofan engines. This AD was prompted by a report from GE regarding a quality escape of nonconforming thrust reverser fire seals. This AD requires a one-time inspection of the gap between the core cowl seal and the pylon seal of the thrust reverser for correct gap width, and replacement of the seals, if needed. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 7, 2018.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; telephone 513–552–3272; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0142.

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–2018–0142; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, 20590.

FOR FURTHER INFORMATION CONTACT: David Bethka, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7129; fax: 781–238–7199; email: *david.bethka@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 GE CF34–8E turbofan engines. The NPRM published in the **Federal Register** on April 17, 2018 (83 FR 16794). The NPRM was prompted by a report from the manufacturer about a fire seal gap quality escape on GE CF34–8E turbofan engines. Some thrust reverser fire seals, installed on thrust reverser part numbers (P/Ns) 15G0002–013, 15G0002–014, 15G0003–013, and 15G0003–014, were shipped from a supplier with nonconforming seal gaps. The NPRM proposed to require a one-time inspection of the gap between the core cowl seal and the pylon seal of the thrust reverser for correct gap width, and replacement of the thrust reverser fire seals, if needed. We are issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Change the Applicability

Two commenters, Horizon Air and Republic Airline, requested that we limit the applicability of this AD to a specific group of GE CF34–8E turbofan engine thrust reverser halves that are known to have a fire seal gap nonconformance. A change of applicability from all GE CF34–8E turbofan engines to only the known group of affected thrust reverser halves would reduce the inspection burden on operators.

We agree. We changed the applicability of this AD to list only the affected half thrust reverser P/Ns and serial numbers. We also updated the number of affected thrust reverser assemblies and estimated costs.

Request To Change Required Actions

Horizon Air requested that we change the required actions of this AD to replace ''all GE CF34–8E turbofan engines'' with ''all thrust reversers listed in paragraph (c).''

We agree. We reworded the required actions of this AD to indicate that these actions are only required for GE CF34–

8E turbofan engines with affected half thrust reversers installed.

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

We reviewed GE CF34–8E Service Bulletin (SB) 78–0066 R01, dated June 20, 2018. The SB describes procedures for measuring the width of the RTV filled gap between the thrust reverser fire seals at the 12 o'clock core cowl seal and pylon seal installed on thrust reverser P/Ns 15G0002–013, 15G0002–014, 15G0003–013, and 15G0003–014, and replacing with parts eligible for installation, if needed.

Costs of Compliance

We estimate that this AD affects 194 thrust reverser assemblies installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	0.25 work-hours × $85 per hour = $21.25	$0	$21.25	$4,122.50

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Remove and replace thrust reverser fire seals	2.75 work-hours × $85 per hour = $233.75	$3,228	$3,461.75

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 engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation 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):

2018–17–14 General Electric Company: Amendment 39–19368 Docket No. FAA–2018–0142; Product Identifier 2018–NE–04–AD.

(a) Effective Date

This AD is effective November 7, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) CF34–8E turbofan engines with:

(1) Left-hand (LH) half thrust reverser, part number (P/N) 15G0002–013, or LH half thrust reverser P/N 15G0002–014, with the following serial numbers (S/Ns): HRD00659 to HRD00662, HRD00675 to HRD00678,

HRD00680, HRD00681, HRD00694 to HRD00697, HRD00711, HRD00831, HRD00856, HRD00878 to HRD00895, HRD01025, HRD01040, HRD01047, HRD01050 to HRD01057, HRD01059 to HRD01089, HRD01104, HRD01105, HRD01108, HRD01111 to HRD01116, HRD01118 to HRD01121, HRD01123, HRD01124, HRD01126, HRD01162, HRD01185 to HRD01198, HRD01201, HRD01202, or HRD01226 to HRD01243, installed.

(2) Right-hand (RH) half thrust reverser, P/N 15G0003–013, or RH half thrust reverser P/N 15G0003–014, with the following S/Ns: HRD00669 to HRD00678, HRD00680, HRD00681, HRD00703 to HRD00707, HRD00722, HRD00825, HRD00919, HRD00922, HRD01018, HRD01022, HRD01023, HRD01027 to HRD01033, HRD01035, HRD01036, HRD01038, HRD01039, HRD01041 to HRD01046, HRD01048, HRD01049, HRD01059 to HRD01079, HRD01081, HRD01082, HRD01084 to HRD01092, HRD01100, HRD01117, HRD01140, HRD01146, HRD01162, HRD01185 to HRD01187, HRD01189 to HRD01198, HRD01201, HRD01202, HRD01210, or HRD01213 to HRD01223, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7830, Thrust Reverser.

(e) Unsafe Condition

This AD was prompted by a report from GE regarding a quality escape of nonconforming thrust reverser fire seal gaps. We are issuing this AD to inspect for nonconforming thrust reverser fire seal gaps that could result in a fire outside the fire zone. The unsafe condition, if not addressed, could result in an uncontrolled fire, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) For all half thrust reversers listed in paragraph (c) of this AD, before the half thrust reverser accumulates 8,000 flight hours after the effective date of this AD, perform the following one-time inspection, and, if needed, replace the core cowl seal and pylon seal.

(i) Measure the width of the RTV filled gap between thrust reverser fire seals at the junction between 12 o'clock core cowl seal and pylon seal, at the following half thrust reverser locations: LH half thrust reverser, P/N 15G0002–013; LH half thrust reverser, P/N 15G0002–014; RH half thrust reverser, P/N 15G0003–013; and RH half thrust reverser P/N 15G0003–014.

(ii) If the gap width between the 12 o'clock core cowl seal and the pylon seal is greater than 1 mm, replace both seals with parts eligible for installation to form a new gap of 1 mm or less, prior to returning to service.

(2) You may refer to GE CF34–8E Service Bulletin 78–0066 R01, dated June 20, 2018, for guidance on inspecting and replacing the thrust reverser fire seals.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 (i) of this AD. You may email your request to: *ANE-AD-AMOC@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.

(i) Related Information

For more information about this AD, contact David Bethka, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7129; fax: 781–238–7199; email: *david.bethka@faa.gov.*

(j) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on September 26, 2018.

Karen M. Grant,

Acting Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2018–21378 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0511; Product Identifier 2017–NM–145–AD; Amendment 39–19425; AD 2018–19–24]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model 4101 airplanes. This AD was prompted by a determination that inspection requirements for a number of maintenance tasks are incorrect. This AD requires a one-time detailed inspection of a certain fuselage frame and repair, if necessary, and a revision of the maintenance or inspection program, as applicable, to incorporate new or revised maintenance instructions and airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 7, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 7, 2018.

ADDRESSES: For service information identified in this final rule, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* 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–2018–0511.

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–2018–0511; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228.

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 all BAE Systems (Operations) Limited Model 4101 airplanes. The NPRM published in the **Federal Register** on June 14, 2018 (83 FR 27721). The NPRM was prompted by a determination that inspection

requirements for a number of maintenance tasks are incorrect. The NPRM proposed to require a one-time detailed inspection of a certain fuselage frame and repair, if necessary, and a revision of the maintenance or inspection program, as applicable, to incorporate new or revised maintenance instructions and airworthiness limitations.

We are issuing this AD to address cracking in fuselage frame 90, which could cause it to fail and thereby compromise the structural integrity of the aircraft pressure hull. We are also issuing this AD to address fatigue damage of various airplane structures, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0187, dated September 22, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all BAE Systems (Operations) Limited Model 4101 airplanes. The MCAI states:

> Maintenance instructions for BAE Jetstream 4100 aeroplanes, which are approved by EASA, are defined in BAE Systems (Operations) Ltd Jetstream 4100 Service Bulletin (SB) J41–51–001, which references certain Aircraft Maintenance Manual (AMM) tasks. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> CAA UK [Civil Aviation Authority United Kingdom] issued AD 005–02–2002 [which corresponds to FAA AD 2005–15–11, Amendment 39–14200 (70 FR 43025, July 26, 2005) (''AD 2005–15–11'')] to require operators to comply with the inspection instructions as referenced in SB J41–51–001 at original issue.
>
> Since that [CAA UK] AD was issued, BAE Systems (Operations) Ltd have determined that the inspection requirements for a number of maintenance tasks are incorrect. Consequently, existing inspection items 52–20–013, 53–10–006, 53–10–025, 53–10–029 and 53–10–079 will be amended in Chapter 05 of the AMM. Compliance periods for these changes are given in BAE Systems (Operations) Ltd SB J41–51–001 (now at Revision 4) and BAE Systems (Operations) Ltd Alert SB J41–A53–058. Those fatigue inspections detailed in SB J41–51–001, at Revision 3 or earlier, have now been incorporated into Chapter 05 of the AMM. To avoid duplication these tasks are deleted from SB J41–51–001 at Revision 4.
>
> For the reason described above, this [EASA] AD retains the requirements of CAA UK AD 005–02–2002, which is superseded, and requires accomplishment of the actions specified in BAE Systems (Operations) Ltd Jetstream 4100 SB J41–51–001 Revision 4 and Alert SB J41–A53–058 (hereafter collectively referred to as 'the SB' in this [EASA] AD).

The actions include a one-time detailed inspection of fuselage frame 90 for cracking or fatigue damage and repair if necessary, and revision of the maintenance or inspection program, as applicable, to incorporate new or revised maintenance instructions and airworthiness limitations. This AD was prompted by a determination that it is possible for cracks in fuselage frame 90 to exceed the critical length for failure in less time than the current inspection interval, and by a determination that inspection requirements for a number of maintenance tasks involving certain airworthiness limitations are incorrect. The unsafe condition is cracking in fuselage frame 90, which could cause it to fail and thereby compromise the structural integrity of the aircraft pressure hull; and fatigue damage of various airplane structures, which could result in reduced structural integrity of the airplane.

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–2018–0511.

Comments

We gave the public the opportunity to participate in developing this final rule. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

BAE Systems (Operations) Limited has issued the following service information.

- Service Bulletin J41–51–001, Revision 4, dated July 11, 2017. This service information describes new inspections and revisions to existing inspection requirements and thresholds.
- Alert Service Bulletin J41–A53–058, dated December 6, 2016. This service information describes procedures for a detailed inspection for cracking or fatigue damage of fuselage frame 90.

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 4 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	2 work-hours × $85 per hour = $170	$0	$170	$680

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 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 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):

2018–19–24 BAE Systems (Operations) Limited: Amendment 39–19425; Docket No. FAA–2018–0511; Product Identifier 2017–NM–145–AD.

(a) Effective Date

This AD is effective November 7, 2018.

(b) Affected ADs

This AD affects AD 2005–15–11, Amendment 39–14200 (70 FR 43025, July 26, 2005) (''AD 2005–15–11'').

(c) Applicability

This AD applies to all BAE Systems (Operations) Limited Model 4101 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that it is possible for cracks in fuselage frame 90 to exceed the critical length for failure in less time than the current inspection interval; and a determination that inspection requirements for a number of maintenance tasks involving certain airworthiness limitations are incorrect. We are issuing this AD to address cracking in fuselage frame 90, which could cause it to fail and thereby compromise the structural integrity of the aircraft pressure hull. We are also issuing this AD to address fatigue damage of various airplane structures, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Inspection

At the compliance times specified in paragraphs (g)(1) and (g)(2) of this AD, as applicable: Do a detailed inspection of fuselage frame 90 for cracking or fatigue damage, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Alert Service Bulletin J41–A53–058, dated December 6, 2016. If any cracking or fatigue damage is found: Before further flight, repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA).

(1) For airplanes with 6,300 flight cycles or fewer since Structural Significant Items (SSI) 53–10–029 (Maintenance Planning Document (MPD) 531029–DVl–10010–1) was last accomplished: Within 6,600 flight cycles after the last accomplishment of SSI 53–10–029 (MPD 531029–DVl–10010–1), or within 6 months after the effective date of this AD, whichever is later.

(2) For airplanes with more than 6,300 flight cycles since SSI 53–10–029 (MPD 531029–DVl–10010–1) was last accomplished: Within 300 flight cycles or 4.5 months, whichever is earlier, since the last accomplishment of SSI 53–10–029 (MPD 531029–DVl–10010–1), or within 6 months after the effective date of this AD, whichever is later.

(h) Maintenance or Inspection Program Revisions

Within 90 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, by incorporating the maintenance tasks and associated thresholds and intervals described in, and in accordance with, the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–51–001, Revision 4, dated July 11, 2017. The initial compliance times for new or revised tasks are at the applicable times specified in BAE Systems (Operations) Limited Service Bulletin J41–51–001, Revision 4, dated July 11, 2017, or within 6 months after the effective date of this AD, whichever is later.

(i) No Alternative Actions and Intervals

After the maintenance or inspection program has been revised as required by paragraph (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 (l)(1) of this AD.

(j) Terminating Action for Requirements of AD 2005–15–11

Accomplishment of the actions required by paragraph (h) of this AD terminates all requirements of AD 2005–15–11.

(k) No Reporting Requirement

Although the Accomplishment Instructions of BAE Systems (Operations) Limited Alert Service Bulletin J41–A53–058, dated December 6, 2016, specify to submit certain information to the manufacturer, this AD does not include that requirement.

(l) 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 (m)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-*

REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0187, dated September 22, 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–2018–0511.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228.

(n) Material Incorporated by Reference

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

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

(i) BAE Systems (Operations) Limited Alert Service Bulletin J41–A53–058, dated December 6, 2016.

(ii) BAE Systems (Operations) Limited Service Bulletin J41–51–001, Revision 4, dated July 11, 2017.

(3) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com*; internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.*

(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 September 14, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21344 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0394; Product Identifier 2018–NM–036–AD; Amendment 39–19441; AD 2018–20–07]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model MYSTERE-FALCON 50 airplanes. This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new and more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 7, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 7, 2018.

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.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–2018–0394.

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–2018–0394; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

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 all Dassault Aviation Model MYSTERE-FALCON 50 airplanes. The NPRM published in the **Federal Register** on May 11, 2018 (83 FR 21953). The NPRM was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new and more restrictive maintenance requirements and airworthiness limitations.

We are issuing this AD to address reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2018–0026, dated January 30, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model MYSTERE-FALCON 50 airplanes. The MCAI states:

> The airworthiness limitations and certification maintenance instructions for the Dassault Mystère Falcon 50 aeroplanes, which are approved by EASA, are currently defined and published in the Dassault Mystère Falcon 50 Aircraft Maintenance Manual (AMM) chapter 5–40. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition [i.e, reduced structural integrity of the airplane].
>
> Consequently, EASA issued [EASA] AD 2016–0067 [which corresponds to FAA AD 2017–09–03, Amendment 39–18865 (82 FR 21467, May 9, 2017)] to require accomplishment of the maintenance tasks, and implementation of the airworthiness limitations, as specified in Dassault Mystère Falcon 50 AMM chapter 5–40 Revision 23.
>
> Since that [EASA] AD was issued, Dassault issued Revision 24 of the Dassault Mystère Falcon 50 AMM chapter 5–40, which introduces new and more restrictive maintenance requirements and/or

airworthiness limitations. For the reason described above, this [EASA] AD retains the requirements of EASA AD 2016–0067, which is superseded, and requires accomplishment of the actions specified in Revision 24 of the Dassault Mystère Falcon 50 AMM chapter 5–40 * * *.

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–2018–0394.

Comments

We gave the public the opportunity to participate in developing this final rule. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Chapter 5–40, Airworthiness Limitations, DGT 113872, Revision 24, dated July 2017, of the Dassault Falcon 50/50EX Maintenance Manual. This service information describes instructions applicable to airworthiness and safe life limitations. 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 250 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although this figure 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).

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 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):

2018–20–07 Dassault Aviation: Amendment 39–19441; Docket No. FAA–2018–0394; Product Identifier 2018–NM–036–AD.

(a) Effective Date

This AD is effective November 7, 2018.

(b) Affected ADs

This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (''AD 2010–26–05''); AD 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012) (''AD 2012–02–18''); and AD 2017–09–03, Amendment 39–18865 (82 FR 21467, May 9, 2017) (''AD 2017–09–03'').

(c) Applicability

This AD applies to Dassault Aviation Model MYSTERE-FALCON 50 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time limits/maintenance checks.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to address reduced structural integrity of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, DGT 113872, Revision 24, dated July 2017, of the Dassault Falcon 50/50EX Maintenance Manual. The initial compliance times for doing the tasks are at the time specified in Chapter 5–40, Airworthiness Limitations, DGT 113872, Revision 24, dated July 2017, of the Dassault Falcon 50/50EX Maintenance Manual, or within 90 days after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) 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 (j)(1) of this AD.

(i) Terminating Actions for Other ADs

(1) Accomplishing the actions required by paragraph (g) of this AD terminates all requirements of AD 2017–09–03.

(2) Accomplishing the actions required by paragraph (g) of this AD terminates all requirements of AD 2010–26–05 and AD 2012–02–18 for the Dassault Aviation Model MYSTERE-FALCON 50 airplanes specified in those ADs.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2018–0026, dated January 30, 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–2018–0394.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(l) Material Incorporated by Reference

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

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

(i) Chapter 5–40, Airworthiness Limitations, DGT 113872, Revision 24, dated July 2017, of the Dassault Falcon 50/50EX Maintenance Manual.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.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 September 21, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21343 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0517; Product Identifier 2017–SW–098–AD; Amendment 39–19443; AD 2018–20–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters. This AD requires altering and re-identifying the overhead panel shock mount assembly (shock mount). This AD was prompted by the manufacturer's stress recalculations. The actions of this AD are intended to correct an unsafe condition on these products.

DATES: This AD is effective November 7, 2018.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of November 7, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0517.

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–2018–0517; 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 AD, the European Aviation Safety Agency (EASA) AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is 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: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On June 7, 2018, at 83 FR 26387, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model MBB–BK 117 C–2 and Model MBB–BK 117 D–2 helicopters with an overhead panel shock mount assembly part number (P/N) B246M2035102 or P/N B246M2036101 installed. The NPRM proposed to require installing a retaining plate on the shock mount and re-identifying the shock mount by changing the last three digits of the P/N to –966. The NPRM also proposed prohibiting the installation of shock

mount P/N B246M2035102 and P/N B246M2036101 on any helicopter. The proposed requirements were intended to prevent failure of a shock mount, which could result in detachment of the overhead panel and injury to occupants during an emergency landing.

The NPRM was prompted by AD No. 2017–0026, dated February 14, 2017, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model MBB–BK 117 C–2, MBB–BK117 C–2e, MBB–BK 117 D–2, and MBB–BK117 D–2m helicopters. EASA advises that a recent stress calculation identified that the shock mount may not withstand certification crash loads. EASA states that this condition, if not corrected, could lead to the overhead panel disconnecting during an emergency landing and injuring occupants. Accordingly, the EASA AD requires modifying and re-identifying the shock mounts.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD applies to Model MBB–BK117 D–2m helicopters, whereas this AD does not since the Model MBB–BK117 D–2m is not FAA type-certificated. This AD also does not include the Model MBB–BK117 C–2(e) in the applicability section because it is a marketing designation and not an FAA type-certificated model. However, this AD applies to those helicopters, as they are Model MBB–BK117 C–2 helicopters. The EASA AD specifies particular helicopter serial numbers (S/Ns) that may not be required to complete some of the requirements of the AD since the specified S/Ns were manufactured with shock mounts not affected by the unsafe condition. This AD does not specify particular S/Ns.

Related Service Information Under 1 CFR Part 51

Airbus Helicopters has issued Alert Service Bulletin (ASB) MBB–BK117 C–2–24A–015 for Model MBB–BK117 C–2 helicopters and ASB MBB–BK117 D–2–24A–004 for Model MBB–BK117 D–2 helicopters, both Revision 0 and dated September 14, 2016. This service information contains procedures for altering the shock mounts by installing retaining plates and re-identifying the shock mounts by changing the last three digits of the P/N to –966.

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 144 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Installing retaining plates and re-identifying the four shock mounts takes about 3 work-hours and parts cost about $184 for a total estimated cost of $439 per helicopter and $63,216 for the U.S. fleet.

According to Airbus Helicopter's service information, some 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 by Airbus Helicopters. Accordingly, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

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 to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

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):

2018–20–09 Airbus Helicopters Deutschland GmbH: Amendment 39–19443; Docket No. FAA–2018–0517; Product Identifier 2017–SW–098–AD.

(a) Applicability

This AD applies to Model MBB–BK 117 C–2 and Model MBB–BK 117 D–2 helicopters, certificated in any category, with an overhead panel shock mount assembly part number (P/N) B246M2035102 or P/N B246M2036101 installed.

Note 1 to paragraph (a) of this AD: Helicopters with an MBB–BK117 C–2e designation are Model MBB–BK117 C–2 helicopters.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of an overhead panel shock mount assembly (shock mount). This condition could result in detachment of the overhead panel and injury to occupants during an emergency landing.

(c) Effective Date

This AD becomes effective November 7, 2018.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 300 hours time-in-service:

(i) Install a retaining plate on each shock mount by following the Accomplishment Instructions, paragraphs 3.B.2.1. through 3.B.2.4, of Airbus Helicopters Alert Service Bulletin (ASB) MBB–BK117 C–2–24A–015, Revision 0, dated September 14, 2016 (ASB MBB–BK117 C–2–24A–015), or ASB MBB–BK117 D–2–24A–004, Revision 0, dated September 14, 2016 (ASB MBB–BK117 D–2–24A–004), as applicable to your model helicopter.

(ii) Re-identify shock mount P/N B246M2035102 as P/N B246M2035966 and shock mount P/N B246M2036101 as P/N B246M2036966 using permanent ink. When the ink is dry, apply varnish over the P/N.

(iii) Re-install each shock mount.

(2) After the effective date of this AD, do not install a shock mount P/N B246M2035102 or P/N B246M2036101 on any helicopter.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0026, dated February 14, 2017. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2018–0517.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 2400, Electrical Power System.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Airbus Helicopters Alert Service Bulletin (ASB) MBB–BK117 C–2–24A–015, Revision 0, dated September 14, 2016.

(ii) Airbus Helicopters ASB MBB–BK117 D–2–24A–004, Revision 0, dated September 14, 2016.

(3) For Airbus Helicopters service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html*.

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 Fort Worth, Texas, on September 24, 2018.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–21342 Filed 10–2–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0497; Product Identifier 2017–NM–140–AD; Amendment 39–19418; AD 2018–19–18]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus SAS Model A300 B4–603, B4–620, and B4–622 airplanes; Model A300 B4–600R series airplanes; Model A300 C4–605R Variant F airplanes; and Model A300 F4–605R airplanes. This AD was prompted by reports of cracking on a certain frame (FR) angle fitting. This AD requires, depending on airplane configuration, a modification of certain angle fitting attachment holes; repetitive inspections for cracking of certain holes of the internal lower angle fitting web, certain holes of the internal lower angle fitting horizontal splicing, the aft bottom panel, and a certain junction area; and related investigative and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 7, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 7, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 19, 2005 (70 FR 69056, November 14, 2005).

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; internet *http://www.airbus.com*. You may view this 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–2018–0497.

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–2018–0497; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A300 B4–603, B4–620, and B4–622 airplanes; Model A300 B4–600R series airplanes; Model A300 C4–605R Variant F airplanes; and Model A300 F4–605R airplanes. The NPRM published in the **Federal Register** on June 4, 2018 (83 FR 25590). The NPRM was prompted by reports of cracking on the FR47 angle fitting. The NPRM proposed to require, depending on airplane configuration, a modification of certain angle fitting attachment holes; repetitive inspections for cracking of certain holes of the internal lower angle fitting web, certain holes of the internal lower angle fitting horizontal splicing, the aft bottom panel, and the FR47/Rib 1 junction area; and related investigative and corrective actions if necessary.

We are issuing this AD to address cracking of the FR47 angle fitting, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0210, dated October 24, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A300 B4–603, B4–620, and B4–622 airplanes; Model A300 B4–600R series airplanes; Model A300 C4–605R Variant F airplanes; and Model A300 F4–605R airplanes. The MCAI states:

> Prompted by cracks found on the Frame (FR) 47 angle fitting, Airbus issued SB [Service Bulletin] A300–57–6049, SB A300–57–6050, and SB A300–57–6086.
>
> These cracks, if not detected and corrected, could affect the structural integrity of the centre wing box (CWB) of the aeroplane.
>
> Consequently, DGAC [Direction Générale de l'Aviation Civile] France published AD 94–241–170, AD 1999–147–279, AD 2000–533–328 and AD F–2004–159 (EASA approval 2004–9779), each AD superseding the previous one, to require repetitive high frequency eddy current (HFEC) rotating probe inspections of the FR47 internal lower angle fitting.
>
> After DGAC France AD F–2004–159 was issued, cracks were reportedly found on the horizontal flange of FR47 internal corner angle fitting during accomplishment of routine maintenance structural inspection and modification in accordance with the instructions of Airbus SB A300–57–6050. Prompted by these findings, Airbus reviewed and amended the inspection programme for the internal lower angle fitting flange (horizontal face).
>
> Consequently, EASA issued AD 2012–0092 [which corresponds to FAA AD 2014–20–18, Amendment 39–17991 (79 FR 65879, November 6, 2014) (''AD 2014–20–18'')], retaining the requirements of DGAC France AD F–2004–159, which was superseded, and requiring additional repetitive inspections of the CWB lower panel through the ultrasonic method and, depending on findings, re-installation of removed fasteners in transition fit instead of interface.
>
> In addition, DGAC France had previously issued AD F–2005–124 (EASA approval 2005–6071) to require the same inspections for A300 F4–608ST aeroplanes, in accordance with Airbus SB A300–57–9001 and SB A300–57–9002.
>
> Following the discovery of numerous cracks during the accomplishment of SB A300–57–6049 and SB A300–57–6089 inspections, Airbus developed in a first step a new (recommended) modification (Airbus SB A300–57–6113) and defined, for post-mod aeroplanes, new inspections, and published SB A300–57–6119, which included new inspection methods (ultrasonic/radiographic) with new inspection thresholds and intervals.
>
> Consequently, EASA issued AD 2016–0198, retaining the requirements of EASA AD 2012–0092, which was superseded, to require repetitive inspections for post-SB A300–57–6113 aeroplanes.
>
> Since EASA AD 2016–0198 was issued, Airbus revised in a second step the inspection programme for A300–600 pre-SB 57–6113 and A300–600ST aeroplanes, reducing inspection thresholds and intervals. At this opportunity, the existing ultrasonic inspection for A300–600 aeroplanes has been added for A300–600ST aeroplanes.
>
> For the reasons described above, this new [EASA] AD retains the requirements of EASA AD 2016–0198 for A300–600 aeroplanes and of DGAC France AD F–2005–124 for A300–600ST aeroplanes, which are both superseded, and requires [modification through cold expansion of certain angle fitting attachment holes and] repetitive inspections [for cracking of certain holes of the internal lower angle fitting web, certain holes of the internal lower angle fitting horizontal splicing, the aft bottom panel, and the FR47/Rib 1 junction area, and applicable related investigative and corrective actions] with new compliance times and intervals. This [EASA] AD is applicable to both A300–600 and A300–600ST aeroplanes * * *.

Related investigative actions include a rotating probe inspection for cracking. Corrective actions include replacing damaged fasteners, reaming and drilling holes, installing the next nominal fastener for oversized bore holes, and repairing cracks. 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–2018–0497.

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 To Refer to New Service Information

FedEx Express requested that we revise paragraphs (j), (k), and (m)(2) of the proposed AD to refer to Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018, rather than Airbus Service Bulletin A300–57–6086, Revision 6, dated July 4, 2017. FedEx Express noted that the service information had been updated since the NPRM was released.

We agree with the request. Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018, removes one airplane from the effectivity and adds clarification on reporting related to ultrasonic inspections. All actions remain unchanged. We have revised paragraphs (j), (k), and (m)(2) of this AD to refer to Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018. We have also revised paragraph (p) of this AD to provide credit for certain actions performed in accordance with Airbus Service Bulletin A300–57–6086, Revision 6, dated July 4, 2017.

Request To Allow Previously Approved Alternative Methods of Compliance (AMOCs)

FedEx Express requested that we revise the proposed AD to allow AMOCs previously approved for AD 2014–20–18 as AMOCs for the corresponding provisions of this AD.

We agree with the commenter's request. We have revised paragraph (q)(1) of this AD to note that AMOCs previously approved for AD 2014–20–18 are approved as AMOCs for the corresponding provisions of this AD.

Request To Allow Reporting Through Alternative Method

FedEx Express requested that paragraph (n) of the proposed AD be revised to allow operators to determine the method or form they use for reporting inspection results. FexEx Express noted that they believe reporting is needed, but do not currently have the capability to use the Airbus online reporting system.

We acknowledge the commenter's request, but disagree that we need to change this AD regarding this issue. Paragraph (n) of this AD allows reporting in accordance with the instructions of the applicable service information. This allows operators to use alternative methods of reporting, including mail, fax, and email. Therefore, a change to this AD is unnecessary.

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

Airbus SAS has issued the following service information.

- Service Bulletin A300–57–6049, Revision 8, dated July 4, 2017. This service information describes procedures for HFEC rotating probe inspections for cracking of certain holes of the internal lower angle fitting web.
- Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018. This service information describes procedures for HFEC rotating probe inspections for cracking of certain holes in the internal lower angle fitting horizontal splicing (left-hand and right-hand sides) and for ultrasonic inspections for cracking of the aft bottom panel.
- Service Bulletin A300–57–6119, Revision 00, dated April 25, 2016. This service information describes procedures for ultrasonic and radiographic inspections for cracking of the FR47/Rib 1 junction area.

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 65 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 727 work-hours × $85 per hour = Up to $61,795.	Up to $3,370	Up to $65,165	Up to $4,235,725 per inspection cycle.

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 inspection results on U.S. operators to be $5,525, or $85 per product.

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

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 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 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):

2018–19–18 Airbus SAS: Amendment 39–19418; Docket No. FAA–2018–0497; Product Identifier 2017–NM–140–AD.

(a) Effective Date

This AD is effective November 7, 2018.

(b) Affected ADs

This AD affects AD 2014–20–18, Amendment 39–17991 (79 FR 65879, November 6, 2014) (''AD 2014–20–18'').

(c) Applicability

This AD applies to Airbus SAS Model A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 C4–605R Variant F, and A300 F4–605R airplanes, certificated in any category, all manufacturer serial numbers, except airplanes on which Airbus Modification 12171 or 12249 has been embodied in production, or on which Airbus Service Bulletin A300–57–6069 has been embodied in service.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracking on the frame (FR) 47 angle fitting. We are issuing this AD to detect and correct cracking of the FR47 angle fitting, which could result in reduced structural integrity 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 in paragraphs (g)(1) through (g)(6) apply.

(1) Group 1 airplanes are those airplanes on which Airbus Service Bulletin A300–57–6113, Revision 00, dated April 25, 2016, has not been incorporated as of the effective date of this AD.

(2) Group 2 airplanes are those airplanes on which Airbus Service Bulletin A300–57–6113, Revision 00, dated April 25, 2016, has been incorporated as of the effective date of this AD.

(3) The average flight time (AFT) for the inspection threshold is defined as the flight hours (FH) divided by the flight cycles (FC), counted from the first flight of the airplane.

(4) The AFT for the inspection interval is defined as the FH divided by the FC, counted from the date of the last inspection required by paragraph (i), (j), (k), or (l) of this AD, as applicable.

(5) For airplanes on which Airbus modification 10155 has been embodied, the thresholds for the inspections required by paragraphs (i), (j), and (k) of this AD are counted from the first flight of the airplane.

(6) For airplanes on which Airbus modification 10155 has not been embodied, the thresholds for the inspections required by paragraphs (i), (j), and (k) of this AD are counted since the date on which Airbus Service Bulletin A300–57–6050 was embodied on the airplane.

(h) Modification

For all airplanes on which Airbus modification 10155 has not been embodied: Before exceeding 15,100 FC or 38,900 FH, whichever occurs first after first flight of the airplane; or within the ''grace periods'' defined in paragraph 1.B.(4), ''Accomplishment Timescale,'' of Airbus Service Bulletin A300–57–6050, Revision 3, dated May 31, 2001; whichever occurs later, modify the angle fitting attachment holes of the wing center box by cold expansion, including doing a rotating probe inspection for cracking, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6050, Revision 3, dated May 31, 2001. Where paragraph 1.B.(4), ''Accomplishment Timescale,'' of Airbus Service Bulletin A300–57–6050, Revision 3, dated May 31, 2001, specifies ''grace periods'' relative to the receipt of the service bulletin, count the ''grace periods'' from December 19, 2005 (the effective date of AD 2005–23–08 (70 FR 69056, November 14, 2005)). If any crack is found during any inspection: Before further flight, repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Internal Lower Angle Fitting (Vertical Face) Web Inspections

For Group 1 airplanes: Before exceeding the applicable threshold specified in figure 1 to paragraph (i) of this AD, or within 12 months after the effective date of this AD, whichever occurs later, do a high frequency eddy current (HFEC) rotating probe inspection for cracking of holes H, I, K, L M, N, U, V, W, X, and Y of the internal lower angle fitting web (left-hand and right-hand sides), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6049, Revision 8, dated July 4, 2017. Repeat the inspection thereafter at intervals not to exceed those specified in figure 1 to paragraph (i) of this AD.

Figure 1 to paragraph (i) of this AD – *Internal lower angle fitting (vertical face) inspections*

AFT	**Compliance Time** (FC or FH, whichever occurs first)	
	Thresholds (see paragraphs (g)(5) and (g)(6) of this AD)	**Intervals**
Greater than 1.5	7,400 FC or 15,950 FH	4,350 FC or 9,450 FH
Equal to or less than 1.5	7,950 FC or 11,950 FH	4,700 FC or 7,100 FH

(j) Internal Lower Angle Fitting (Horizontal Face) Inspections

For Group 1 airplanes: Before exceeding the applicable threshold specified in figure 2 to paragraph (j) of this AD, or within 12 months after the effective date of this AD, whichever occurs later, do an HFEC rotating probe inspection for cracking of holes A, B, C, D, E, F, G, P, Q, S, and T (adjacent to hole G) of the internal lower angle fitting horizontal splicing (left-hand and right-hand sides), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018. Repeat the inspection thereafter at intervals not to exceed those specified in figure 2 to paragraph (j) of this AD.

Figure 2 to paragraph (j) of this AD – *Internal lower angle fitting (horizontal face) inspections*

AFT	**Compliance Time** (FC or FH, whichever occurs first)	
	Thresholds (see paragraphs (g)(5) and (g)(6) of this AD)	**Intervals**
Greater than 1.5	6,800 FC or 14,750 FH	6,300 FC or 13,650 FH
Equal to or less than 1.5	7,350 FC or 11,050 FH	6,800 FC or 10,250 FH

(k) Aft Bottom Panel Inspections

For Group 1 airplanes: Before exceeding the applicable thresholds specified in figure 3 to paragraph (k) of this AD, or within 12 months after the effective date of this AD, whichever occurs later, do an ultrasonic inspection for cracking of the aft bottom panel, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018. Repeat the inspection thereafter at intervals not to exceed those specified in figure 3 to paragraph (k) of this AD.

Figure 3 to paragraph (k) of this AD – *Aft bottom panel inspections*

AFT	**Compliance Time** (FC or FH, whichever occurs first)	
	Thresholds (see paragraphs (g)(5) and (g)(6) of this AD)	**Intervals**
Greater than 1.5	6,800 FC or 14,750 FH	1,400 FC or 3,050 FH
Equal to or less than 1.5	7,350 FC or 11,050 FH	1,500 FC or 2,250 FH

(l) FR47/Rib 1 junction area inspections

For Group 2 airplanes: Before exceeding the applicable thresholds specified in figure 4 to paragraph (l) of this AD, do ultrasonic and radiographic inspections for cracking of the FR47/Rib 1 junction area, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6119, Revision 00, dated April 25, 2016. Repeat the inspections thereafter at intervals not to exceed those specified in figure 4 to paragraph (l) of this AD. Count the threshold compliance times from the date on which Airbus Service Bulletin A300–57–6113, Revision 00, dated April 25, 2016, was embodied on the airplane.

Figure 4 to paragraph (l) of this AD – *FR47/Rib 1 junction area inspections*

AFT	Area(s)	**Compliance time** (FC or FH, whichever occurs first)	
		Thresholds	**Intervals**
Greater than or equal to 1.5	A	9,500 FC or 20,520 FH	2,000 FC or 4,320 FH
	B or C	7,700 FC or 16,690 FH	6,100 FC or 13,170 FH
	D	2,700 FC or 5,990 FH	1,800 FC or 3,930 FH
	E	11,100 FC or 24,110 FH	2,200 FC or 4,830 FH
Less than 1.5	A	10,200 FC or 15,390 FH	2,100 FC or 3,240 FH
	B or C	8,300 FC or 12,520 FH	6,500 FC or 9,880 FH
	D	2,900 FC or 4,490 FH	1,900 FC or 2,900 FH
	E	12,000 FC or 18,080 FH	2,400 FC or 3,620 FH

(m) Related Investigative and Corrective Actions

If, during any inspection required by paragraph (i), (j), (k), or (l) of this AD, any crack is found: Before further flight, accomplish all applicable related investigative and corrective actions in accordance with the Accomplishment Instructions of the service information specified in paragraphs (m)(1) through (m)(3) of this AD, as applicable. Where the service information specified in paragraphs (m)(1) through (m)(3) of this AD specifies to contact Airbus for instructions, before further flight, obtain instructions approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA DOA and accomplish those instructions accordingly. If approved by the DOA, the approval must include the DOA-authorized signature.

(1) If the inspection was done as specified in paragraph (i) of this AD: Airbus Service Bulletin A300–57–6049, Revision 8, dated July 4, 2017.

(2) If the inspection was done as specified in paragraph (j) or (k) of this AD: Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018.

(3) If the inspection was done as specified in paragraph (l) of this AD: Airbus Service Bulletin A300–57–6119, Revision 00, dated April 25, 2016.

(n) Reporting

At the applicable time specified in paragraph (n)(1) or (n)(2) of this AD: Report the results of the inspections required by paragraphs (i), (j), (k), and (l) of this AD to Airbus Service Bulletin Reporting Online Application on Airbus World (*https://w3.airbus.com/*), or submit the results to Airbus in accordance with the instructions of the applicable service information specified in paragraphs (i), (j), (k), or (l) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(o) Terminating Action for AD 2014–20–18

Accomplishment of the action required by paragraph (h) of this AD and the initial inspections required by paragraphs (i) and (j), and (k) of this AD terminates all requirements of AD 2014–20–18.

(p) Credit for Previous Actions

(1) This paragraph provides credit for actions specified in paragraph (h) of this AD, if those actions were performed before December 19, 2005 (the effective date of AD 2005–23–08 (70 FR 69056, November 14, 2005)), using Airbus Service Bulletin A300–57–6050, Revision 02, dated February 10, 2000.

(2) This paragraph provides credit for actions specified in paragraphs (j), (k), and (m)(2) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A300–57–6086, Revision 6, dated July 4, 2017.

(q) 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 (r)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*.

(i) 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.

(ii) AMOCs previously approved for AD 2014–20–18 are approved as AMOCs for the corresponding provisions of this AD.

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

(3) *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 work-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.

(4) *Required for Compliance (RC):* Except as required by paragraph (m) of this AD: 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.

(r) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0210, dated October 24, 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–2018–0497.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (s)(5) and (s)(6) of this AD.

(s) 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.

(3) The following service information was approved for IBR on November 7, 2018.

(i) Airbus Service Bulletin A300–57–6049, Revision 8, dated July 4, 2017.

(ii) Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018.

(iii) Airbus Service Bulletin A300–57–6119, Revision 00, dated April 25, 2016.

(4) The following service information was approved for IBR on December 19, 2005 (70 FR 69056, November 14, 2005).

(i) Airbus Service Bulletin A300–57–6050, Revision 03, dated May 31, 2001. This document contains the effective pages specified in paragraphs (s)(4)(i)(A), (s)(4)(i)(B), (s)(4)(i)(C), and (s)(4)(i)(D) of this AD.

(A) Pages 1, 4, 10A through 11, 75, and 76 are identified as Revision 03, dated May 31, 2001.

(B) Pages 2, 8, 9, 17 through 32, 41, 42, 57, 58, 61 through 63, and 77 are identified as Revision 02, dated February 10, 2000.

(C) Pages 3, 5 through 7, 10, 12, 33, 34, 37, 38, 47, 59, and 60 are identified as Revision 01, dated May 31, 1999.

(D) Pages 13 through 16, 35, 36, 39, 40, 43 through 46, 48 through 56, and 64 through 74 are identified as original, dated September 9, 1994.

(ii) Reserved.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; internet *http://www.airbus.com.*

(6) 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.

(7) 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 September 10, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–20348 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4001, 4022, 4043, and 4044

RIN 1212–AB24

Owner-Participant Changes to Guaranteed Benefits and Asset Allocation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is amending its regulations on guaranteed benefits and asset allocation. These amendments incorporate statutory changes to the rules for participants with certain ownership interests in a plan sponsor.

DATES: *Effective Date:* This rule is effective November 2, 2018.

Applicability: Like the provisions of the Pension Protection Act of 2006 (PPA 2006) that this rule incorporates, the amendments in this final rule are applicable to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (ERISA) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 31, 2005, and

(B) under section 4042 of ERISA with respect to which notices of determination are provided under that section after December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Samantha M. Lowen (*lowen.samantha@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–326–4400, extension 3786. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 3786.)

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This final rule is necessary to conform the regulations of PBGC to current law and practice. PBGC is incorporating statutory changes affecting guaranteed benefits and asset allocation when a plan has one or more participants with certain ownership interests in the plan sponsor. PBGC's legal authority for this action comes from sections 4002(b)(3), 4022, and 4044 of ERISA. Section 4002(b)(3) authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA. Sections 4022 and 4044 authorize PBGC to prescribe regulations regarding the determination of guaranteed benefits and the allocation of assets within priority categories, respectively.

Major Provisions

This final rule amends PBGC's benefit payment regulation by replacing the guarantee limitations applicable to substantial owners with a new limitation applicable to majority owners.[1] Additionally, this final rule amends PBGC's asset allocation regulation by prioritizing funding of all other benefits in priority category 4 ahead of those benefits that would be guaranteed but for the new limitation. The rulemaking also clarifies that plan administrators may continue to use the simplified calculation in the existing rule to estimate benefits funded by plan assets. Finally, it provides new examples to aid in implementation.

Background

PBGC administers the pension insurance program under title IV of ERISA. ERISA sections 4022 and 4044 cover PBGC's guarantee of plan benefits and allocation of plan assets, respectively, under terminated single-employer plans. Special provisions within these sections apply to ''owner-participants,'' who have certain ownership interests in their plan sponsors. PPA 2006 made changes to these provisions. PBGC has been operating in accordance with the amended provisions since they became effective, but had not yet updated its regulations nor issued guidance on implementation. With this rulemaking, PBGC is increasing transparency into its operations and is clarifying for plan administrators the impact of the statutory changes.

Before PPA 2006, the owner-participant provisions applied to any participant who was a ''substantial owner'' at any time within the 60 months preceding the date on which the determination was made. Section 4021(d) of ERISA defines a substantial owner as an individual who owns the entire interest in an unincorporated trade or business, or a partner or shareholder who owns more than 10 percent of the partnership or corporation. PPA 2006 revised the owner-participant provisions, in large part, by making them applicable to ''majority owners'' instead of substantial owners. Section 4022(b)(5)(A) of ERISA defines a majority owner as an individual who owns the entire interest in an unincorporated trade or business, or a partner or shareholder who owns 50 percent or more of the entity.

On March 7, 2018 (at 83 FR 9716), PBGC published a proposed rule to amend parts 4001, 4022, 4041, 4043, and 4044 to incorporate statutory changes to the rules for participants with certain ownership interests in a plan sponsor. PBGC received no comments on the proposed rule.

The final regulation is the same as the proposed regulation with two exceptions discussed below: PBGC is adding clarifying language to § 4022.26 of the benefit payment regulation, concerning PPA 2006 bankruptcy terminations; and PBGC is not making the proposed amendment to its regulation on Termination of Single-Employer Plans (29 CFR part 4041).

Guaranteed Benefits Before and After PPA 2006

ERISA section 4022 imposes several limitations on PBGC's guarantee of plan benefits, including the ''phase-in limitation.'' As the name of this limitation suggests, PBGC's guarantee of a plan's benefits is phased in over a specified time period. Before PPA 2006, this time period was drastically different for owner-participants and for all other participants; the benefits of owner-participants were phased in over 30 years, whereas the benefits of non-owner-participants were phased in over five years. In addition, the extent to which an owner-participant's benefit was phased in was unique to each owner-participant and based on the number of years he or she was an active participant in the plan; whereas the extent to which all other participants' benefits were phased in was based on the number of years a plan provision—specifically, one that increased benefits—was in effect before the plan terminated.

PPA 2006 greatly simplified the method for determining PBGC's guarantee of owner-participants'

[1] In this preamble, substantial owners and majority owners are referred to interchangeably as ''owner-participants.''

benefits by eliminating the 30-year phase-in and making the five-year phase-in of benefit increases applicable to owner-participants and non-owner-participants alike. PPA 2006 then applies a separate, additional limitation—the ''owner-participant limitation''—to an owner-participant's otherwise guaranteed benefit. This owner-participant limitation is similar to the five-year phase-in limitation on benefit increases, as it is calculated based on a plan's age; however, it is based on the length of time the original plan was in existence, regardless of whether the plan increased benefits, and the phase-in period is 10 years. The owner-participant limitation bears little resemblance to the 30-year phase-in limitation, and the calculations are much simpler. This final rule incorporates these changes to PBGC's benefit payment regulation.

Phase-in Limitation

Before this rulemaking, §§ 4022.25 and 4022.26 of PBGC's benefit payment regulation provided the procedures for calculating the five-year phase-in of benefit increases for non-owner-participants and the 30-year phase-in of all benefits for owner-participants, respectively. Section 4022.25 provided, generally, that benefit increases (as defined in § 4022.2) of non-owner-participants were phased in by the greater of $20 or 20 percent of the increase for each full year the increase was effective. Section 4022.26 provided the much more complicated procedures for calculating the guaranteed benefits of owner-participants—based on a 30-year phase-in—before PPA 2006; different procedures applied depending on whether or not there had been any benefit increases. As explained above, PPA 2006 eliminated the 30-year phase-in limitation and made the five-year phase-in of benefit increases applicable to all participants, including owner-participants. Accordingly, PBGC is amending the benefit payment regulation by removing the distinction between owner-participants and all other participants under § 4022.25, and PBGC is amending § 4022.26 by replacing the 30-year phase-in limitation with a new ''owner-participant limitation,'' as discussed next.

Owner-Participant Limitation

PPA 2006 provided a new formula for determining PBGC's guarantee of an owner-participant's benefit. Under this owner-participant limitation, an owner-participant's guaranteed benefit is limited to the product of the owner-participant's otherwise-guaranteed benefit and a fraction, not to exceed one. The numerator of this fraction equals the number of years that the plan was in existence (from the later of its effective date or adoption date), and the denominator equals 10.

Compared to the 30-year phase-in under the old statute, which had been implemented at § 4022.26 of the benefit payment regulation, the owner-participant limitation is much simpler to calculate and generally provides a much more generous guarantee. Before PPA 2006, PBGC needed to make individualized determinations about the length of time each substantial owner was an active participant in a plan over a 30-year period. Additionally, a substantial owner needed to have been an active participant for at least 30 years in order for his or her benefit to be fully guaranteed (to the extent that other limitations on PBGC's guarantee did not apply). Under PPA 2006, PBGC needs only to calculate a single fraction, based on the age of the plan, and then to multiply the benefit of each majority owner under the plan by that same fraction. In addition, all majority owners' benefits are now fully guaranteed (to the extent that other limitations on PBGC's guarantee do not apply) once a plan has been in existence for 10 years.

Consistent with these statutory changes, PBGC is amending the benefit payment regulation by replacing references to ''substantial owner'' with ''majority owner'' and by revising § 4022.26 to provide the formula for calculating the owner-participant limitation, in the place of the 30-year phase-in limitation. In addition to the revisions described in the proposed rule, PBGC is adding language to § 4022.26 to clarify that in a PPA 2006 bankruptcy termination, the length of time that the plan was in existence is measured from the later of the effective date or the adoption date of the plan to the bankruptcy filing date.[2]

Asset Allocation in Priority Category 4 Before and After PPA 2006

ERISA section 4044 prescribes the method for allocating a terminated single-employer plan's assets to its benefit liabilities. Under section 4044, plan assets must be allocated to six priority categories (PC1 through PC6, with PC1 being the highest) into which all plan benefits are sorted. Benefits affected by the owner-participant limitation are assigned to priority category 4 (PC4). PPA 2006 changed the method for allocating assets within PC4 when there are benefits affected by the owner-participant limitation.

PC4 includes three kinds of benefits: (1) Guaranteed benefits, other than employee contributions and benefits that could have been in pay status three or more years before a plan's termination (or before the plan sponsor's bankruptcy filing date, for plans subject to ERISA section 4022(g)); (2) benefits that would be guaranteed but for the aggregate limit of ERISA section 4022B; and (3) benefits that would be guaranteed but for the owner-participant limitation (based on substantial ownership before PPA 2006 and majority ownership after PPA 2006).[3] If a plan's assets are sufficient to cover all PC4 benefits or are insufficient to cover any PC4 benefits, the PPA 2006 changes for owner-participants have no bearing on the allocation; however, if assets are sufficient to cover some, but not all, PC4 benefits (*i.e.,* if assets are ''exhausted in PC4''), the allocation rules differ before and after PPA 2006.

Before PPA 2006, if assets were exhausted in PC4, then assets were to be allocated pro rata among all three kinds of PC4 benefits. Under PPA 2006, if assets are exhausted in PC4, then assets must first be allocated to the first two PC4 groups; only if assets cover all benefits in these two groups will any assets be allocated to benefits that would be guaranteed but for the majority-owner limitation. In accordance with these statutory changes, PBGC is amending the asset allocation regulation by prioritizing other PC4 benefits to those affected by the majority-owner limitation.

Calculation of Estimated Benefits

In a distress termination, § 4022.61 of the benefit payment regulation—implementing section 4041(c)(3)(D) of ERISA—requires plan administrators to limit benefit payments to estimates of the amounts that PBGC is expected to pay, in order to minimize potential overpayments and exhaustion of plan assets before PBGC becomes trustee and is able to assume benefit payments. As trustee, PBGC pays each participant the

[2] *See* ''Related Regulatory Amendments'' section below.

[3] Strictly speaking, this description applies to benefits in ''net PC4,'' given that ''PC4'' (or, more accurately, ''gross PC4'') technically includes the three kinds of benefits listed, as well as all benefits in higher priority categories. Without using the terms ''gross'' or ''net,'' PBGC's asset allocation regulation makes this distinction at paragraph (c) of § 4044.10 (''[t]he value of each participant's basic-type benefit or benefits in a priority category shall be reduced by the value of the participant's benefit of the same type that is assigned to a higher priority category''). Nevertheless, PBGC recognizes that colloquial descriptions of benefits in a given priority category usually refer to the net benefits in that category, and this preamble follows that common usage, unless otherwise indicated.

greater of his or her guaranteed benefit or asset-funded benefit.[4] Accordingly, § 4022.61 requires plan administrators to limit benefits in pay status to the greater of each participant's estimated guaranteed benefit or estimated asset-funded benefit, beginning on the proposed termination date.[5]

Estimated Guaranteed Benefits

A participant's estimated guaranteed benefit is determined as of the proposed termination date and is the portion of the participant's plan benefit (viz., the benefit to which the participant would be entitled under the terms of the plan if the plan did not terminate) that does not exceed the estimated legal limits of PBGC's guarantee. Section 4022.62 of the benefit payment regulation prescribes the method for estimating PBGC's guarantee limitations and for calculating a participant's estimated guaranteed benefit.

As discussed above, the changes under PPA 2006 greatly affected the calculation of guaranteed benefits of owner-participants. Therefore, in order to ensure that administrators of plans with owner-participants understand how to accurately estimate these benefits in distress terminations, PBGC must update the calculation procedures.

Section 4022.62 provides two methods for calculating estimated guaranteed benefits. One method—given at paragraph (c)—applies to non-owner-participants, while the other—given at paragraph (d)—applies to owner-participants. Both methods' calculations use the amount calculated under paragraph (b) as a starting point. Paragraph (b) estimates a participant's benefit that would be guaranteed before application of any phase-in limitation. Paragraph (c) estimates the effect of the five-year phase-in limitation on the paragraph (b) amount. Paragraph (d) estimates the effect of the 30-year phase-in limitation applicable to owner-participants before PPA 2006 on the paragraph (b) amount.

In order to reflect the changes to PBGC's guarantee limitations for owner-participants under PPA 2006, PBGC is revising paragraph (d) in its entirety. As revised, paragraph (d) no longer estimates the effect of the 30-year phase-in limitation on the paragraph (b) amount; rather, paragraph (d) estimates the effect of the owner-participant limitation (using the $^{n}/_{10}$ ratio that PPA 2006 introduced) on the paragraph (c) amount. The revised paragraph (d) uses the paragraph (c) amount instead of the paragraph (b) amount because the five-year phase-in limitation is now applicable to all participants (including majority owners).

Estimated Asset-Funded Benefits

A participant's estimated asset-funded benefit is the portion of the participant's plan benefit that plan assets are expected to be sufficient to fund through PC4, based on estimated plan assets and benefits in each priority category. Section 4022.63 of the benefit payment regulation prescribes two methods for calculating estimated asset-funded benefits; one applies to non-owner-participants and the other applies to owner-participants. Essentially, § 4022.63 provides that a non-owner-participant's estimated asset-funded benefit equals his or her estimated PC3 benefit and that an owner-participant's estimated asset-funded benefit equals the greater of his or her estimated PC3 benefit or estimated PC4 benefit. The PPA 2006 changes for owner-participants have no bearing on estimated PC3 benefits; however, the PPA 2006 change to asset allocation had the potential to affect the calculation of estimated PC4 benefits, which are payable only to owner-participants.

An owner-participant's estimated PC4 benefit equals the product of what would be his or her estimated guaranteed benefit if the participant were not an owner-participant and the ''PC4 funding ratio.'' The PC4 funding ratio is calculated one of two ways, depending on whether a plan has any benefits in PC3 (viz., whether a plan has benefits that were or could have been in pay status three years before the proposed termination date). If a plan has no PC3 benefits, the PC4 funding ratio essentially equals the estimated amount of plan assets divided by the estimated amount of vested benefits under the plan.[6] If a plan has PC3 benefits, the PC4 funding ratio essentially equals the estimated amount of plan assets minus the present value of all benefits in pay status, all divided by the estimated amount of vested benefits not in pay status.[7]

By calculating and then using a plan's PC4 funding ratio, an administrator is able to estimate the amount of assets available to fund all benefits in PC4. This ratio does not distinguish between owner-participants' benefits and all other benefits in PC4, as this distinction was not necessary before PPA 2006, when assets were to be allocated equally among the three kinds of PC4 benefits. As a result, while the PC4 funding ratio is a useful tool for estimating assets available to fund all benefits in PC4 (including those of substantial owners before PPA 2006), it does not account for the requirement under PPA 2006 to fund the benefits of majority owners only if assets remain after funding all other benefits in PC4.

Under PPA 2006, continued use of the PC4 funding ratio is more likely to result in an inflated estimate of assets available to fund a majority owner's benefit. While this potential overestimation increases the likelihood that a majority owner's estimated benefit will exceed his or her actual benefit entitlement, it has no bearing on—in particular, it does not reduce—the estimated benefits of other participants. This is because the PC4 ratio is used only when calculating the estimated asset-funded benefit of an owner-participant. As stated above, the estimated asset-funded benefits of non-owner-participants equal the participants' estimated PC3 benefits. Because PC3 benefits receive higher allocation priority than PC4 benefits, the estimated asset-funded benefit of any non-owner-participant will not be affected by the allocation of assets in PC4.

Even without any potential harm to other participants, the concern remains for potentially overpaying majority owners who receive estimated benefits. Weighed against this concern is consideration of the potential burden on plan administrators that more robust estimation procedures would impose. Modifying the PC4 funding ratio to account for the funding prioritization of other PC4 benefits ahead of those of majority owners would require additional calculations that would undermine the requirement of administrators to ''estimate'' asset-funded benefits, as opposed to performing more precise calculations outright. Moreover, far fewer participants are likely to be majority owners, compared to the number likely to have been substantial owners before PPA 2006. This is because majority

[4] A participant's asset-funded benefit is essentially the portion of the participant's plan benefit that plan assets are sufficient to fund when assets are allocated according to the distribution rules of ERISA section 4044.

[5] PBGC's benefit payment regulation does not currently include the term ''estimated asset-funded benefit''; the term ''estimated title IV benefit'' is used instead. As discussed later in this preamble, PBGC is replacing the term ''estimated title IV benefit'' with ''estimated asset-funded benefit.'' Consistent with the terminology change, this preamble refers to estimated asset-funded benefits and not to estimated title IV benefits, except where otherwise indicated.

[6] The PC4 funding ratio excludes assets and benefits that are attributable to employee contributions. *See* 29 CFR 4022.63(d)(2).

[7] *See* note 5.

owners must have an ownership interest of at least 50 percent and because the majority-owner limitation does not apply to any plan that existed for at least 10 years before terminating.

Having weighed the concerns and chiefly recognizing the limited number of cases where a plan will have one or more majority owners as well as assets sufficient to fund some, but not all, benefits in PC4, PBGC is leaving its estimated asset-funded benefit provisions at § 4022.63 substantively unchanged, with the sole exception of revising Example 2 under paragraph (e). Example 2 illustrates how to calculate the estimated asset-funded benefit of an owner-participant and describes the related calculation of the owner-participant's estimated guaranteed benefit under § 4022.62. The revisions to Example 2 reflect the changes to § 4022.62 discussed above.

Related Regulatory Amendments

PBGC is making conforming amendments to its regulations on Terminology and Reportable Events and Certain Other Notification Requirements.

The final rule retains the long-standing definition of ''majority owner'' in § 4041.2 of PBGC's regulation on Termination of Single-Employer Plans for the limited purposes of that part. The changes in PPA 2006, including adding a definition of ''majority owner'' to section 4022(b)(5)(A) of ERISA, were aimed at other purposes. PBGC is retaining its definition of majority owner in § 4041.2 so that the individuals who are permitted to elect an alternative treatment of their benefits are not changed.[8]

PBGC is correcting paragraph (e) of § 4022.62, which currently provides that in a PPA 2006 bankruptcy termination, ''bankruptcy filing date'' is substituted for ''proposed termination date'' in paragraph (c) of § 4022.62, by making the substitution applicable to both paragraph (c) (applicable to non-owner-participants) and paragraph (d) (applicable to owner-participants) of § 4022.62. It is clear from the preamble to the final rule that added paragraph (e) that PBGC intended, consistent with PPA 2006, to have the applicable ''bankruptcy filing date'' substituted when calculating the estimated benefits of all participants, regardless of ownership status.[9]

In addition, PBGC is adding language to the revised § 4022.26 to clarify that in a PPA 2006 bankruptcy termination, the length of time that the plan was in existence is measured from the later of the effective date or the adoption date of the plan to the bankruptcy filing date. This new language mirrors the application of ERISA section 4022(g) elsewhere in the benefit payment regulation. Section 4022(g) provides that in a PPA 2006 bankruptcy termination, PBGC is to treat the bankruptcy filing date as the plan's termination date when applying ERISA section 4022.

ERISA section 4022(b)(5)(B) specifies that the numerator of the $^{n}/_{10}$ fraction used in calculating an owner-participant's guaranteed benefit is the number of years from the later of the effective or adoption date of the plan to the plan's termination date. Therefore, as Section 4022(g) requires, this final rule provides that ''bankruptcy filing date'' is substituted for ''termination date'' in the formula for calculating a majority owner's guaranteed benefit in a PPA 2006 bankruptcy termination.

By contrast, ERISA section 4022(b)(5)(A) provides that the 60-month time period for determining majority-owner status ends on ''the date the determination is being made.'' The statute is unclear as to whether the Section 4022(g) substitution rule should apply if PBGC generally treats the date of determination as the plan's termination date. This rulemaking clarifies that the time period for determining whether a participant is a majority owner—viz., the time period prescribed in ERISA section 4022(b)(5)(A) as ''the 60-month period ending on the date the determination is being made''—ends on the plan's termination date, even in a PPA 2006 bankruptcy termination. This is consistent with PBGC's valuation of a plan's assets and liabilities as of the plan's termination date, and PBGC's determination of the liable controlled group as of that date. It is also consistent with PBGC's interpretation of Section 4022(g) in its final rule on PPA 2006 bankruptcy terminations.[10] Section 4022(g) serves to limit PBGC's guarantee of benefits to a participant's accrued plan benefit at the bankruptcy filing date. Substituting the bankruptcy filing date for the termination date in applying the owner-participant guarantee limitation furthers this purpose; substituting the bankruptcy filing date for the termination date in determining majority-owner status does not.

Amendments Unrelated to PPA 2006

PBGC is making minor, non-substantive changes to the examples not involving owner-participants at §§ 4022.62 and 4022.63 of the benefit payment regulation, in order to improve readability. Additionally, PBGC is correcting two clerical errors that were made when PBGC previously amended the regulation; the first duplicated paragraph (f) of § 4022.62, and the second duplicated the designation of paragraph (c)(1) of § 4022.63. Lastly, PBGC is replacing the term ''estimated title IV benefit'' with ''estimated asset-funded benefit'' at § 4022.63.

The use of the term ''estimated title IV benefit'' at § 4022.63 of the benefit payment regulation is confusing, in light of the definition of ''title IV benefit'' at § 4001.2 of the terminology regulation. Section 4001.2 provides, generally, that a participant's title IV benefit equals the greater of his or her guaranteed benefit or asset-funded benefit. Given this definition, one might assume that the estimated title IV benefit equals the greater of the estimate of a participant's guaranteed benefit or the estimate of a participant's asset-funded benefit; however, § 4022.63 provides that the estimated title IV benefit is essentially an estimate of a participant's asset-funded benefit (through PC4) only. Accordingly, PBGC is renaming the ''estimated title IV benefit'' referred to in § 4022.63 as the ''estimated asset-funded benefit.'' This term only appears in § 4022.63; the change does not require any conforming amendments elsewhere in PBGC's regulations.

Compliance With Rulemaking Guidelines

Executive Orders 12866, 13563, and 13771

PBGC has determined that this rulemaking is not a ''significant regulatory action'' under Executive Order 12866 and, accordingly, that the provisions of Executive Order 13771 do not apply. Because this rulemaking is not a significant regulatory action, OMB has not reviewed this final rule. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

[8] Section 4041.21(b)(2) of PBGC's regulation on Termination of Single-Employer Plans provides that a majority owner may forgo a portion of his or her benefit to the extent needed to allow an underfunded plan to terminate in a standard termination.

[9] *See* 76 FR 34590, 34596 (June 14, 2011) (''[t]he final regulation provides that for any PPA 2006 bankruptcy termination, those estimated benefits [calculated under 29 CFR 4022.62–4022.63] are based on the rules described above relating to the bankruptcy filing date'').

[10] *See* 76 FR 34590, 34595–96 (June 14, 2011) (noting that an overly broad interpretation of section 4022(g) or the similar section 4044(e) of ERISA would present some anomalies).

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. If a regulatory action is significant under Executive Order 12866, Executive Order 13771 imposes additional requirements on the agency.

Although this is not a significant regulatory action under Executive Order 12866, PBGC has examined the economic implications of this final rule. PBGC has concluded that because the key aspects of this final rule merely incorporate statutory changes that have been effective since 2006, neither the public nor PBGC will assume any additional costs due to this regulatory action. Moreover, because PBGC has been following the statute as amended in 2006, and not the inconsistent provisions in its regulations, this rule improves the transparency of PBGC operations to the public and provides helpful guidance to plan administrators. By leaving unchanged the estimated asset-funded benefit calculation procedures under § 4022.63, PBGC enables plan administrators to continue to rely confidently on these relatively simple procedures, rather than creating more complex procedures that could have been contemplated in light of the statutory changes. Finally, the revisions to the examples at §§ 4022.62 and 4022.63 will assist plan administrators in complying with the law. Accordingly, this final rule will result in a net benefit to the public.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), federal agencies must comply with additional requirements when engaging in certain rulemaking activities that are subject to notice and public comment. An agency must satisfy these requirements if a final rule is likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a final rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the Regulatory Flexibility Act requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the final rule. The agency's analysis must describe the impact of the rule on small entities, and the agency must seek public comment on the impact. Small entities include small businesses, organizations, and governmental jurisdictions.

For purposes of the Regulatory Flexibility Act, with respect to this final rule, PBGC considers a small entity to be a plan with fewer than 100 participants. This criterion is consistent with certain requirements in title I of ERISA [11] and the Internal Revenue Code,[12] as well as the definition of a small entity that the Department of Labor (DOL) has used for purposes of the Regulatory Flexibility Act.[13] While some large employers maintain both small and large plans, most small plans are maintained by small employers. In light of this, PBGC believes that assessing the impact of the final rule on small plans is an appropriate substitute for evaluating the effect on small entities. Notably, the definition of small entity considered appropriate for this purpose differs from the definition of small business—based on size standards—at 13 CFR 121.201, which the Small Business Administration promulgated pursuant to the Small Business Act. Therefore, PBGC requested public comment on the appropriateness of the size standard used in evaluating the impact of the proposed rule on small entities. PBGC did not receive any such comments.

PBGC certifies under section 605(b) of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that this final rule is not likely to have a significant economic impact on any entity, regardless of size. This is because nearly all aspects of this final rule will merely incorporate statutory changes that have been effective for more than a decade, while, as discussed in the context of Executive Order 12866 above, the remaining few will provide clarity on the accurate estimation of benefits required by law, at no additional cost to the public.

List of Subjects

29 CFR Part 4001

Business and industry, Employee benefit plans, Pension insurance.

29 CFR Parts 4022 and 4043

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

29 CFR Part 4044

Employee benefit plans, Pension insurance.

In consideration of the foregoing, PBGC is amending 29 CFR parts 4001, 4022, 4043, and 4044 as follows:

PART 4001—TERMINOLOGY

■ 1. The authority citation for part 4001 continues to read as follows:

Authority: 29 U.S.C. 1301, 1302(b)(3).

■ 2. In § 4001.2:

■ a. Add in alphabetical order a definition for ''Majority owner''; and

■ b. Remove the definition of ''Substantial owner''.

The addition reads as follows:

§ 4001.2 Definitions.

* * * * *

Majority owner means, with respect to a contributing sponsor of a single-employer plan, an individual who owns, directly or indirectly (taking into account the constructive ownership rules of section 414(b) and (c) of the Code)—

(1) The entire interest in an unincorporated trade or business;

(2) 50 percent or more of the capital interest or the profits interest in a partnership; or

(3) 50 percent or more of either the voting stock of a corporation or the value of all of the stock of a corporation.

* * * * *

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE–EMPLOYER PLANS

■ 3. 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.

§ 4022.2 [Amended]

■ 4. In § 4022.2 introductory text:

■ a. Remove the words ''guaranteed benefit'' and add in their place the words ''guaranteed benefit, majority owner''; and

■ b. Remove the words ''substantial owner,''.

■ 5. Amend § 4022.24 by revising paragraphs (a) and (b) to read as follows:

§ 4022.24 Benefit increases.

(a) *Scope.* This section applies to all benefit increases, as defined in § 4022.2, that have been in effect for less than five years preceding the termination date.

[11] See, *e.g.,* ERISA section 104(a)(2), which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants.

[12] See, *e.g.,* Code section 430(g)(2)(B), which permits single-employer plans with 100 or fewer participants to use valuation dates other than the first day of the plan year.

[13] See, *e.g.,* DOL's final rule on Prohibited Transaction Exemption Procedures, 76 FR 66637, 66644 (Oct. 27, 2011).

(b) *General rule.* Benefit increases described in paragraph (a) of this section are guaranteeable only to the extent provided in § 4022.25.

* * * * *

§ 4022.25 [Amended]

■ 6. In § 4022.25:

■ a. Amend the section heading by removing the words ''for participants other than substantial owners''; and

■ b. Amend paragraph (a) by removing the words ''with respect to participants other than substantial owners''.

■ 7. Revise § 4022.26 to read as follows:

§ 4022.26 Benefit guarantee for participants who are majority owners.

(a) *Scope.* This section applies to the guarantee of all benefits described in subpart A of this part (subject to the limitations in § 4022.21) with respect to participants who are majority owners at the termination date or who were majority owners at any time within the five-year period preceding that date.

(b) *Formula.* Benefits provided by a plan are guaranteed to the extent provided in the following formula: The amount of the participant's benefit that PBGC would otherwise guarantee under section 4022 of ERISA and this part if the participant were not a majority owner, multiplied by a fraction not to exceed one, the numerator of which is the number of full years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10.

(c) *PPA 2006 bankruptcy termination.* In a PPA 2006 bankruptcy termination, ''bankruptcy filing date'' is substituted for ''termination date'' in paragraph (b) of this section.

■ 8. In § 4022.62:

■ a. Amend paragraphs (a) and (c) introductory text by removing the four instances of the word ''substantial'' and adding in their place the word ''majority'';

■ b. Revise paragraph (d);

■ c. Amend paragraph (e) by removing the words ''paragraph (c)'' and adding in their place the words ''paragraphs (c) and (d)'';

■ d. Remove the first paragraph (f); and

■ e. Revise remaining paragraph (f).

The revisions read as follows:

§ 4022.62 Estimated guaranteed benefit.

* * * * *

(d) *Estimated guaranteed benefit payable with respect to a majority owner.* For benefits payable with respect to each participant who is a majority owner, the estimated guaranteed benefit is the benefit to which he or she would be entitled under paragraph (c) of this section but for his or her status as a majority owner, multiplied by a fraction, not to exceed one, the numerator of which is the number of full years from the later of the effective date or the adoption date of the plan to the proposed termination date and the denominator of which is 10.

* * * * *

(f) *Examples.* This section is illustrated by the following examples. (For an example addressing issues specific to a PPA 2006 bankruptcy termination, see § 4022.25(f).)

(1) *Example 1*—(i) *Facts.* A participant who is not a majority owner retired on December 31, 2011, at age 60 and began receiving a benefit of $600 per month. On January 1, 2009, the plan had been amended to allow participants to retire with unreduced benefits at age 60. Previously, a participant who retired before age 65 was subject to a reduction of $1/15$ for each year by which his or her actual retirement age preceded age 65. On January 1, 2012, the plan's benefit formula was amended to increase benefits for participants who retired before January 1, 2012. As a result, the participant's benefit was increased to $750 per month. There have been no other pertinent amendments. The proposed termination date is December 15, 2012.

(ii) *Estimated guaranteed benefit.* (A) No reduction is required under § 4022.61(b) or (c) because the participant's benefit does not exceed either the participant's accrued benefit at normal retirement age or the maximum guaranteeable benefit. (Post-retirement benefit increases are not considered as increasing accrued benefits payable at normal retirement age.)

(B) The amendment as of January 1, 2009, resulted in a ''new benefit'' because the reduction in the age at which the participant could receive unreduced benefits increased the participant's benefit entitlement at actual retirement age by $5/15$, which is more than the 20-percent increase threshold under paragraph (c)(2)(i) of this section. The amendment of January 1, 2012, which increased the participant's benefit to $750 per month, is a ''benefit improvement'' because it is an increase in the amount of benefit for persons in pay status. (No percentage test applies in determining whether an increase in a pay status benefit is a benefit improvement.)

(C) The multiplier for computing the amount of the estimated guaranteed benefit is taken from the third row of Table I of this section (because the last new benefit had been in effect for three full years as of the proposed termination date) and column (c) (because there was a benefit improvement within the one-year period preceding the proposed termination date). This multiplier is 0.55. Therefore, the amount of the participant's estimated guaranteed benefit is $412.50 ($0.55 \times \$750$) per month.

(2) *Example 2*—(i) *Facts.* A participant who is not a majority owner terminated employment on December 31, 2010. On January 1, 2012, she reached age 65 and began receiving a benefit of $250 per month. She had completed three years of service at her termination of employment and was fully vested in her accrued benefit. The plan's vesting schedule had been amended on July 1, 2008. Under the schedule in effect before the amendment, a participant with five years of service was 100 percent vested. There have been no other pertinent amendments. The proposed termination date is December 31, 2012.

(ii) *Estimated guaranteed benefit.* No reduction is required under § 4022.61(b) or (c) because the participant's benefit does not exceed either her accrued benefit at normal retirement age or the maximum guaranteeable benefit. The plan's change of vesting schedule created a new benefit for the participant. Because the amendment was in effect for four full years before the proposed termination date, the second row of Table I of this section is used to determine the applicable multiplier for estimating the amount of the participant's guaranteed benefit. Because the participant did not receive any benefit improvement during the 12-month period ending on the proposed termination date, column (b) of the table is used. Therefore, the multiplier is 0.80, and the amount of the participant's estimated guaranteed benefit is $200 ($0.80 \times \$250$) per month.

(3) *Example 3*—(i) *Facts.* A participant who is a majority owner retired before the proposed termination date of April 30, 2012. The plan was in effect for seven full years as of the proposed termination date. On the proposed termination date he was entitled to receive a benefit of $2,000 per month. No reduction of this benefit is required under § 4022.61(b) or (c).

(ii) *Estimated guaranteed benefit.* Paragraph (d) of this section is used to compute the amount of the estimated guaranteed benefit of majority owners. Consequently, the amount of this participant's estimated guaranteed benefit is $1,400 ($2,000 \times 7/10$) per month.

(4) *Example 4*—(i) *Facts.* A participant who is a majority owner retired before the proposed termination

date of April 30, 2012. The plan was in effect for 12 full years as of the proposed termination date. On the proposed termination date he was entitled to receive a benefit of $2,000 per month. No reduction of this benefit is required under § 4022.61(b) or (c).

(ii) *Estimated guaranteed benefit.* Paragraph (d) of this section is used to compute the amount of the estimated guaranteed benefit of majority owners. Since the plan was in effect for more than 10 years as of the proposed termination date, the amount of this participant's estimated guaranteed benefit is $2,000 per month.

■ 9. In § 4022.63:

■ a. Revise the section heading;

■ b. Amend paragraph (a) by removing the two instances of the word ''substantial'' and adding in their place the word ''majority'' and by removing the three instances of the words ''estimated title IV benefit'' and adding in their place the words ''estimated asset-funded benefit'';

■ c. Amend paragraph (b) introductory text by removing the two instances of the word ''substantial'' and adding in their place the word ''majority'' and by removing the words ''estimated title IV benefits'' and adding in their place the words ''estimated asset-funded benefits'';

■ d. Amend paragraph (c)(1) by removing the two instances of the word ''substantial'' and adding in their place the word ''majority'' and by removing the two instances of the words ''estimated title IV benefit'' and adding in the place of each the words ''estimated asset-funded benefit'';

■ e. Amend paragraph (d) introductory text by removing the two instances of the word ''substantial'' and adding in their place the word ''majority'' and by removing the two instances of the words ''estimated title IV benefit'' and adding in the place of each the words ''estimated asset-funded benefit'';

■ f. Amend paragraph (d)(1) and by removing the two instances of the word ''substantial'' and adding in their place the word ''majority''; and

■ g. Revise paragraph (e).

The revisions read as follows:

§ 4022.63 Estimated asset-funded benefit.

* * * * *

(e) *Examples.* This section is illustrated by the following examples:

(1) *Example 1*—(i) *Facts.* (A) A participant who is not a majority owner was eligible to retire 3.5 years before the proposed termination date. The participant retired two years before the proposed termination date with 20 years of service. Her final five years' average salary was $45,000, and she was entitled to an unreduced early retirement benefit of $1,500 per month payable as a single life annuity. This retirement benefit does not exceed the limitation in § 4022.61(b) or (c).

(B) On the participant's benefit commencement date, the plan provided for a normal retirement benefit of 2 percent of the final five years' salary times the number of years of service. Five years before the proposed termination date, the percentage was 1.5 percent. The amendments improving benefits were put into effect 3.5 years before the proposed termination date. There were no other amendments during the five-year period.

(C) The participant's estimated guaranteed benefit computed under § 4022.62(c) is $1,500 per month times 0.90 (the factor from column (b) of Table I in § 4022.62(c)(2)), or $1,350 per month. It is assumed that the plan meets the conditions set forth in paragraph (b) of this section, and the plan administrator is therefore required to estimate the asset-funded benefit.

(ii) *Estimated asset-funded benefit.* (A) For a participant who is not a majority owner, the amount of the estimated asset-funded benefit is the estimated priority category 3 benefit computed under paragraph (c) of this section. This amount is computed by multiplying the participant's benefit under the plan as of the later of the proposed termination date or the benefit commencement date by the ratio of the normal retirement benefit under the provisions of the plan in effect five years before the proposed termination date and the normal retirement benefit under the plan provisions in effect on the proposed termination date.

(B) Thus, the numerator of the ratio is the benefit that would be payable to the participant under the normal retirement provisions of the plan five years before the proposed termination date, based on her age, service, and compensation on her benefit commencement date. The denominator of the ratio is the benefit that would be payable to the participant under the normal retirement provisions of the plan in effect on the proposed termination date, based on her age, service, and compensation as of the earlier of her benefit commencement date or the proposed termination date. Since the only different factor in the numerator and denominator is the salary percentage, the amount of the estimated asset-funded benefit is $1,125 ($0.015/0.020 \times \$1{,}500$) per month. This amount is less than the estimated guaranteed benefit of $1,350 per month. Therefore, in accordance with § 4022.61(d), the benefit payable to the participant is $1,350 per month.

(iii) *PPA 2006 bankruptcy termination.* In a PPA 2006 bankruptcy termination, the methodology would be the same, but ''bankruptcy filing date'' would be substituted for ''proposed termination date'' each place that ''proposed termination date'' appears in the example, and the numbers would change accordingly.

(2) *Example 2*—(i) *Facts.* (A) A participant who is a majority owner retired on the proposed termination date of October 31, 2012. The original plan had been in effect for seven full years as of the proposed termination date. Under the provisions of the plan in effect five years before the proposed termination date, the participant is entitled to a single life annuity of $500 per month. The plan was amended to increase benefits three full years before the proposed termination date. Under these plan amendments, the participant is entitled to a single life annuity of $1,000 per month.

(B) The participant's estimated guaranteed benefit computed under § 4022.62(d) is $455 per month ($1,000 $\times 0.65 \times 7/10$).

(C) It is assumed that all of the conditions in paragraph (b) of this section have been met. Plan assets equal $2 million. The present value of all benefits in pay status is $1.5 million based on applicable PBGC interest rates. There are no employee contributions and the present value of all vested benefits that are not in pay status is $0.75 million based on applicable PBGC interest rates.

(ii) *Estimated asset-funded benefit.* (A) Paragraph (d) of this section provides that the amount of the estimated asset-funded benefit payable with respect to a participant who is a majority owner is the higher of the estimated priority category 3 benefit computed under paragraph (c) of this section or the estimated priority category 4 benefit computed under paragraph (d) of this section.

(B) Under paragraph (c) of this section, the participant's estimated priority category 3 benefit is $500 ($\$1{,}000 \times \$500/\$1{,}000$) per month.

(C) Under paragraph (d) of this section, the participant's estimated priority category 4 benefit is the estimated guaranteed benefit computed under § 4022.62(c) (*i.e.,* as if the participant were not a majority owner) multiplied by the priority category 4 funding ratio. Since the plan has priority category 3 benefits, the ratio is determined under paragraph (d)(2)(i) of this section. The numerator of the ratio is plan assets minus the present value of benefits in pay status. The denominator of the ratio is the present

value of all vested benefits that are not in pay status. The participant's estimated guaranteed benefit under § 4022.62(c) is $1,000 per month times 0.65 (the factor from column (b) of Table I in § 4022.62(c)(2)), or $650 per month. Multiplying $650 by the category 4 funding ratio of ⅔ (($2 million − $1.5 million)/$0.75 million) produces an estimated category 4 benefit of $433.33 per month.

(D) Because the estimated category 4 benefit so computed is less than the estimated category 3 benefit so computed, the estimated category 3 benefit is the estimated asset-funded benefit. Because the estimated category 3 benefit so computed is greater than the estimated guaranteed benefit of $455 per month, in accordance with § 4022.61(d), the benefit payable to the participant is the estimated priority category 3 benefit of $500 per month.

PART 4043—REPORTABLE EVENTS AND CERTAIN OTHER NOTIFICATION REQUIREMENTS

■ 10. The authority citation for part 4043 continues to read as follows:

Authority: 29 U.S.C. 1083(k), 1302(b)(3), 1343.

■ 11. In § 4043.2:

■ a. Amend the introductory text by removing the words ''single-employer plan, and substantial owner'' and by adding in their place the words ''and single-employer plan''.

■ b. Add in alphabetical order a definition for ''Substantial owner''.

The addition reads as follows:

§ 4043.2 Definitions.

* * * * *

Substantial owner means a substantial owner as defined in section 4021(d) of ERISA.

* * * * *

PART 4044—ALLOCATION OF ASSETS IN SINGLE–EMPLOYER PLANS

■ 12. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

§ 4044.2 [Amended]

■ 13. In § 4044.2(a):

■ a. Remove the words ''irrevocable commitment'' and add in their place the words ''irrevocable commitment, majority owner''; and

■ b. Remove the words ''substantial owner,''.

■ 14. Amend § 4044.10 by revising paragraph (e) to read as follows:

§ 4044.10 Manner of allocation.

* * * * *

(e) *Allocating assets within priority categories.* Except for priority categories 4 and 5, if the plan assets available for allocation to any priority category are insufficient to pay for all benefits in that priority category, those assets shall be distributed among the participants according to the ratio that the value of each participant's benefit or benefits in that priority category bears to the total value of all benefits in that priority category. If the plan assets available for allocation to priority category 4 are insufficient to pay for all benefits in that category, the assets shall be allocated, first, to the value of all participants' nonforfeitable benefits that would be assigned to priority category 4 other than those impacted by the majority-owner limitation under § 4022.26 of this chapter. If assets available for allocation to priority category 4 are sufficient to fully satisfy the value of those other benefits, the remaining assets shall then be allocated to the value of the benefits that would be guaranteed but for the majority-owner limitation. These remaining assets shall be distributed among the majority owners according to the ratio that the value of each majority owner's benefit that would be guaranteed but for the majority-owner limitation bears to the total value of all benefits that would be guaranteed but for the majority-owner limitation. If the plan assets available for allocation to priority category 5 are insufficient to pay for all benefits in that category, the assets shall be allocated, first, to the value of each participant's nonforfeitable benefits that would be assigned to priority category 5 under § 4044.15 after reduction for the value of benefits assigned to higher priority categories, based only on the provisions of the plan in effect at the beginning of the five-year period immediately preceding the termination date. If assets available for allocation to priority category 5 are sufficient to fully satisfy the value of those benefits, assets shall then be allocated to the value of the benefit increase under the oldest amendment during the five-year period immediately preceding the termination date, reduced by the value of benefits assigned to higher priority categories (including higher subcategories in priority category 5). This allocation procedure shall be repeated for each succeeding plan amendment within the five-year period until all plan assets available for allocation have been exhausted. If an amendment decreased benefits, amounts previously allocated with respect to each participant in excess of the value of the reduced benefit shall be reduced accordingly. In the subcategory in which assets are exhausted, the assets shall be distributed among the participants according to the ratio that the value of each participant's benefit or benefits in that subcategory bears to the total value of all benefits in that subcategory.

* * * * *

§ 4044.14 [Amended]

■ 15. In § 4044.14, remove the word ''phase-in'' and add the word ''guarantee'' in its place and remove the word ''substantial'' and add the word ''majority'' in its place.

Issued in Washington, DC.

William Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–21551 Filed 10–2–18; 8:45 am]

BILLING CODE 7709–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2018–0627; FRL–9983–82]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 26 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to sections 5(e) and 5(f) of TSCA. This action requires persons who intend to manufacture (defined by statute to include import) or process any of these 26 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

DATES: This rule is effective on December 3, 2018. For purposes of

judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on October 17, 2018.

Written adverse comments on one or more of these SNURs must be received on or before November 2, 2018 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If EPA receives written adverse comments, on one or more of these SNURs before November 2, 2018, EPA will withdraw the relevant sections of this direct final rule before its effective date.

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0627, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after November 2, 2018 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. What action is the Agency taking?

1. *Direct Final Rule.* EPA is promulgating these SNURs using direct final rule procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices obligates EPA to assess risks that may be associated with the significant new uses under the conditions of use and, if appropriate, to regulate the proposed uses before they occur.

2. Proposed Rule. In addition to this Direct Final Rule, elsewhere in this issue of the **Federal Register**, EPA is issuing a Notice of Proposed Rulemaking for this rule. If EPA receives no adverse comment, the Agency will not take further action on the proposed rule and the direct final rule will become effective as provided in this action. If EPA receives adverse comment on one or more of SNURs in this action by November 2, 2018 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**), the Agency will publish in the **Federal Register** a timely withdrawal of the specific SNURs that the adverse comments pertain to, informing the public that the actions will not take effect. EPA would then address all adverse public comments in a response to comments document in a subsequent final rule, based on the proposed rule.

B. What is the Agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)(i)). TSCA furthermore prohibits such manufacturing or processing from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 26 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 26 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) or 5(f) Order.
- Information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR.

This information may include testing required in a TSCA section 5(e) Order to be conducted by the PMN submitter, as well as testing not required to be conducted but which would also help characterize the potential health and/or environmental effects of the PMN substance. Any recommendation for information identified by EPA was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the chemical substance. Further, any such testing identified by EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models. EPA also recognizes that whether testing/further information is needed will depend on the specific exposure and use scenario in the SNUN. EPA encourages all SNUN submitters to contact EPA to discuss any potential future testing. See Unit VIII. for more information.

- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of these rules specifies the activities designated as significant new uses. Certain new uses, including exceedance of production volume limits (*i.e.,* limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

These rules include 26 PMN substances that are subject to Orders under TSCA section 5(e)(1)(A) or section 5(f)(3)(A). Each Order is based on one or more of the findings in TSCA section 5(a)(3)(A) or section 5(a)(3)(B): There is insufficient information to permit a reasoned evaluation; in the absence of sufficient information to permit a reasoned evaluation, the activities associated with the PMN substances may present unreasonable risk to health or the environment; the substance is or will be produced in substantial quantities, and enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant (substantial) human exposure to the substance; presents an unreasonable risk of injury to health or environment. Those Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Where EPA determined that the PMN substance presents or may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) or 5(f) Order required, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) Orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use

the NCELs approach for SNURs that are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) Order for the same chemical substance.

PMN Number: P–10–366

Chemical name: Carbon nanomaterial (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: May 11, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be in printing applications. EPA identified concerns for pulmonary toxicity and carcinogenicity based on analogy to carbon black. The Order was issued under TSCA sections 5(e)(1)(A)(i), based on a finding that the available information is insufficient to permit a reasoned evaluation of the human health and environmental effects of the PMN substance. The Order was also issued under TSCA section 5(e)(l)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

1. Submission to EPA of certain health testing and material characterization data before exceeding a specified confidential production volume;

2. Use of personal protective equipment where there is a potential for dermal exposure;

3. Use of a National Institute for Occupational Safety and Health (NIOSH) certified air purifying, tight-fitting full-face respirator equipped with N100, P–100, or R–100 filter with an Assigned Protection Factor (APF) of at least 50 where there is a potential for inhalation exposure;

4. No release of the PMN substance to surface waters;

5. Use of the PMN substance only for the confidential uses specified in the Order;

6. Limit the manufacture, processing and use of the PMN substance to industrial uses;

7. No processing or use of the powder form of the PMN substance outside of the site of manufacture/processing; and

8. No processing or use of the PMN substance in the liquid resin form using an application method that generates a vapor, mist, or aerosol.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed certain time limits without performing specific physical-chemical property tests and characterization and pulmonary effects testing. EPA has also determined that the results of a carcinogenicity study would help characterize the potential health effects caused by the PMN substance. Although the Order does not require this test, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11149.

PMN Number: P–14–627

Chemical name: Cyclic amide (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: November 16, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be in dispersions for industrial coatings (*e.g.,* polyurethane, acrylic, epoxy), coating for consumer and professional use, adhesives and sealants, solvent-borne industrial coatings silicon wafer cleaning in microelectronics in clean rooms, photoresist stripping in microelectronics in clean rooms, coatings for microelectronics (*e.g.,* casting of polymer films) in clean rooms, reaction medium for polymerization, polymer coatings for industrial and professional applications (*e.g.,* wire enamel, non-stick and friction reduction coating) membranes, solvent for chemical synthesis reactions (*e.g.,* pharmaceuticals), formulation of inks, industrial cleaner (*e.g.,* cleaner for wind turbine, oil rigs, large engines), solvent for cleaning industrial reactors, wax inhibitors (in hydrocarbon lines), petrochemical extraction processes, paint stripper, solvents for production and formulation of fertilizer, solvent for production and formulation of active ingredients for agriculture, and solvent for formulation of active ingredients for agriculture-end use pesticide products. Based on test data on the PMN substance, EPA identified concerns for developmental and reproductive toxicity, skin irritation, and systemic toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substance either enters or may reasonably be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substance. To protect against these risks, the Order requires:

1. Use of personal protective where there is a potential for dermal exposures;

2. Refraining from domestic manufacture of the PMN substance in the United States (*i.e.,* import only);

3. Import the PMN substance only according to the terms specified in the Order;

4. Use of the PMN substance only for the uses and concentrations specified in the Order;

5. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the Safety Data Sheet (SDS);

6. Processing and use of the PMN substance only for uses specified in the Order; and

7. No use of the PMN substance in hand held spray applications that generate a vapor, mist, or aerosol.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citations: 40 CFR 721.11150.

PMN Number: P–15–114

Chemical name: 2-Butanone 1,1,1,3,4,4,4-heptafluoro-3-(trifluoromethyl)-.

CAS number: 756–12–7.

Effective date of TSCA section 5(e) Order: December 13, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a dielectric medium

for medium and high voltage power generation/distribution equipment and heat transfer. Based on analysis of test data on the PMN substance, EPA identified concerns for irritation of eyes, skin, lungs, and mucous membranes. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposure;

2. Establishment and use of a hazard communication program, label containers of the PMN substance with the statement: ''contains a dielectric fluid which should not be mixed or used in conjunction with sulfur hexafluoride (SF6)'' and provide SDS and worker training in accordance with the provisions of the Hazard Communication Program section;

3. No manufacture of the PMN substance beyond a confidential annual production volume (which includes import) specified in the Order;

4. No use other than as a dielectric medium for medium and high voltage power generation/distribution equipment and heat transfer as described in the Order; and

5. No release of the PMN substance resulting in surface water concentrations that exceed 180 parts per billion (ppb).

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the environmental and health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific chronic aquatic toxicity and pulmonary effects testing would help characterize the potential environmental and health effects of the PMN substance. Although the Order does not require this information, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11151.

PMN Number: P–15–320

Chemical names: Propanenitrile, 2,3,3,3 tetrafluoro- 2-(trifluoromethyl)-.

CAS number: 42532–60–5.

Effective date of TSCA section 5(e) Order: October 18, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a dielectric medium for medium and high voltage power generation and distribution equipment. Based on analysis of test data on the PMN substance, EPA identified concerns for neurotoxicity and irritation of eyes, skin, lungs, and mucous membranes. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Establishment and use of a hazard communication program, label containers of the PMN substance with the statement: ''contains a dielectric fluid which should not be mixed or used in conjunction with sulfur hexafluoride (SF6)'' and provide SDS and worker training in accordance with the provisions of the Hazard Communication Program section; and

2. Manufacturing, processing, or use as a dielectric medium for medium and high voltage power generation and distribution equipment as described in the PMN.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific pulmonary effects testing would help characterize the potential health effects of the PMN substance. Although the Order does not require this test, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11152.

PMN Number: P–15–734

Chemical name: Polymeric sulfide (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: October 11, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be for wastewater heavy metals removal. Based on physical/chemical properties of the PMN substance, EPA identified concerns for severe skin irritation, corrosion, neurotoxicity, developmental toxicity, and reproductive toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(II) and 5(e)(l)(A)(ii)(II), based on a finding that the substance is or will be produced in substantial quantities and that the substance either enters or may reasonable be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the chemical substance. To protect against these risks, the Order requires:

1. Submission of certain health testing on the PMN substance prior to exceeding the confidential production volume limit specified in the Order;

2. Use of personal protective equipment where there is a potential for dermal exposure;

3. No modification of the manufacturing, processing, or use activities of the PMN substance that result in inhalation exposure to workers;

4. Use of the PMN substance only for wastewater heavy metal removal as specified in the Order;

5. No release of the PMN substance resulting in surface water concentrations that exceed 2 ppb; and

6. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the environmental and health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed a certain confidential production volume limit without performing reproductive/

developmental toxicity testing and acute aquatic toxicity testing.

CFR citation: 40 CFR 721.11153.

PMN Numbers: P–16–356 and P–16–357

Chemical name: Quaternary ammonium salts (generic).

CAS numbers: Not available.

Effective date of TSCA section 5(e) Order: February 27, 2018.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the substances will be as wellbore additives. EPA has identified concerns for irritation for the substances based on the pH and concerns for lung effects based on the surfactant properties. Based on analogy to cationic surfactants, EPA has identified ecotoxicity hazard concerns. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to health and the environment. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substances will be produced in substantial quantities and that the substances may reasonably be anticipated to enter the environment in substantial quantities and there may be significant human exposure to the PMN substances. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is potential for dermal exposure;

2. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;

3. Refrain from manufacturing, processing or using the PMN substances in a manner that generates a vapor, mist, or aerosol; and

4. No use of the PMN substances other than the confidential use described in the Order.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health and environmental effects of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific pulmonary effects testing would help characterize the potential health effects of the PMN substances and results of acute aquatic toxicity testing would help characterize the potential environmental effects of the PMN substances. Although the Order does not require this test, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11154.

PMN Number: P–16–375

Chemical name: Alkyl methacrylates, polymer with olefins (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: October 17, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a binder for seal application. Based on physical/chemical properties of the PMN substance, EPA identified concerns for lung toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Refraining from domestic manufacture of the PMN substance in the United States (*i.e.,* import only); and

2. Import of the PMN substance according to the confidential molecular weight parameters specified in the Order.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health and environmental effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific pulmonary effects testing and fate testing would help characterize the potential health effects of the PMN substance and results of acute aquatic toxicity testing would help characterize the potential environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11155.

PMN Number: P–16–386

Chemical name: Hexanedioic acid, 1,6-bis(3,5,5-trimethylhexyl) ester.

CAS number: 20270–50–2.

Effective date of TSCA section 5(e) Order: October 12, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the substance will be used as a seal swell agent for motor formulations and gear oil lubricants. Based on analysis of an analogous compound, EPA has identified concerns for solvent neurotoxicity, liver and kidney effects, and concern for developmental toxicity based on analysis of testing for a potential degradant of the PMN substance. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Submit to EPA certain toxicity testing prior to manufacturing 1,545,000 kilograms of the PMN substance;

2. Use of personal protective equipment where there is a potential for dermal exposure;

3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS; and

4. Use of the PMN substance only for the use specified in the Order.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the 1,545,000 kilogram production volume limit without performing specific target organ/reproductive/developmental toxicity testing.

CFR citation: 40 CFR 721.11156.

PMN Number: P–16–396

Chemical name: Alkylaminium hydroxide (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: December 19, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the PMN substance

will be as a specialty chemical for processing additive. Based on structural alerts and analysis of analogue data, EPA identified concerns for neurotoxicity, developmental and reproductive toxicity and irritation. EPA also identified concerns for lung effects based on surfactant properties and corrosivity and concern for reproductive and developmental toxicity based on analogue data from large quaternary ammonium compounds. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Submission of certain health testing on the PMN substance prior to exceeding the confidential production volume limit as specified in the Order;

2. Use of personal protective equipment where there is a potential for dermal exposure;

3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;

4. No manufacturing, processing, or use of the PMN substance as a solid or powder;

5. Use of the PMN substance only for the confidential uses specified in the Order; and

6. No use of the PMN substance in application methods that generate a dust, vapor, mist, or aerosol.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed a certain production volume limit without performing reproductive/developmental toxicity testing.

CFR citation: 40 CFR 721.11157.

PMN Numbers: P–16–572 and P–16–573

Chemical name: Polyamine polyacid adducts (generic).

CAS numbers: Not available.

Effective date of TSCA section 5(e) Order: September 27, 2017.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the substances will be as adhesives for coatings. Based on physical chemical properties of the PMN substances, EPA identified potential concerns for lung toxicity and aquatic/terrestrial toxicity if the PMN substances are manufactured in such a manner that they are amine terminated. The Order was issued under TSCA sections 5(a)(3)(B)(i) and 5(e)(1)(A)(i), based on a finding that the available information is insufficient to permit a reasoned evaluation of the health and environmental effects for the PMN substances. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

1. Manufacture of the PMN substances in a manner that they are not amine terminated in order to maintain water solubility levels below 1 ppb.

The SNUR designates as a ''significant new use'' the absence of this protective measure.

Potentially useful information: EPA has determined that certain information about the physical-chemical properties and health effects of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific physical-chemical property tests and target organ toxicity testing would help characterize the potential health effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citations: 40 CFR 721.11158.

PMN Numbers: P–17–24 and P–17–25

Chemical names: Aromatic isocyanate, polymer with alkyloxirane polymer with oxirane ether with alkyldiol (2:l), and alkyloxirane polymer with oxirane ether with alkyltriol (3:l) (generic) (P–17–24) and aromatic isocyanate polymer with alkyloxirane, alkyloxirane polymer with oxirane ether with alkanetriol and oxirane (generic) (P–17–25).

CAS numbers: Not available.

Effective date of TSCA section 5(f) Order: October 31, 2017.

Basis for TSCA section 5(f) Order: The PMN states that the generic (non-confidential) use of the substances will be as urethane components. EPA identified concerns for oncogenicity based on physical chemical properties of the PMN substances, mutagenicity based on data for analogous chemicals, and respiratory and dermal sensitization and lung and mucous membrane irritation based on the isocyanate moiety. The Order was issued under sections 5(a)(3)(A) and 5(f)(1) of TSCA, based on a finding that the substances present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposure;

2. No manufacturing, processing, or use of the PMN substances in application methods that generate a vapor, dust, mist, or aerosol;

3. No use of the PMN substances in a consumer product; and

4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

CFR citation: 40 CFR 721.11159 and 40 CFR 721.11160.

PMN Number: P–17–148

Chemical name: Oils, Hedychium Flavescens.

CAS number: 1902936–65–5.

Effective date of TSCA section 5(e) Order: December 15, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the substance will be used as an odoriferous component of fragrance compounds. Based on test data on PMN constituents, EPA has identified concerns for oncogenicity, developmental toxicity, liver, kidney, and male reproductive effects. EPA also identified concern for sensitization based on submitted test data on the PMN mixture. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(II), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk on injury to health. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposures;

2. Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposures;

3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;

4. Refraining from domestic manufacture of the PMN substance in the United States (*i.e.,* import only);

5. Not manufacture the PMN substance beyond an annual production volume of 70 kilograms;

6. Not manufacture, process, or use the PMN substance in any manner or method that generates mist or aerosol; and

7. Not use the PMN substance other than as an odoriferous component of fragrance compounds.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific skin absorption, and chronic toxicity/carcinogenicity testing would help characterize the potential health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11161.

PMN Number: P–17–174

Chemical name: Alkyltriethosysilylpolysiloxane (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: November 28, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a plastic additive. Based on analysis of test data on analogous alkoxysilanes, EPA identified concerns for lung effects, irritation, developmental toxicity, and neurotoxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Submission to EPA of certain health testing before manufacturing (including import) the aggregate confidential volume identified in the Order;

2. Use of personal protective equipment where there is a potential for dermal exposure;

3. No manufacturing or use of the PMN substance in application methods that generate a vapor, mist, or aerosol;

4. Refraining from domestic manufacture of the PMN substance in the United States (*i.e.,* import only);

5. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed a confidential production volume limit without performing specific target organ toxicity testing.

CFR citation: 40 CFR 721.11162.

PMN Numbers: P–17–200 and P–17–204

Chemical names: 1,3-bis(substitutedbenzoyl)benzene (generic) (P–17–200) and 1,4-bis(substitutedbenzoyl)benzene (generic) (P–17–204).

CAS numbers: Not available.

Effective date of TSCA section 5(e) Order: December 18, 2017.

Basis for TSCA section 5(e) Order: The PMNs state that the use of the substances will be as monomers for high performance polymers. Based on analysis of test data on analogous chemical bisphenol A and predictions for polyphenols, EPA identified potential concerns for irritation to the eyes, lungs, and mucous membranes, liver and kidney effects, reproductive and developmental toxicity, sensitization, neurotoxicity, and aquatic/terrestrial toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to the health and the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposure;

2. Use of a NIOSH certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;

3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;

4. Manufacture (including import) the PMN substances only in the form of a solid;

5. Refraining from domestic manufacture of the PMN substances in the United States (*i.e.,* import only);

6. No manufacture (including import), processing, or use of the PMN substances with greater than 0.1% of the particle size distribution less than 10 microns;

7. No use other than as chemical intermediates;

8. No release of the PMN substances into the waters of the United States without application of an on-site wastewater treatment that reduces the concentration of PMN substances in wastewater below the limit of detection of 0.03 ppm, using the on-site wastewater treatment system with activated carbon adsorption; and

9. Disposal of the PMN substances by incineration.

The SNURs designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the environmental and health effects of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by these SNURs. EPA has also determined that the results of specific reproductive toxicity testing, skin sensitization, and chronic aquatic toxicity testing would help characterize the potential human and environmental effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11163 and 40 CFR 721.11164.

PMN Number: P–17–205

Chemical name: Bis(fluorobenzoyl)benzene (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: December 18, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will

be as a monomer for high performance polymers. Based on physical/chemical properties of the PMN substance (as described in the New Chemical Program's PBT category at 64 FR 60194; November 4, 1999) and test data on structurally similar substances, the PMN substance is a potentially persistent, bioaccumulative, and toxic (PBT) chemical. EPA has identified concern for eye irritation based on test data for an analogous chemical. Concerns for liver, kidney, blood effects and carcinogenicity were identified based on test data available for benzophenone. Based on experimental data of an analogous chemical, EPA has identified environmental hazard concerns. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the PMN substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposure;
2. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;
3. Refraining from domestic manufacture of the PMN substance in the United States (*i.e.,* import only);
4. Manufacture of the PMN substance only in the form of a solid;
5. No manufacture of the PMN substance with greater than 0.1% of the particle size distribution less than 10 microns;
6. No use other than as a chemical intermediate;
7. Disposal of the PMN substance by incineration; and
8. No release of the PMN without application of an on-site wastewater treatment that reduces the concentration of the PMN in wastewater below the limit of detection of 0.03 ppm.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the environmental and health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has also determined that the results of biodegradability testing, bioaccumulation testing, specific reproductive and developmental toxicity testing, and chronic aquatic toxicity testing would help characterize the potential human and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11165.

PMN Number: P–17–251

Chemical name: 1-H-Benz[DE] isoquinoline-1,3 (2H)-dione-2-(-alkyl-)-(-alkyl-amino-) (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: December 13, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the specific (non-confidential) use of the substance will be as tracer dye. Based on the physical/chemical properties of the PMN substance and data for structurally analogous chemical substances, EPA has identified concerns for mutagenicity and ocular irritation. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(II), based on finding that in the absence of sufficient information to permit a reasoned evaluation, the PMN substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for exposure;
2. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;
3. Refraining from domestic manufacture of the PMN substance in the United States (*i.e.,* import only); and
4. No import, processing, or use of the PMN substance at a concentration greater than 0.4%.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific skin absorption testing and genetic toxicology testing would help characterize the potential health effects of the PMN substance. Although the Order does not require this test, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11166.

PMN Number: P–17–296

Chemical name: Siloxanes and Silicones, di-Me, hydrogen-terminated, reaction products with acrylic acid and 2-ethyl-2-[(2-propen-1-yloxyl)methyl]-1,3-propanediol, polymers with chlorotrimethylsilane-iso-Pr alc.-sodium reaction products.

CAS number: 2014386–23–1.

Effective date of TSCA section 5(e) Order: November 14, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a component of release coating mixture for paper and film. Based on analogy to acrylates, EPA identified concerns for dermal and respiratory sensitization, mutagenicity, oncogenicity, developmental toxicity, and irritation to all tissues. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposure;
2. Use of a NIOSH certified respirator with an APF of at least 1,000 if used in a manner that generates a spray, mist, or aerosol and there is a potential for inhalation exposure;
3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS; and
4. Refraining from domestic manufacture of the PMN substance in the United States (*i.e.,* import only).

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific reproductive/developmental toxicity testing, skin sensitization and genetic toxicology testing would help characterize the potential health effects of the PMN substance. Although the

Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11167.

PMN Numbers: P–17–308 and P–17–309

Chemical names: 2-Pentanone, 2,2',2''-[O,O',O''-(ethenylsilylidyne)trioxime] (P–17–308) and 2-Pentanone, 2,2',2''- [O,O',O''-(methylsilylidyne)trioxime] (P–17–309).

CAS numbers: 58190–62–8 (P–17–308) and 37859–55–5 (P–17–309).

Effective date of TSCA section 5(e) Order: October 30, 2017.

Basis for TSCA section 5(e) Order: The PMNs state that the use of the substances will be as crosslinkers for silicone sealants used in automotive and large appliance (white goods) manufacture and for silicone sealants used in auto repair shops. Based on hazard determination and available qualitative risk information, EPA has identified concerns for irritation, corrosion, sensitization; systemic effects to spleen, liver and bone marrow; developmental, reproductive, blood, and kidney toxicity; neurotoxicity, mutagenicity and oncogenicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Submission to EPA of certain toxicity testing on P–17–308 before manufacturing the aggregate confidential production volume identified in the Order;

2. Provide personal protective equipment where there is a potential for dermal exposure;

3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;

4. Refraining from domestic manufacture of the PMN substances in the United States (*i.e.,* import only); and

5. Not process or use the PMN substances in any application that creates vapor, mist or aerosol.

The SNURs designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by these SNURs. The submitter has agreed not to exceed a confidential production volume limit without performing reproductive/developmental toxicity testing and skin sensitization testing on P–17–308.

CFR citation: 40 CFR 721.11168 and 40 CFR 721.11169.

PMN Number: P–17–321

Chemical name: Naphthalene trisulfonic acid sodium salt (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: October 25, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be for monitoring of oil/gas well performance. Based on physical/chemical properties of the PMN substance and analysis of test data on analogous chemicals, EPA identified concerns for developmental toxicity and interference with blood clotting via chelation of nutrient metals, dermal and lung irritation, and sensitization. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Submission to EPA of certain toxicity testing before manufacturing (including import) the confidential aggregate volume identified in the Order;

2. Use of personal protective equipment where there is a potential for dermal exposure and a NIOSH certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;

3. No manufacturing, processing, or use of the PMN substance in any manner that generates a vapor, mist, or aerosol;

4. No manufacture (including import) or processing of the PMN substance beyond the confidential annual production volume specified in the Order; and

5. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed a confidential production volume limit without performing reproductive/developmental toxicity testing and skin sensitization testing.

CFR citation: 40 CFR 721.11170.

PMN Number: P–17–327

Chemical name: Polymer of aliphatic dicarboxylic acid and dicyclo alkane amine (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: October 18, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the PMN substance will be for injection molding of special applications and in compounding. Based on physical/chemical properties of the PMN substance, there are no significant concerns for the PMN substance as described in the PMN submission. However, if the PMN substance is made differently, there could be concern for lung toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Manufacture (which under TSCA includes importing) the PMN substance to have an average molecular weight of no greater than 10,000 Daltons.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has also determined that the results of specific acute toxicity and pulmonary effects testing would help characterize the potential health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission and review of this or other relevant information.

CFR citation: 40 CFR 721.11171.

PMN Number: P–17–330

Chemical name: Hexanedioic acid, polymer with trifunctional polyol, 1,1'-methylenebis [isocyanatobenzene], and 2,2′-oxybis [ethanol] (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: November 13, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a polyurethane which is cured and used in a sprocket for water treatment. Based on physical/chemical properties of the PMN substance, EPA identified concerns for irritation to the eye, skin, respiratory tract, and gastrointestinal tract and for potential dermal and respiratory sensitization. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposure;

2. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;

3. No manufacture, processing, or use of the PMN substance in any manner that generates a dust, mist, or aerosol; and

4. No use of the PMN substance in a consumer product or for commercial uses when the sealable goods or service could introduce the PMN material into a consumer setting.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has also determined that the results of specific skin sensitization testing would help characterize the potential health effects of the PMN substance. Although the Order does not require this test, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission and review of this or other relevant information.

CFR citations: 40 CFR 721.11172.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for all 26 chemical substances, regulation was warranted under TSCA section 5(e) or section 5(f), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) or 5(f) Orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters.

The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.
- EPA will identify as significant new uses any manufacturing, processing, distribution in commerce, use, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule. The effective date of this rule is December 3, 2018 without further notice, unless EPA receives written adverse comments before November 2, 2018.

If EPA receives written adverse comments on one or more of these SNURs before November 2, 2018, EPA will withdraw the relevant sections of this direct final rule before its effective date.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse comments must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) or 5(f) Orders have been issued for all of the chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) and 5(f) Orders from undertaking activities which will be designated as significant new uses. The identities of 20 of the 26 chemical substances subject to this rule have been claimed as confidential and EPA has received no post-PMN *bona fide* submissions (per §§ 720.25 and 721.11) for a chemical substance covered by this action. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Therefore, EPA designates October 3, 2018 as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to

ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the direct final rule.

Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date will have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons will have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: Development of test data is required where the chemical substance subject to the SNUR is also subject to a rule, order or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)).

In the absence of a TSCA section 4 test rule covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists required or recommended testing for all of the listed SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

In certain of the TSCA section 5(e) Orders for the chemical substances regulated under this rule, EPA has established production or time limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. The SNURs contain the same limits as the TSCA section 5(e) Orders. Exceeding these limits is defined as a significant new use. Persons who intend to exceed the limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

Any request by EPA for the triggered and pended testing described in the Orders was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the PMN substances. Further, any such testing request on the part of EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models.

Potentially useful information identified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at § 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors

of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2018–0627.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This action establishes SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) or 5(f) Orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (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 that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this action.

This action is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 14, 2018.

Jeffery T. Morris,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.11149	2070–0012
721.11150	2070–0012
721.11151	2070–0012
721.11152	2070–0012
721.11153	2070–0012
721.11154	2070–0012
721.11155	2070–0012
721.11156	2070–0012
721.11157	2070–0012
721.11158	2070–0012
721.11159	2070–0012
721.11160	2070–0012
721.11161	2070–0012
721.11162	2070–0012
721.11163	2070–0012
721.11164	2070–0012
721.11165	2070–0012
721.11166	2070–0012
721.11167	2070–0012
721.11168	2070–0012
721.11169	2070–0012
721.11170	2070–0012
721.11171	2070–0012
721.11172	2070–0012
* * * * *	

* * * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.11149 to subpart E to read as follows:

§ 721.11149 Carbon nanomaterial (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbon nanomaterial (P–10–366) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured), incorporated or embedded into a polymer matrix that itself has been completely reacted (cured), embedded in a permanent solid polymer, metal, glass, or ceramic form, or completely embedded in an article as defined at 40 CFR 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i)(ii), (a)(3), (a)(4), (a)(5) (respirators must provide a National Institute for Occupational Safety and Health certified air purifying, tight-fitting full-face respirator equipped with N100, P–100, or R–100 filter with an Assigned Protection Factor of at least 50), (a)(6)(particulate), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1) and (4) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (l), (q), and (y)(1)(when the substance is in liquid resin form). It is a significant new use to process or use the powder form of the substance outside of the site of manufacture or processing.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 5. Add § 721.11150 to subpart E to read as follows:

§ 721.11150 Cyclic amide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as cyclic amide (P–14–627) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i)(butyl or silver shield gloves), (a)(2)(iv), (a)(3)(when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation shall be considered and implemented to prevent exposure, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (ix), (g)(2)(i), (ii), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized

System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k)(dispersions for industrial coatings (*e.g.,* polyurethane, acrylic, epoxy), coating for consumer and professional use, adhesives and sealants, solvent-borne industrial coatings silicon wafer cleaning in microelectronics in clean rooms, photoresist stripping in microelectronics in clean rooms, coatings for microelectronics (*e.g.,* casting of polymer films) in clean rooms, reaction medium for polymerization, polymer coatings for industrial and professional applications (*e.g.,* wire enamel, non-stick and friction reduction coating) membranes, solvent for chemical synthesis reactions (*e.g.,* pharmaceuticals), formulation of inks, industrial cleaner (*e.g.,* cleaner for wind turbine, oil rigs, large engines), solvent for cleaning industrial reactors, wax inhibitors (in hydrocarbon lines), petrochemical extraction processes, paint stripper, solvents for production and formulation of fertilizer, solvent for production and formulation of active ingredients for agriculture, and solvent for formulation of active ingredients for agriculture-end use pesticide product). It is a significant new use to import the substance other than in containers of 55 gallons or more when the concentration is greater than 5% by weight for any product either intended for sale or distribution for ''consumer'' use, including for use in ''consumer products'', or both intended for ''commercial use'' and rnade available to consumers for retail purchase of any kind. It is a significant new use to use in hand held spray applications that generate a vapor, mist, or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 6. Add § 721.11151 to subpart E to read as follows:

§ 721.11151 2-Butanone 1,1,1,3,4,4,4-heptafluoro-3-(trifluoromethyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-Butanone 1,1,1,3,4,4,4-heptafluoro-3-(trifluoromethyl)- (P–15–114, CAS No 756–12–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2), and (a)(3)(when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(i), (g)(2)(i)(v), (g)(3)(ii)(harmful to fish), (g)(4)(iii), and (g)(5). It is a significant new use unless containers of the PMN substance are labeled with the statement: ''contains a dielectric fluid which should not be mixed or used in conjunction with sulfur hexafluoride (SF6)''. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(t). It is a significant new use to use the substance other than as a dielectric medium for medium and high voltage power generation/ distribution equipment and heat transfer.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 180.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 7. Add § 721.11152 to subpart E to read as follows:

§ 721.11152 Propanenitrile, 2,3,3,3 tetrafluoro- 2-(trifluoromethyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propanenitrile, 2,3,3,3 tetrafluoro- 2-(trifluoromethyl)- (P–15–320, CAS No 42532–60–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1%), (f), and (g)(5). It is a significant new use unless containers of the PMN substance are labeled with the statement: ''contains a dielectric fluid which should not be mixed or used in conjunction with sulfur hexafluoride (SF6)''). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to use the substance other than as a dielectric medium for medium and high voltage power generation and distribution equipment.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 8. Add § 721.11153 to subpart E to read as follows:

§ 721.11153 Polymeric sulfide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as polymeric sulfide (P–15–734) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative

control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1%), (f), (g)(1)(i), (vi), (ix), (neurotoxicity), (g)(2)(i), (iii), (v), (g)(3)(i), (ii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k)(wastewater heavy metal removal) and (q). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to workers.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 2.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 9. Add § 721.11154 to subpart E to read as follows:

§ 721.11154 Quaternary ammonium salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as quaternary ammonium salts (PMN P–16–356 and P–16–357) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substances after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified § 721.63(a)(1), (a)(2)(i), (a)(3), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (ii), (neurotoxicity), (g)(2)(i), (iii), (v), (g)(3)(i), (ii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture, process, or use the substances in any manner way that results in generation of a vapor, mist or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 10. Add § 721.11155 to subpart E to read as follows:

§ 721.11155 Alkyl methacrylates, polymer with olefins (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as alkyl methacrylates, polymer with olefins (P–16–375) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import the substance other than according to the confidential molecular weight parameters specified in the Order for the substance.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 11. Add § 721.11156 to subpart E to read as follows:

§ 721.11156 Hexanedioic acid, 1,6-bis(3,5,5-trimethylhexyl) ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) the chemical substance identified as hexanedioic acid, 1,6-bis(3,5,5-trimethylhexyl) ester (PMN P–16–386, CAS No 20270–50–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation shall be considered and implemented to prevent exposure, where feasible), (a)(6)(v), (vi), (particulate), (b)(concentration set at 1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1%), (f), (g)(1)(iii), (iv), (ix), (g)(2)(i), (ii), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k)(motor oil formulations and gear oil lubricants) and (p)(1,545,000 kilograms).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. Add § 721.11157 to subpart E to read as follows:

§ 721.11157 Alkylaminium hydroxide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylaminium hydroxide (P–16–396) is subject to reporting under this section for the significant new uses

described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (iv), (a)(3), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.71(a) through (e) (concentration set at 1.0%), (f), (g)(1)(i), (ii), (iii), (vi), (ix), (eye damage), (g)(2)(i), (ii), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (q), (v)(1), (2), (w)(1), (2), (x)(1), (x)(2), (y)(1), and (y)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 12. Add § 721.11158 to subpart E to read as follows:

§ 721.11158 Polyamine polyacid adducts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances generically identified as polyamine polyacid adducts (P–16–572 and P–16–573) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new to use to manufacture the substances in any manner other than they are not amine terminated in order to maintain water solubility levels below 1 part per billion.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 13. Add § 721.11159 to subpart E to read as follows:

§ 721.11159 Aromatic isocyanate, polymer with alkyloxirane polymer with oxirane ether with alkyldiol (2:l) and alkyloxirane polymer with oxirane ether with alkyltriol (3:l) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as aromatic isocyanate, polymer with alkyloxirane polymer with oxirane ether with alkyldiol (2:l) and alkyloxirane polymer with oxirane ether with alkyltriol (3:l) (P–17–24) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iv), (a)(3), (a)(6)(v), (vi), (particulate), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 0.1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 0.1%), (f), (g)(1)(i), (ii), (asthma), (g)(2)(i), (ii), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in generation of a vapor, mist or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 14. Add § 721.11160 to subpart E to read as follows:

§ 721.11160 Aromatic isocyanate polymer with alkyloxirane, alkyloxirane polymer with oxirane ether with alkanetriol and oxirane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as aromatic isocyanate polymer with alkyloxirane, alkyloxirane polymer with oxirane ether with alkanetriol and oxirane (P–17–25) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iv), (a)(3), (a)(6)(v), (vi), (particulate), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 0.1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 0.1%), (f), (g)(1)(i), (ii), (asthma), (g)(2)(i), (ii), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in generation of a vapor, mist or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 15. Add § 721.11161 to subpart E to read as follows:

§ 721.11161 Oils, Hedychium Flavescens.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oils, hedychium flavescens, (PMN P–17–148, CAS No 1902936–65–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iii), (iv), (a)(3), (a)(4), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor of at least 50), (a)(6)(v), (vi), (b)(concentration set at 1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(iv), (vi), (vii), (ix), (respiratory sensitization), (g)(2)(i), (ii), (iii), (iv), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k)(odoriferous component of fragrance compounds) and (s)(70 kilograms). It is a significant new use to manufacture, process, or use the substance in any manner that generates a mist or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 16. Add § 721.11162 to subpart E to read as follows:

§ 721.11162 Alkyltriethosysilylpolysiloxane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as alkyltriethosysilylpolysiloxane (P–17–174) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (when determining which persons are reasonable likely to be exposed as required for § 721.63 (a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (ix), (neurotoxicity), (g)(2)(i), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q). It is a significant new use to manufacture or use the substance in any manner that results in generation of a vapor, mist or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 17. Add § 721.11163 to subpart E to read as follows:

§ 721.11163 1,3-Bis(substitutedbenzoyl)benzene.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as 1,3-bis(substitutedbenzoyl)benzene (P–17–200) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured) or incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iii), (iv), (a)(3), (a)(4), (a)(5)(respirators must provide a National Safety Institute for Occupational Safety and Health assigned protection factor of at least 50), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (iii), (iv), (vi), (ix), (sensitization), (irritation to the eyes, lungs, and mucous membranes), (g)(2)(i), (ii), (iii), (iv), (v), (g)(3)(i), (ii), (g)(4)(i), (water release restriction apply), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (g), (w)(3), and (w)(4). It is a significant new use to manufacture, process, or use of the PMN substance with greater than 0.1% of the particle size distribution less than 10 microns.

(iv) *Disposal requirements.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(2)(iv), (b)(2)(iv), and (c)(2)(iv). The concentration in released wastewater must be less than 0.03 ppm.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in

§ 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 18. Add § 721.11164 to subpart E to read as follows:

§ 721.11164 1,4-Bis(substitutedbenzoyl)benzene (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,4-bis(substitutedbenzoyl)benzene (P–17–204) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured) or incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iii), (iv), (a)(3), (a)(4), (a)(5)(respirators must provide a National Safety Institute for Occupational Safety and Health assigned protection factor of at least 50), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (iii), (iv), (vi), (ix), (sensitization), (irritation to the eyes, lungs, and mucous membranes), (g)(2)(i), (ii), (iii), (iv), (v), (g)(3)(i), (ii), (g)(4)(i), (water release restriction apply), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (g), (w)(3) and (4). It is a significant new use to manufacture, process, or use of the PMN substance with greater than 0.1% of the particle size distribution less than 10 microns.

(iv) *Disposal requirements.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(2)(iv), (b)(2)(iv), and (c)(2)(iv). The concentration in released wastewater must be less than 0.03 ppm.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 19. Add § 721.11165 to subpart E to read as follows:

§ 721.11165 bis(fluorobenzoyl)benzene (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as bis(fluorobenzoyl)benzene (P–17–205) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured) or incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(iii), (a)(3), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation shall be considered and implemented to prevent exposure, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1%), (f), (g)(1)(iv), (vii), (eye irritation), (g)(2)(i), (ii), (iii), (g)(3)(i), (ii), (g)(4)(i), (water release restriction apply), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (g), (w)(3), and (w)(4). It is a significant new use to manufacture, process, or use of the PMN substance with greater than 0.1% of the particle size distribution less than 10 microns.

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(2)(iv), (b)(2)(iv), and (c)(2)(iv). The concentration in released wastewater must be less than 0.03 ppm.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Record keeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 20. Add § 721.11166 to subpart E to read as follows:

§ 721.11166 1-H-Benz[DE] isoquinoline-1,3 (2H)-dione-2-(-alkyl-)-(-alkyl-amino-) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as 1-H-Benz[DE] isoquinoline-1,3 (2H)-dione-2-(-alkyl-)-(-alkyl-amino-) (P–17–251) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iii), (iv), (a)(3), (when determining which persons are reasonably likely to be exposed as required as § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation shall be considered and implemented to prevent exposure, where feasible), (a)(6)(v), (vi), (particulate), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(acute toxicity, mutagenicity, eye irritation), (g)(2)(i), (ii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import, process, or use the PMN substance at a concentration greater than 0.4%.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to

manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 21. Add § 721.11167 to subpart E to read as follows:

§ 721.11167 Siloxanes and Silicones, di-Me, hydrogen-terminated, reaction products with acrylic acid and 2-ethyl-2-[(2-propen-1-yloxyl)methyl]-1,3-propanediol, polymers with chlorotrimethylsilane-iso-Pr alc.-sodium reaction products.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as siloxanes and silicones, di-Me, hydrogen-terminated, reaction products with acrylic acid and 2-ethyl-2-[(2-propen-1-yloxyl)methyl]-1,3-propanediol, polymers with chlorotrimethylsilane-iso-Pr alc.-sodium reaction products (P–17–296, CAS No. 2014386–23–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (a)(3), (a)(4), (a)(5), (respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 1,000 and are required for any process generating a spray, mist, or aerosol), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (a)(6)(v), (vi), (particulate), (b)(concentration set at 1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1%), (f), (g)(1)(i), (sensitization) (iv), (vii), (ix), (g)(2)(i), (ii), (iii), (iv), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 22. Add § 721.11168 to subpart E to read as follows:

§ 721.11168 2-Pentanone, 2,2′,2″-[O,O′,O″-(ethenylsilylidyne)trioxime].

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance 2-pentanone, 2,2′,2″-[O,O′,O″-(ethenylsilylidyne)trioxime] (PMN P–17–308, CAS No. 58190–62–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (iii), (iv), (vi), (vii), (viii), (ix), (g)(2)(i), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System, and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q). It is a significant new use to process or use the substance involving a method that generates a vapor, mist, or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 23. Add § 721.11169 to subpart E to read as follows:

§ 721.11169 2-Pentanone, 2,2′,2″- [O,O′,O″-(methylsilylidyne)trioxime].

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance 2-pentanone, 2,2′,2″- [O,O′,O″-(methylsilylidyne)trioxime] (PMN P–17–309, CAS No. 37859–55–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (b)(concentration set at 1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1%), (f), (g)(1)(i), (iii), (iv), (vi), (vii), (viii), (ix), (g)(2)(i), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System, and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q). It is a significant new use to process or use the substance involving a method that generates a vapor, mist, or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 24. Add § 721.11170 to subpart E to read as follows:

§ 721.11170 Naphthalene trisulfonic acid sodium salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as naphthalene trisulfonic acid sodium salt (P–17–321) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iv), (a)(3), (a)(4), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (ii), (iv), (ix), (g)(2)(i), (ii), (iii), (iv), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q) and (t). It is a significant new use to manufacture, process, or use the substance in any manner that generates a vapor, mist, or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 25. Add § 721.11171 to subpart E to read as follows:

§ 721.11171 Polymer of aliphatic dicarboxylic acid and dicyclo alkane amine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymer of aliphatic dicarboxylic acid and dicyclo alkane amine (P–17–327) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture (includes import) the substance to have an average molecular weight of greater than 10,000 Daltons.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 26. Add § 721.11172 to subpart E to read as follows:

§ 721.11172 Hexanedioic acid, polymer with trifunctional polyol, 1,1′-methylenebis [isocyanatobenzene], and 2,2′-oxybis [ethanol] (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as hexanedioic acid, polymer with trifunctional polyol, 1,1′-methylenebis [isocyanatobenzene], and 2,2′-oxybis [ethanol] (P–17–330) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (iv), (a)(3), (when determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(i), (eye and respiratory irritation), (g)(2)(i), (ii), (iii), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture, process, or use the substance for consumer use or for commercial uses that could introduce the substance into a consumer setting. It is a significant new use to manufacture, process, or use the substance in any manner that generates a dust, mist, or aerosol.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2018–21194 Filed 10–2–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0512; FRL–9984–66—Region 7]

Approval of Kansas Air Quality State Implementation Plans; Construction Permits and Approvals Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Kansas State Implementation Plan (SIP) and the Clean Air Act (CAA) 112(l) program. Specifically, these revisions implement the revised National Ambient Air Quality Standards (NAAQS) for fine particulate matter; clarify and refine applicable criteria for sources subject to the Kansas minor New Source Review

permitting program; update the construction permitting program fee structure and schedule; and make minor revisions and corrections. Approval of these revisions ensures consistency between the State and federally-approved rules and ensures Federal enforceability of the State's rules.

DATES: This final rule is effective on November 2, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2017–0512. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Deborah Bredehoft, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7164, or by email at *Bredehoft.Deborah@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

I. Background
II. What is being addressed in this document?
III. What Part 52 revision is EPA approving?
IV. What 112(l) revision is EPA approving?
V. Have the requirements for approval of a SIP revision been met?
VI. EPA's Response to Comments
VII. What action is EPA taking?
VIII. Incorporation by Reference
IX. Statutory and Executive Order Reviews

I. Background

EPA received Kansas's SIP submission on December 5, 2016. On September 21, 2017, EPA proposed in the **Federal Register** approval of the SIP submission. *See* 82 FR 44131. In conjunction with the September 21, 2017 notice of proposed rulemaking (NPR), EPA issued a direct final rule (DFR) approving the same SIP submission. *See* 82 FR 44103. However, in the DFR, EPA stated that if EPA received adverse comments by October 23, 2017, the action would be withdrawn and not take effect. EPA received adverse comments prior to the close of the comment period, and therefore, EPA withdrew in the **Federal Register**, the DFR on November 17, 2017. *See* 82 FR 54300.

This final rule action will include the updated docket, address comments received, and finalize the approval of Kansas's SIP submission.

II. What is being addressed in this document?

EPA is taking final action to approve revisions to the Kansas SIP and CAA 112(l) program submitted by the State of Kansas on December 5, 2016. The SIP submission requests revisions to Kansas Administrative Regulation (K.A.R.) 28–19–300 that include: implementation of the New Source Review permitting component of section 110(a)(2)(C) for the 1997 and 2006 $PM_{2.5}$ NAAQS, pursuant to EPA's NSR $PM_{2.5}$ Implementation Rule (2008 NSR Rule) (73 FR 28321, May 16, 2008); and clarification of and refining applicability criteria for sources subject to the minor New Source Review permitting program. Specific revisions include: (1) Eliminating the requirements for all Title IV Acid Rain sources to obtain construction permits that would not have otherwise been required; (2) clarifying the construction review requirements for sources emitting hazardous air pollutants, or sources subject to standards promulgated by the EPA; (3) eliminating the requirement for sources to obtain an approval solely due to being subject to standards promulgated by the EPA without regard to emissions for insignificant activities; and making minor revisions and corrections. The SIP submission also includes the following revisions to K.A.R. 28–19–304: (1) Updating the construction permitting program fee structure from an estimated capital cost mechanism to one based on complexity of source and permit type and (2) updating the fee schedule to bring in sufficient revenue to adequately administer the Kansas Air Quality Act.

III. What Part 52 revision is EPA approving?

EPA is approving requested revisions to the Kansas SIP relating to the following:

- Construction Permits and Approvals. Kansas Administrative Regulations 28–19–300. Applicability; and
- Construction Permits and Approvals. Kansas Administrative Regulations 28–19–304. Fees.

EPA has conducted analysis on the State's revisions and has found that the revisions ensure consistency between the State and federally-approved rules and ensures Federal enforceability of the State's rules. Additional information on the EPA's analysis can be found in the Technical Support Document (TSD) included in this docket.

IV. What 112(l) revision is EPA approving?

EPA is also taking final action to approve a portion of K.A.R. 28–19–300 under the CAA 112(l) program pursuant to 40 CFR part 63, subpart E, as requested by the State of Kansas on April 19, 2017. The State of Kansas is requesting that the applicable portions of K.A.R. 28–19–300 pertaining to limiting the potential-to-emit of hazardous air pollutants (HAPs) be approved under CAA 112(l) and 40 CFR part 63, subpart E, in addition to being approved under the SIP.[1] Specifically, K.A.R. 28–19–300(a)(2) and (3) as well as K.A.R. 28–19–300(b)(4) through (6) are also approved under CAA section 112(l) because they require permits or approvals for hazardous air pollutants that may limit the potential-to-emit of hazardous air pollutants by establishing permit conditions that are federally-enforceable.

V. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice of this SIP revision from August 11, 2016, to October 13, 2016, and received one comment letter. The SIP revision was not further revised by the State based on public comment prior to its submission to EPA. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and the implementing regulations.

VI. EPA's Response to Comments

The public comment period on EPA's proposed rule opened September 21, 2017, the date of its publication in the **Federal Register**, and closed on October 23, 2017. During this period, EPA received adverse comments, which are addressed below.

Comment 1:

The commenter stated that SIPs are required to have legally enforceable procedures to prevent the construction

[1] State Implementation Plan provisions approved under section 110 of the Clean Air Act are for criteria pollutants. Provisions related to hazardous air pollutants are approved under section 112 of the Clean Air Act.

or modification of a source that would violate the control strategy or interfere with attainment or maintenance of the NAAQS. 40 CFR 51.160(a). The commenter is specifically concerned about the EPA approval of a new emissions threshold, in K.A.R. 28–19–300(a)(1)(G), of 10 tons per year of directly emitted $PM_{2.5}$ without additional analysis by the State on whether the emissions threshold would allow sources to construct or modify, resulting in interference with attainment or maintenance of the NAAQS or a violation of the control strategy, as required by 40 CFR 51.160(a) and (b). Further, the commenter is concerned regarding applicability of the minor NSR rules for modifications of existing sources based on increases in potential to emit (PTE). The commenter is concerned that the actual emissions increase of $PM_{2.5}$ could be much greater than 10 tons per year and would not trigger minor NSR permitting requirements. According to the commenter, the revisions will essentially exempt minor modifications from permitting requirements at existing major sources, and only major modifications under the Prevention of Significant Deterioration (PSD) or nonattainment NSR programs will obtain review for impacts on the NAAQS.

The commenter asserts that States are required to have NSR programs that include, but are not limited to, major NSR and PSD programs pursuant to section 110(a)(2)(C) of the CAA. The commenter is concerned that Kansas' 10 ton per year $PM_{2.5}$ applicability emissions threshold could allow for increased deterioration in air quality over PSD baseline concentrations. Thus, the commenter believes that the EPA cannot approve such a SIP revision without a demonstration that the SIP revision will not cause or contribute to a violation of the applicable PSD increment pursuant to section 110(l) of the CAA and 40 CFR 51.166(a)(2).

For these reasons, the commenter believes that the EPA must disapprove the 10 ton per year $PM_{2.5}$ applicability emission thresholds for Kansas's minor NSR permitting program.

Response 1:

In this SIP revision, Kansas is modifying its regulations to implement the fine particulate matter standard by clarifying and refining the applicability criteria for sources subject to the Kansas minor New Source Review permitting program. Kansas's addition of the 10 ton per year threshold for directly emitted $PM_{2.5}$ in the minor source New Source Review program requires a facility to obtain a construction permit for directly emitted $PM_{2.5}$ is consistent with the previously approved approach of using a potential-to-emit (or the increase in the potential-to-emit) basis EPA considers a 10 ton per year threshold for direct $PM_{2.5}$ to be reasonable because the State is consistent with the significant emission rates [2] included in EPA's PSD preconstruction permitting program.[3]

Prior to this action, Kansas used the threshold value of 25 tons per year or PM_{10} threshold value of 15 tons per year (K.A.R. 28–19–300(1)(A)) to evaluate direct $PM_{2.5}$. With this rulemaking, Kansas has created a separate threshold for directly emitted $PM_{2.5}$ of 10 tons per year.

Although Kansas's minor New Source Review permitting program did not previously include a direct $PM_{2.5}$ threshold value, Kansas does have overarching infrastructure to implement $PM_{2.5}$ throughout the State. Such infrastructure, as previously stated, includes a SIP approved major source New Source Review program and a monitoring network consistent with EPA's monitoring regulations. In fact, based on a review of certified design values from the 2005–2007 to 2014–2016 timeframes, Kansas has been continuously monitoring attainment for both the annual and 24-hour $PM_{2.5}$ NAAQS EPA believes that the addition of the direct $PM_{2.5}$ threshold in the Kansas Minor New Source Review permitting program strengthens Kansas's air quality regulations.

The commenter also stated that the EPA must disapprove such a high minor NSR $PM_{2.5}$ applicability emission threshold as the program could interfere with attainment and maintenance of the NAAQS. As stated above, prior to this action, Kansas did not have a specific minor source threshold for directly emitted $PM_{2.5}$. Therefore, the $PM_{2.5}$ threshold value would have been the same as the PM threshold value of 25 tons per year (K.A.R. 28–19–300–(1)(A)). As discussed above, even at this higher threshold value, the $PM_{2.5}$ NAAQS was protected.

Furthermore, in the EPA's previously referenced Technical Support Document [4] for the 2012 $PM_{2.5}$ infrastructure SIP, the EPA stated that ''[w]ith respect to smaller sources that meet the criteria listed in KAR 28–19–300(b) ''Construction Permits and Approvals,'' Kansas has a SIP-approved permitting program.'' It further states that in the Technical Support Document, ''[i]f the [Air Permitting Section] staff determines that air contaminant emissions from a source will interfere with attainment or maintenance of the NAAQS, it cannot issue an approval to construct or modify that source (KAR 28–19–301(d) ''Construction Permits and Approvals; Application and Issuance''). This authority is granted by [Kansas Statutes Annotated] 65–3008.'' EPA later stated its belief ''that the Kansas SIP meets the requirements of section 110(a)(2)(C) for the 2012 annual $PM_{2.5}$ NAAQS.''

Based upon all the above factors, the EPA believes that this action does not relax the SIP and that the air quality will be maintained with the addition of the $PM_{2.5}$ threshold value requiring facilities to obtain a construction permit.

Comment 2:

The commenter stated that by removing the term ''affected source'' from K.A.R. 28–19–300(a)(2) of the currently-approved Kansas SIP, the EPA is significantly relaxing the Kansas minor New Source Review permitting rules. ''Affected source'' is defined in K.A.R. 28–19–200 of the EPA-approved SIP as ''a stationary source that includes one or more affected units subject to emission reduction requirements or limitations under title IV of the Federal clean air act, 42 U.S.C. 7401 *et seq.,* 'acid deposition control.' '' The commenter is concerned that the revised permitting rules for modifications of construction permits will increase the potential-to-emit of an electrical generating unit (EGU) to the level of a PSD major modification significance level or greater, when historically, the permitting rules required permits for modifications at any EGU.

The commenter stated that all modifications at most EGUs were subject to Kansas' minor NSR permitting program pursuant to K.A.R. 28–19–300(a)(2) of the currently-approved Kansas SIP, irrespective of the tons per year emission thresholds defining minor NSR applicability in K.A.R. 28–19–300(a)(1).

The commenter was concerned that modifications at existing EGUs will go entirely unreviewed unless such modifications are a major modification under PSD or nonattainment NSR permitting. The commenter further stated that the Kansas Department of Health and Environment (KDHE) has not submitted any assessment of impacts on the NAAQS or on other requirements of the CAA to support approval of such a significant SIP relaxation, pursuant to section 110(l) of the CAA and thus, EPA must

[2] *See* 73 FR 28332.

[3] 40 CFR 52.21(b)(23)(i).

[4] Pages 5 and 6 of the Technical Support Document found in docket number: EPA–R07–OAR–2016–0313–0004.

disapprove the revisions to K.A.R. 28–19–300 that remove the provision in K.A.R. 28–19–300(a)(2).

Response 2:

Kansas has a long-standing interpretation that was articulated in a 2015 technical guidance document.[5] The guidance states ''[K.A.R. 28–19–300] was originally written in 1993. The purpose of this guidance document is to ensure that the rule is consistently applied in accordance with the original intent of the regulation.'' The document further states KDHE's interpretation that ''K.A.R. 28–19–300(a)(2) does not require a permit for a modification to an Acid Rain Source solely due to the unit already being an Acid Rain Source, although requirements for construction permits or approvals can be triggered by emission increases above permit or approval thresholds, requirements of K.A.R. 28–19–350, or other permit or approval triggers.'' Thus, KDHE has interpreted K.A.R. 28–19–300(a)(2) to only apply to constructions or modifications that result in emission increases. KDHE did not intend to require Title IV acid rain sources to obtain construction permits for any modification, including modifications that result in emission decreases. Therefore, this SIP revision is an administrative change to align the Federally-approved SIP with Kansas's current practices. Additionally, the CAA does not require construction permits for every modification at acid rain sources. Because Kansas's monitoring network is currently monitoring attainment for all NAAQS, the EPA does not believe this revision will cause air quality to degrade in Kansas.

Comment 3:

The commenter stated that Kansas has changed the requirements for preconstruction approval to only apply to ''construction,'' ''modification,'' or ''reconstruction'' of such sources subject to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPs), or Maximum Achievable Control Technology (MACT) as those terms are defined in 40 CFR parts 60, 61, and 63, respectively. The commenter further focused on the terms ''modification'' and ''modify'' and expressed concern that this change in the definition of ''modification'' will significantly reduce the number of sources subject to Kansas preconstruction approval and significantly decreases the likelihood that Kansas will identify a modified source as potentially contributing to air pollution within the State and require a minor NSR permit pursuant to K.A.R. 28–19–300(b)(2) and 28–19–300(a)(5). Specifically, the commenter stated that the definition of ''modification'' under 40 CFR parts 60, 61, and 63 is much less inclusive than the definition of ''modification'' as that term is used in Kansas' minor NSR rules. Thus, the commenter asserts, with the proposed revisions to K.A.R. 28–19–300(b)(3), the large majority of modifications at existing sources subject to NSPS, NESHAPs, or MACT standards will no longer need to receive KDHE approval prior to construction, and the public will lose KDHE's preconstruction evaluation of whether a modified source should still be required to obtain a preconstruction permit pursuant to K.A.R. 28–19–300(b)(2) and 28–19–300(a)(5) despite being exempt under K.A.R. 28–19–300(a). The commenter believes that this reflects a significant relaxation in Kansas' minor NSR permitting rules. Therefore, the commenter believes that the EPA must disapprove the revisions to K.A.R. 28–19–300 that revises and relaxes K.A.R. 28–19–300(b)(3).

Response 3:

EPA disagrees with the commenter that Kansas definition of ''modification'' represents a relaxation in Kansas' permitting rules. The revision to the definition simply excludes modifications which do not increase emissions at or above the listed thresholds. Kansas had a 2015 technical guidance document[6] which states that Kansas's intent was to require a construction approval if the proposed project ''includes construction or modification that will cause an increase in emissions in an amount equal to or in excess of any of these listed thresholds.''[7] Within Kansas's public hearing statement from October 13, 2016, it was stated that the proposed change is being done to ''eliminate the requirement for sources to obtain an approval solely due to being subject to standards promulgated by the EPA without regard to emissions for insignificant activities.'' Due to Kansas's long-standing interpretation, the EPA believes that this revision will not result in air quality degradation and thus will not result in a relaxation in how Kansas has applied the SIP rules. The EPA has concluded that this revision to Kansas SIP will not interfere with attainment of the NAAQS or with any other requirement of the Act.

Comment 4:

The commenter is concerned that the revisions to K.A.R. 28–19–300(a)(2) and K.A.R. 28–19–300(b)(3) will relax the SIP. The commenter further expressed other concerns: (1) With respect to the minor NSR program, the applicability to the minor NSR permitting program in Kansas will be whittled down to just those new sources and modifications to existing sources that increase the PTE to emissions levels at or above the tons per year thresholds in K.A.R. 28–19–300(a)(1) which are the same as the PSD significance emission levels;[8] (2) several new and revised NAAQS have been promulgated since the EPA's initial 1995[9] approval of this section, and there has been no analysis as to whether the emission applicability thresholds in Kansas' minor NSR permitting program are adequate to ensure that no new or modified source will be constructed if it would interfere with attainment or maintenance of the NAAQS or violate the control strategy; (3) if EPA's determination that the tons per year emissions thresholds are ''de minimis'' under PSD permitting, it does not address EPA's obligation to ensure that Kansas' minor NSR program will not interfere with attainment or maintenance of the NAAQS. The commenter stated that the NSR program was intended to be a basic backstop on threats to attaining and maintaining the NAAQS and thus is an important component of the SIP and the EPA cannot approve exemptions from such a minor NSR program unless it is shown that the exemptions are truly de minimis to the purposes of that program; and (4) EPA has previously required minor NSR programs to use much smaller emission thresholds for applicability than the major modification significant impact levels. The commenter referenced a 2012 Montana **Federal Register** action[10] regarding a ''de minimis'' increase to Montana's minor NSR program where EPA received and reviewed CAA section 110(l) and 193 demonstrations.

For these reasons, the commenter believes that the EPA cannot approve these Kansas minor NSR revisions without evaluating and demonstrating to the public that Kansas' minor NSR program, as revised, will still meet the mandates of section 110(a)(2)(C) and 40 CFR 51.160.

Response 4:

[5] Kansas Technical Guidance Document—BOA 2015–01.

[6] Kansas Technical Guidance Document—BOA 2015–01.

[7] Page 5 of Construction Permits and Approvals, K.A.R. 28–19–300, Technical Guidance Document—BOA 2015–01.

[8] 40 CFR 52.21(b)(23)(i).

[9] 50 FR 36361–36364 (July 17, 1995)

[10] 77 FR 7531–7534.

EPA does not believe the proposed changes constitute a relaxation to Kansas's SIP. As noted by the commenter, these thresholds, with the exception of $PM_{2.5}$, were approved into the SIP in 1995. Even though Kansas did not provide any modeling to support this action, with the exception of the 2008 lead ambient air quality standard, Kansas is designated attainment or unclassifiable for all ambient air quality standards, including the 2012 $PM_{2.5}$ standard. EPA views this action as the State's effort to ensure consistency between the State's regulations, which use the major NSR significance levels as minor NSR applicability thresholds, and the EPA's significance levels for specific pollutants, such as $PM_{2.5}$.

The proposed revisions are to Kansas's minor source NSR program and States are allowed discretion in how they develop their own minor source NSR program. With regard to the commenter's assertion that there was no analysis as to whether the emissions applicability thresholds in Kansas' minor NSR permitting program are adequate to ensure it will not interfere with attainment or maintenance of the NAAQS, the EPA reviews the State's minor NSR program routinely as part of the 'infrastructure' SIPs. For instance, as recently as September 9, 2016,[11] the EPA stated that ''[i]f the [Air Permitting Section] staff determines that air contaminant emissions from a source will interfere with attainment or maintenance of the NAAQS, it cannot issue an approval to construct or modify that source.'' EPA further stated that ''EPA is proposing to approve Kansas' infrastructure SIP for the 2012 annual $PM_{2.5}$ NAAQS with respect to the general requirements in section 110(a)(2)(C) to include the program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved.'' [12]

With respect to the commenter's assertion that the State's minor NSR program needs to comply with CAA 110(a)(2)(C) and 40 CFR 51.160 as a backstop, in the same September 9, 2016 TSD,[13] the EPA has also determined that the State has in place the ability to regulate NSR to comply with CAA 110(a)(2)(C). *See* the Technical Support Document associated with that rulemaking and EPA's response to Comment 1.

With regard to the commenter's reference to Montana's SIP revision, EPA approval of one *de minimis* exemption threshold level in Montana does not preclude the approval of a different threshold in another State. Each State's universe of minor NSR sources, topography, meteorology, and ambient air quality conditions are unique and influence the types of exemptions that would not interfere with the minor NSR program's ability to meet the applicable Federal requirements. *See, e.g.,* June 29, 2018, 83 FR 30553 (Arkansas' SIP revision).

In response to the comment that EPA cannot approve exemptions without proving the exemptions are ''de minimis,'' the minor NSR SIP rules do not preclude EPA from approving exemptions from a *minor* NSR program, provided that the proposed revisions to the Kansas minor NSR program are approvable and do not result in a violation of the control strategy or interfere with the attainment or maintenance of a national standard. The CAA at section 110(a)(2)(C) requires regulation of the modification or construction of any stationary source within the area *as necessary* (emphasis added) to assure that the standards are achieved. As such, the CAA at section 110(a)(2)(C) and the minor NSR SIP rules found at 40 CFR 51.160 through 51.165, as well as case law,[14] allow exemptions from a minor NSR permitting program. In cases such as this, where the minor NSR SIP is being revised, the State must also demonstrate that the revisions meet the requirements of CAA section 110(l). Similar to the provisions of the Act and rules discussed above, section 110(l) requires that EPA cannot approve revisions to the Kansas minor NSR SIP unless EPA finds that the changes would not interfere with any applicable requirement concerning attainment and reasonable further progress, as well as any other applicable statutory requirement. The clear reading of the Act and the EPA rules are that EPA can approve exemptions to the Kansas minor NSR SIP program as long as it finds these exemptions will not interfere with attainment or maintenance of a NAAQS or other control strategy. *See, e.g.,* June 29, 2018, 83 FR 30553 (approving Arkansas' SIP revision).

For these reasons and those outlined in the EPA's responses to comments 2 and 3 above, the EPA is approving the SIP revisions.

Comment 5:

EPA failed to address the March 28, 2017 Executive Order on promoting energy independence and economic growth. This order requires EPA to assess whether this new regulation imposes burdens on the energy sector or economic growth in general. The commenter asserts that requiring construction permits for sources will cause an impact in the energy sector and impose economic burdens on regulated facilities.

Response 5:

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State actions, provided that they meet the criteria of the CAA. The EPA cannot consider disapproving a SIP submission or require any changes based on the March 28, 2017, executive order.

VII. What action is EPA taking?

EPA is taking final action to amend the Kansas SIP and CAA 112(l) program by approving the State's request to amend K.A.R. 28–19–300 Construction Permits and Approvals—Applicability and to amend the Kansas SIP by approving K.A.R. 28–19–304 Construction Permits and Approvals—Fees. Approval of these revisions will ensure consistency between State and federally approved rules. EPA has determined that these changes will not adversely impact air quality.

VIII. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Kansas Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[15]

[11] 81 FR 62373.

[12] EPA–R07–OAR–2016–0313–0003.

[13] 81 FR 62373.

[14] Alabama Power Company, et al., Petitioners,* v. Douglas M. Costle, As Administrator, Environmental Protection Agency, et al., Respondents,*Sierra Club, et al., Intervenors.*, 636 F.2d 323 (D.C. Cir. 1980).

[15] 62 FR 27968 (May 22, 1997).

IX. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 26, 2018.

James B. Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart R Kansas

■ 2. Amend § 52.870 by revising the table entries in paragraph (c) for ''K.A.R. 28–19–300'' and ''K.A.R 28–19–304'' to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Explanation
Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control				
* *	*	*	* *	*
Construction Permits and Approvals				
K.A.R. 28–19–300	Applicability	11/18/2016	11/3/2018, [Insert **Federal Register** citation].	
* *	*	*	* *	*
K.A.R. 28–19–304	Fees	11/18/2016	11/3/2018, [Insert **Federal Register** citation].	

EPA-APPROVED KANSAS REGULATIONS—Continued

Kansas citation	Title	State effective date	EPA approval date	Explanation
*	*	*	*	*	*	*

* * * * *

[FR Doc. 2018–21434 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 411, 413, and 424

[CMS–1696–CN]

RIN 0938–AT24

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNF) Final Rule for FY 2019, SNF Value-Based Purchasing Program, and SNF Quality Reporting Program; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors in the final rule that appeared in the August 8, 2018 **Federal Register** (83 FR 39162) entitled ''Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNF) Final Rule for FY 2019, SNF Value-Based Purchasing Program, and SNF Quality Reporting Program.''

DATES: The corrections in this document are effective October 1, 2018.

FOR FURTHER INFORMATION CONTACT: John Kane, (410) 786–0557.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2018–16570 of August 8, 2018 (83 FR 39162 through 39290), there were a number of technical errors that are identified and corrected in Correction of Errors section (section IV. of this correction notice). The provisions in this correcting document are effective as if they had been included in the document that appeared in the August 8, 2018 **Federal Register** (83 FR 39162 through 39290) (hereinafter referred to as the FY 2019 SNF PPS final rule).

Accordingly, the corrections in this document are effective October 1, 2018.

II. Summary of Errors

A. Summary of Errors in the Preamble

On pages 39170 through 39172, 39222, 39285 and 39287, we made inadvertent technical errors. Specifically, in Tables 6 and 7 on pages 39170 through 39172 of the FY 2019 SNF PPS final rule, we made errors in copying values into the ''total rate'' column of the tables used in the final rule preamble, so the numbers in this column did not accurately reflect the total case-mix adjusted federal per diem rates. On page 39222, we made a typographical error in Table 27 in the MDS item number reference (column 2) associated with one of the conditions and extensive services used for NTA classification. Additionally, in Table 45 on page 39285 of the FY 2019 SNF PPS final rule, we misordered the ownership labels in the table as ''Government, Profit, Non-Profit'', instead of ''Profit, Non-Profit, Government.'' Finally, on page 39287, we inadvertently typed ''urban rural West South Central region,'' when we intended to state ''rural West South Central region.''

The corrections to these errors are found in section IV. of this document.

B. Summary of Errors in and Corrections to Tables Posted on the CMS Website

We are correcting the wage indexes in Tables A and B setting forth the wage indexes for urban areas based on CBSA labor market areas (Table A) and the wage indexes for rural areas based on CBSA labor market areas (Table B), which are available exclusively on the CMS website at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/WageIndex.html.* As discussed in the FY 2019 SNF PPS final rule (83 FR 39172 through 39178), in developing the wage index to be applied to SNFs under the SNF PPS, we use the updated, pre-reclassified, pre-rural floor hospital inpatient PPS (IPPS) wage data, exclusive of the occupational mix adjustment. For FY 2019, the updated, unadjusted, pre-reclassified, pre-rural floor IPPS wage data used under the SNF PPS are for cost reporting periods beginning on or after October 1, 2014 and before October 1, 2015 (FY 2015 cost report data), as discussed in the final rule entitled, ''Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2019 Rates; Quality Reporting Requirements for Specific Providers; Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (Promoting Interoperability Programs) Requirements for Eligible Hospitals, Critical Access Hospitals, and Eligible Professionals; Medicare Cost Reporting Requirements; and Physician Certification and Recertification of Claims'' (83 FR 41144, 41364) (hereinafter referred to as the FY 2019 IPPS final rule). In calculating the wage index under the FY 2019 IPPS final rule, we made inadvertent errors related to the calculation of the wage index. These errors are identified, discussed and corrected in the correction notice entitled, ''Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2019 Rates; Quality Reporting Requirements for Specific Providers; Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (Promoting Interoperability Programs) Requirements for Eligible Hospitals, Critical Access Hospitals, and Eligible Professionals; Medicare Cost Reporting Requirements; and Physician Certification and Recertification of Claims; Correction.'' Among the errors discussed there, the two errors that affect the unadjusted, pre-reclassified, pre-rural floor IPPS wage data, and thereby affect the SNF PPS wage data were errors in the wage data collected from the Medicare cost reports of one hospital (CMS Certification Number (CCN) 100044—CBSA 38940 Port St. Lucie, Florida) and the mistaken inclusion of a Critical Access Hospital (CAH) in the wage data (CCN 060016—CBSA 06 Colorado). Finally, in constructing Table A, we made errors in copying values into the ''wage index'' column of the table posted to the CMS website.

Given these errors, we are republishing the wage indexes in Tables A and B accordingly on the CMS website at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/WageIndex.html.*

III. Waiver of Proposed Rulemaking and Delayed Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well.

Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document corrects technical errors in the FY 2019 SNF PPS final rule and in the tables referenced in the final rule, but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correction notice is intended to ensure that the information in the FY 2019 SNF PPS final rule accurately reflects the policies adopted in that final rule.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the FY 2019 SNF PPS final rule and the tables referenced in the final rule accurately reflect our methodologies, payment rates, and policies. Furthermore, such procedures would be unnecessary, as we are not making substantive changes to our payment methodologies or policies, but rather, we are simply implementing correctly the methodologies and policies that we previously proposed, requested comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2019 SNF PPS final rule and the tables referenced in the final rule accurately reflect these methodologies and policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2018–16570 of August 8, 2018 (83 FR 39162), make the following corrections:

1. On pages 39170 through 39171, TABLE 6—RUG–IV Case-Mix Adjusted Federal Rates and Associated Indexes—Urban is corrected to read as follows:

TABLE 6—RUG–IV CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES—URBAN

RUG–IV category	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp	Non-case mix component	Total rate
RUX	2.67	1.87	$484.44	$255.57	.....	$92.60	$832.61
RUL	2.57	1.87	466.30	255.57	.....	92.60	814.47
RVX	2.61	1.28	473.56	174.94	.....	92.60	741.10
RVL	2.19	1.28	397.35	174.94	.....	92.60	664.89
RHX	2.55	0.85	462.67	116.17	.....	92.60	671.44
RHL	2.15	0.85	390.10	116.17	.....	92.60	598.87
RMX	2.47	0.55	448.16	75.17	.....	92.60	615.93
RML	2.19	0.55	397.35	75.17	.....	92.60	565.12
RLX	2.26	0.28	410.05	38.27	.....	92.60	540.92
RUC	1.56	1.87	283.05	255.57	.....	92.60	631.22
RUB	1.56	1.87	283.05	255.57	.....	92.60	631.22
RUA	0.99	1.87	179.63	255.57	.....	92.60	527.80
RVC	1.51	1.28	273.97	174.94	.....	92.60	541.51
RVB	1.11	1.28	201.40	174.94	.....	92.60	468.94
RVA	1.10	1.28	199.58	174.94	.....	92.60	467.12
RHC	1.45	0.85	263.09	116.17	.....	92.60	471.86
RHB	1.19	0.85	215.91	116.17	.....	92.60	424.68
RHA	0.91	0.85	165.11	116.17	.....	92.60	373.88
RMC	1.36	0.55	246.76	75.17	.....	92.60	414.53
RMB	1.22	0.55	221.36	75.17	.....	92.60	389.13
RMA	0.84	0.55	152.41	75.17	.....	92.60	320.18
RLB	1.50	0.28	272.16	38.27	.....	92.60	403.03
RLA	0.71	0.28	128.82	38.27	.....	92.60	259.69
ES3	3.58	.....	649.56	.....	$18.00	92.60	760.16
ES2	2.67	.....	484.44	.....	18.00	92.60	595.04
ES1	2.32	.....	420.94	.....	18.00	92.60	531.54
HE2	2.22	.....	402.80	.....	18.00	92.60	513.40
HE1	1.74	.....	315.71	.....	18.00	92.60	426.31
HD2	2.04	.....	370.14	.....	18.00	92.60	480.74
HD1	1.60	.....	290.30	.....	18.00	92.60	400.90
HC2	1.89	.....	342.92	.....	18.00	92.60	453.52
HC1	1.48	.....	268.53	.....	18.00	92.60	379.13

TABLE 6—RUG–IV CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES—URBAN—Continued

RUG–IV category	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp	Non-case mix component	Total rate
HB2	1.86		337.48		18.00	92.60	448.08
HB1	1.46		264.90		18.00	92.60	375.50
LE2	1.96		355.62		18.00	92.60	466.22
LE1	1.54		279.42		18.00	92.60	390.02
LD2	1.86		337.48		18.00	92.60	448.08
LD1	1.46		264.90		18.00	92.60	375.50
LC2	1.56		283.05		18.00	92.60	393.65
LC1	1.22		221.36		18.00	92.60	331.96
LB2	1.45		263.09		18.00	92.60	373.69
LB1	1.14		206.84		18.00	92.60	317.44
CE2	1.68		304.82		18.00	92.60	415.42
CE1	1.50		272.16		18.00	92.60	382.76
CD2	1.56		283.05		18.00	92.60	393.65
CD1	1.38		250.39		18.00	92.60	360.99
CC2	1.29		234.06		18.00	92.60	344.66
CC1	1.15		208.66		18.00	92.60	319.26
CB2	1.15		208.66		18.00	92.60	319.26
CB1	1.02		185.07		18.00	92.60	295.67
CA2	0.88		159.67		18.00	92.60	270.27
CA1	0.78		141.52		18.00	92.60	252.12
BB2	0.97		176.00		18.00	92.60	286.60
BB1	0.90		163.30		18.00	92.60	273.90
BA2	0.70		127.01		18.00	92.60	237.61
BA1	0.64		116.12		18.00	92.60	226.72
PE2	1.50		272.16		18.00	92.60	382.76
PE1	1.40		254.02		18.00	92.60	364.62
PD2	1.38		250.39		18.00	92.60	360.99
PD1	1.28		232.24		18.00	92.60	342.84
PC2	1.10		199.58		18.00	92.60	310.18
PC1	1.02		185.07		18.00	92.60	295.67
PB2	0.84		152.41		18.00	92.60	263.01
PB1	0.78		141.52		18.00	92.60	252.12
PA2	0.59		107.05		18.00	92.60	217.65
PA1	0.54		97.98		18.00	92.60	208.58

2. On pages 39171 through 39172, TABLE 7—RUG–IV Case-Mix Adjusted Federal Rates and Associated Indexes—Rural is corrected to read as follows:

TABLE 7—RUG–IV CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES—RURAL

RUG–IV	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp	Non-case Mix component	Total rate
RUX	2.67	1.87	$462.82	$294.71		$94.31	$851.84
RUL	2.57	1.87	445.48	294.71		94.31	834.50
RVX	2.61	1.28	452.42	201.73		94.31	748.46
RVL	2.19	1.28	379.61	201.73		94.31	675.65
RHX	2.55	0.85	442.02	133.96		94.31	670.29
RHL	2.15	0.85	372.68	133.96		94.31	600.95
RMX	2.47	0.55	428.15	86.68		94.31	609.14
RML	2.19	0.55	379.61	86.68		94.31	560.60
RLX	2.26	0.28	391.75	44.13		94.31	530.19
RUC	1.56	1.87	270.41	294.71		94.31	659.43
RUB	1.56	1.87	270.41	294.71		94.31	659.43
RUA	0.99	1.87	171.61	294.71		94.31	560.63
RVC	1.51	1.28	261.74	201.73		94.31	557.78
RVB	1.11	1.28	192.41	201.73		94.31	488.45
RVA	1.10	1.28	190.67	201.73		94.31	486.71
RHC	1.45	0.85	251.34	133.96		94.31	479.61
RHB	1.19	0.85	206.27	133.96		94.31	434.54
RHA	0.91	0.85	157.74	133.96		94.31	386.01
RMC	1.36	0.55	235.74	86.68		94.31	416.73
RMB	1.22	0.55	211.47	86.68		94.31	392.46
RMA	0.84	0.55	145.61	86.68		94.31	326.60
RLB	1.50	0.28	260.01	44.13		94.31	398.45
RLA	0.71	0.28	123.07	44.13		94.31	261.51
ES3	3.58		620.56		$19.23	94.31	734.10
ES2	2.67		462.82		19.23	94.31	576.36
ES1	2.32		402.15		19.23	94.31	515.69

TABLE 7—RUG–IV CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES—RURAL—Continued

RUG–IV	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp	Non-case Mix component	Total rate
HE2	2.22		384.81		19.23	94.31	498.35
HE1	1.74		301.61		19.23	94.31	415.15
HD2	2.04		353.61		19.23	94.31	467.15
HD1	1.60		277.34		19.23	94.31	390.88
HC2	1.89		327.61		19.23	94.31	441.15
HC1	1.48		256.54		19.23	94.31	370.08
HB2	1.86		322.41		19.23	94.31	435.95
HB1	1.46		253.08		19.23	94.31	366.62
LE2	1.96		339.75		19.23	94.31	453.29
LE1	1.54		266.94		19.23	94.31	380.48
LD2	1.86		322.41		19.23	94.31	435.95
LD1	1.46		253.08		19.23	94.31	366.62
LC2	1.56		270.41		19.23	94.31	383.95
LC1	1.22		211.47		19.23	94.31	325.01
LB2	1.45		251.34		19.23	94.31	364.88
LB1	1.14		197.61		19.23	94.31	311.15
CE2	1.68		291.21		19.23	94.31	404.75
CE1	1.50		260.01		19.23	94.31	373.55
CD2	1.56		270.41		19.23	94.31	383.95
CD1	1.38		239.21		19.23	94.31	352.75
CC2	1.29		223.61		19.23	94.31	337.15
CC1	1.15		199.34		19.23	94.31	312.88
CB2	1.15		199.34		19.23	94.31	312.88
CB1	1.02		176.81		19.23	94.31	290.35
CA2	0.88		152.54		19.23	94.31	266.08
CA1	0.78		135.21		19.23	94.31	248.75
BB2	0.97		168.14		19.23	94.31	281.68
BB1	0.90		156.01		19.23	94.31	269.55
BA2	0.70		121.34		19.23	94.31	234.88
BA1	0.64		110.94		19.23	94.31	224.48
PE2	1.50		260.01		19.23	94.31	373.55
PE1	1.40		242.68		19.23	94.31	356.22
PD2	1.38		239.21		19.23	94.31	352.75
PD1	1.28		221.88		19.23	94.31	335.42
PC2	1.10		190.67		19.23	94.31	304.21
PC1	1.02		176.81		19.23	94.31	290.35
PB2	0.84		145.61		19.23	94.31	259.15
PB1	0.78		135.21		19.23	94.31	248.75
PA2	0.59		102.27		19.23	94.31	215.81
PA1	0.54		93.60		19.23	94.31	207.14

5. On page 39222, in Table 27, column 2, line 29, the reference ''MDS Item M0300X1'' is corrected to read ''MDS Item M0300D1.''

6. On page 39285, TABLE 45—Impact to the SNF PPS for FY 2019 is corrected to read as follows:

TABLE 45—IMPACT TO THE SNF PPS FOR FY 2019

	Number of facilities FY 2019	Update wage data (%)	Total change (%)
Group:			
Total	15,471	0.0	2.4
Urban	11,042	0.0	2.4
Rural	4,429	0.1	2.5
Hospital-based urban	498	0.0	2.4
Freestanding urban	10,544	0.0	2.4
Hospital-based rural	555	0.0	2.4
Freestanding rural	3,874	0.2	2.6
Urban by region:			
New England	790	−0.7	1.7
Middle Atlantic	1,481	0.0	2.4
South Atlantic	1,869	−0.1	2.3
East North Central	2,127	−0.4	2.0
East South Central	555	−0.2	2.2
West North Central	920	−0.4	2.0
West South Central	1,346	0.3	2.7
Mountain	527	−0.8	1.6

TABLE 45—IMPACT TO THE SNF PPS FOR FY 2019—Continued

	Number of facilities FY 2019	Update wage data (%)	Total change (%)
Pacific	1,421	1.0	3.4
Outlying	6	−0.5	1.9
Rural by region:			
New England	134	−0.7	1.6
Middle Atlantic	215	0.1	2.5
South Atlantic	494	0.1	2.5
East North Central	931	0.1	2.5
East South Central	523	−0.3	2.1
West North Central	1,074	0.3	2.7
West South Central	734	1.0	3.5
Mountain	229	0.2	2.6
Pacific	95	−0.5	1.9
Ownership:			
Profit	10,887	0.0	2.4
Non-Profit	3,570	−0.1	2.3
Government	1,014	0.0	2.4

Note: The Total column includes the 2.4 percent market basket increase required by section 53111 of the BBA 2018. Additionally, we found no SNFs in rural outlying areas.

7. On page 39287, bottom of the page, column 2, line 6 and 7 the phrase ''urban rural West South Central region'' is corrected to read ''rural West South Central region.''

Dated: September 27, 2018.

Ann C. Agnew,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2018–21499 Filed 9–28–18; 4:15 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412, 413, 424, and 495

[CMS–1694–CN2]

RIN 0938–AT27

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2019 Rates; Quality Reporting Requirements for Specific Providers; Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (Promoting Interoperability Programs) Requirements for Eligible Hospitals, Critical Access Hospitals, and Eligible Professionals; Medicare Cost Reporting Requirements; and Physician Certification and Recertification of Claims; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects technical and typographical errors in the final rule that appeared in the August 17, 2018 issue of the **Federal Register** titled ''Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2019 Rates; Quality Reporting Requirements for Specific Providers; Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (Promoting Interoperability Programs) Requirements for Eligible Hospitals, Critical Access Hospitals, and Eligible Professionals; Medicare Cost Reporting Requirements; and Physician Certification and Recertification of Claims''.

DATES: The corrections in this document are effective October 1, 2018.

FOR FURTHER INFORMATION CONTACT: Donald Thompson and Michele Hudson, (410) 786–4487.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2018–16766 of August 17, 2018 (83 FR 41144) there were a number of technical and typographical errors that are identified and corrected by the Correction of Errors section of this correcting document. The provisions in this correcting document are effective as if they had been included in the document that appeared in the August 17, 2018 **Federal Register**. Accordingly, the corrections are effective October 1, 2018.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 41144, under **FOR FURTHER INFORMATION CONTACT** section, we are correcting the names of the contacts for Medicare Promoting Interoperability Program issues.

On page 41151, in our discussion regarding Changes to the Hospital Readmissions Reduction Program under ''Summary of Cost and Benefits'', we made errors in the impact figures.

On pages 41200, 41219, 41236, and 41313, we made a technical error in using the term ''primary'' rather than ''principal'' when in describing certain diagnosis codes or conditions.

On page 41254, we inadvertently omitted a base MS–DRG group to which the listed thoracoscopic procedures of pericardium and pleura may be assigned. Specifically, we are correcting the list of MS–DRGs on page 41254 to include MS–DRGs 166, 167, and 168 (Other Respiratory System O.R. Procedures with MCC, with CC, and without CC/MCC, respectively) in MDC 4 (Diseases and Disorders of the Respiratory System), consistent with the MS–DRGs to which other approaches for procedures involving drainage or extirpation of matter from the pleura are assigned.

On page 41299, we made a technical error in describing which ICD–10–PCS procedure codes will be used to identify cases involving the use of KYMRIAH and YESCARTA that are eligible for new technology add-on payments in FY 2019. Specifically, cases involving the use of KYMRIAH and YESCARTA that are eligible for new technology add-on payments will be identified by either of

the ICD–10–PCS procedure codes listed in the final rule (XW033C3 or XW043C3) rather than requiring the combination of both ICD–10–PCS procedure codes.

On page 41311, we made a typographical error in describing which National Drug Code (NDC) will be used to identify cases involving VABOMERE™ that are eligible for new technology add-on payments in FY 2019. Specifically, we are correcting the NDC code of 65293–0009–01, which erroneously was missing an extra digit. In addition, we were made aware after the final rule that NDC 70842–0120–01 can also be used to identify cases of VABOMERE™. Therefore, cases involving the use of VABOMERE™ that are eligible for new technology add-on payments in FY 2019 will be identified with either of the following NDCs: 65293–0009–01 and 70842–0120–01.

On page 41320, we made a typographical error in describing which ICD–10–PCS procedure codes will be used to identify cases involving the remedē® System™ that are eligible for new technology add-on payments in FY 2019. Specifically, we are correcting the ICD–10–PCS procedure code 05H43MZ (Insertion of neurostimulator lead into left innominate vein, percutaneous approach), which had erroneously contained an extra digit.

On page 41334, we made a technical error in describing which ICD–10–PCS procedure codes will be used to identify cases involving ZEMDRI™ that are eligible for new technology add-on payments in FY 2019. Specifically, cases involving the use of ZEMDRI™ that are eligible for new technology add-on payments will be identified by either of the ICD–10–PCS procedure codes listed in the final rule (XW033G4 or XW043G4) rather than requiring the combination of both ICD–10–PCS procedure codes.

On page 41342, we made a technical error in describing which ICD–10–PCS procedure codes will be used to identify cases involving GIAPREZA™ that are eligible for new technology add-on payments in FY 2019. Specifically, cases involving the use of GIAPREZA™ that are eligible for new technology add-on payments will be identified by either of the ICD–10–PCS procedure codes listed in the final rule (XW033H4 or XW043H4) rather than requiring the combination of both ICD–10–PCS procedure codes.

On page 41348, we made a typographical error in stating the applicant's estimated cost of the Sentinel® Cerebral Protection System. Specifically, we stated that the applicant estimated the cost is $2,400, when we should have stated the cost is $2,800.

On page 41362, we made a technical error in describing which ICD–10–PCS procedure codes will be used to identify cases involving AndexXa™ that are eligible for new technology add-on payments in FY 2019. Specifically, cases involving the use of AndexXa™ that are eligible for new technology add-on payments will be identified by either of the ICD–10–PCS procedure codes listed in the final rule (XW03372 or XW04372) rather than requiring the combination of both ICD–10–PCS procedure codes.

On pages 41364, 41365, 41368, and 41375, in our discussion of the wage indexes, we are correcting the number of hospitals with critical access hospital (CAH) status removed from the FY 2019 wage index, the number of hospitals used for the FY 2019 wage index, the number of hospital occupational mix surveys used for the FY 2019 wage index, and the values for the FY 2019 national average hourly wage (unadjusted for occupational mix), the FY 2019 occupational mix adjusted national average hourly wage, and the FY 2019 national average hourly wages for the occupational mix nursing subcategories, due to inadvertent errors related to the following:

- The inclusion of a CAH in the wage data (CMS Certification Number (CCN) 060016).
- Wage data collected from the Medicare cost reports of one hospital (CCN 100044).
- Occupational Mix data collected from one hospital (CCN 010001).

On page 41406, we are correcting a typographical error in our reference to the discussion of the comments received on the proposed methodology for Factor 3.

On page 41415, in our discussion regarding Methodology for Calculating Factor 3 for FY 2019, we are correcting a technical error in the calculation of the CCR ceilings for FY 2014 and FY 2015 and the number of hospitals above the ceiling in each of those years.

On page 41432, in our discussion regarding Regulatory Background of Hospital Readmissions Reduction Program, we made a typographical error in referencing the fiscal year in which the calculation of the proportion of ''dually eligible'' Medicare beneficiaries used to stratify hospitals into peer groups will begin.

On page 41436, in our discussion regarding Identification of Aggregate Payments for Each Condition/Procedure and All Discharges, we inadvertently omitted language regarding which MedPAR data is included in the program calculations.

On page 41446, we made a technical error in the heading for section IV.I.2.c. by inadvertently stating the incorrect number of measure removal proposals that we were finalizing in the FY 2019 IPPS/LTCH PPS final rule for the Hospital Value-Based Purchasing (VBP) Program.

On page 41452, we made an error in the date of publication of a reference.

On page 41469, in the table entitled ''Previously Adopted and Newly Displayed Performance Standards for the FY 2021 Program Year: Safety, Clinical Outcomes, and Efficiency and Cost Reduction Domains,'' we inadvertently did not display several of the numbers in the benchmark column to 3 decimal places.

On page 41488, in our discussion regarding analysis of Hospital-Acquired Condition Reduction Program, we made a technical error in referencing hospital's National Healthcare Safety Network (NHSN) Healthcare-Associated Infection (HAI) measures.

On pages 41528 and 41529, we corrected the MS–LTC–DRG budget neutrality factor due to an error in the MS–LTC–DRG weights resulting from the inadvertent inclusion of an all-inclusive rate provider.

On pages 41536 and 41537, due to the changes in the MS–LTC–DRG weights resulting from the correction to the MS–LTC–DRG budget neutrality factor (described previously) and the corrections in the LTCH PPS wage index referenced above and discussed in greater detail below, we made conforming changes to the budget neutrality adjustment factor for the cost of the elimination of the 25-percent threshold policy for FY 2019 and the area wage budget neutrality factor.

On page 41556, in our discussion regarding claims-based-readmission measures, the National Quality Forum (NQF) number for the MORT–30–CABG measure was inadvertently listed as NQF #2515, which is the NQF number for the READM–30–CABG measure.

On page 41558, in our discussion finalizing our proposals to remove the mortality measures, we inadvertently referenced the FY 2020 payment determination twice.

On page 41576, in the table entitled ''Summary of Hospital IQR Program Measures Newly Finalized for Removal,'' an entry under ''Claims-Based Coordination of Care Measures'' inadvertently included an ''A'' in the short name for the Pneumonia Readmission measure.

On page 41579, in the table entitled ''Measures for the FY 2021 Payment

Determination,'' we inadvertently omitted the entry for the FY 2021 payment determination for MORT–30–CABG. In the same table, we made a typographical error by inadvertently including an asterisk at the end of Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Acute Ischemic Stroke (MORT–30–STK). In the same table, we made a typographical error by inadvertently listing the incorrect NQF number for STK–06, Discharged on Statin Medication measure. In the same table, we inadvertently excluded the word ''Venous'' from the full measure name of VTE–2, Intensive Care Unit Venous Thromboembolism Prophylaxis.

On page 41599, in our discussion of Social Risk Factors in the Hospital Inpatient Quality Reporting (IQR) Program, we inadvertently used the term ''measures'' instead of ''methods''.

On page 41672, in our discussion regarding the electronic reporting of electronic clinical quality measures (eCQMs) for CY 2019, we incorrectly referred to the Spring 2017 version of the CQM electronic specifications as the most recent version. A more recent version of the specifications was issued after the proposed rule was published, which is the 2018 eCQM specifications update (published in May 2018).

B. Summary of Errors in the Addendum

As discussed in section II.D. of this correcting document, we made several technical errors with regard to the calculation of Factor 3 of the uncompensated care payment methodology. Factor 3 is used to determine the total amount of the uncompensated care payment a hospital is eligible to receive for a fiscal year. This amount is then used to calculate the amount of the interim uncompensated care payments a hospital receives per discharge. Per discharge uncompensated care payments are included when determining total payments for purposes of all of the budget neutrality factors and the final outlier threshold. As a result, the revisions made to address these technical errors regarding the calculation of Factor 3 directly affected the calculation of total payments and required the recalculation of all the budget neutrality factors and the final outlier threshold.

Because of the errors related to the wage data for the three hospitals (CCNs 010001, 060016 and 100044) as discussed in section II.A. of this correcting document, we recalculated the FY 2019 national average hourly wages unadjusted for occupational mix and adjusted for occupational mix which resulted in the recalculation of the final FY 2019 IPPS wage indexes and the geographic adjustment factors (GAFs) (which are computed from the wage index). The final FY 2019 IPPS wage data are used in the calculation of the wage index budget neutrality adjustment when comparing total payments using the final FY 2018 IPPS wage index data to total payments using the final FY 2019 IPPS wage index data. Additionally, the final FY 2019 IPPS wage index data are used when determining total payments for purposes of the rest of the budget neutrality factors (except for the MS–DRG reclassification and recalibration budget neutrality factor) and the final outlier threshold. In addition, the final FY 2019 IPPS wage index data are used to calculate the FY 2019 LTCH PPS wage index values, certain budget neutrality factors, and the LTCH PPS standard Federal payment rate in the FY 2019 IPPS/LTCH PPS final rule.

We also made inadvertent errors related to the status of four providers reclassified from urban to rural under section 1886(d)(8)(E) of the Act (codified in the regulations under § 412.103 and hereinafter referred to as § 412.103). Specifically, the reclassification status in the FY 2019 IPPS/LTCH PPS final rule did not properly reflect the application of urban to rural reclassification under § 412.103 for four providers (CCNs 050025, 050573, 120001 and 120002). We note, provider 050573 was approved by the MGCRB for reclassification (as already reflected in the FY 2019 IPPS/LTCH final rule) in addition to its urban to rural reclassification under § 412.103. Additionally, the final FY 2019 IPPS wage index with reclassification is used when determining total payments for purposes of all budget neutrality factors (except for the MS–DRG reclassification and recalibration budget neutrality factor and the wage index budget neutrality adjustment factor) and the final outlier threshold.

Due to the correction of the combination of errors listed previously (revisions to Factor 3 of the uncompensated care payment methodology, the correction to the final FY 2019 IPPS wage index data adjusted for occupational mix and the correction to the geographic reclassification status of four hospitals), we recalculated all IPPS budget neutrality adjustment factors, the fixed-loss cost threshold, the final wage indexes (and GAFs), and the national operating standardized amounts and capital Federal rate. (We note there was no change to the rural community hospital demonstration program budget neutrality adjustment or the operating outlier adjustment factor resulting from the correction of this combination of errors.) Therefore, we made conforming changes to the following:

- On pages 41715 and 41727, the MS–DRG reclassification and recalibration budget neutrality adjustment factor.
- On page 41716, the following budget neutrality adjustments:
  - ++ Wage index budget neutrality adjustment.
  - ++ Reclassification hospital budget neutrality adjustment.
  - ++ Rural floor budget neutrality adjustment.
- On page 41723, the calculation of the outlier fixed-loss cost threshold, total operating Federal payments, total operating outlier payments, and the outlier adjustment to the capital Federal rate.
- On pages 41724 through 41725, the table titled ''Changes From FY 2018 Standardized Amounts to the FY 2019 Standardized Amounts''.

On page 41722, we are also correcting inadvertent technical errors in the figures reported for the covered charges and cases by quarter in the periods used to calculate the charge inflation factor. Specifically, we erroneously presented figures based on total charges for the applicable periods listed in the table rather than the covered charges and the case counts were not correctly aligned with the corresponding quarter. We note that although there were technical errors in the figures as presented in the table and the corresponding discussion on page 41722, the correct figures were used for the outlier calculations in the final rule. In addition, on page 41723, we are correcting technical errors in the description of the formula showing total outlier payments as a percentage of total operating Federal payments.

On pages 41727 through 41729, in our discussion of the determination of the Federal hospital inpatient capital-related prospective payment rate update, due to the recalculation of the GAFs, we have made conforming corrections to the increase in the capital Federal rate, the GAF/DRG budget neutrality adjustment factors, the capital Federal rate, and the outlier threshold (as discussed previously), along with certain statistical figures (for example, percent change) in the accompanying discussions. Also, as a result of these errors we have made conforming corrections in the tables showing the comparison of factors and adjustments for the FY 2018 capital Federal rate and FY 2019 capital Federal rate and the proposed FY 2019 capital Federal rate and final FY 2019 capital Federal rate.

On pages 41730 through 41731, 41733, 41736 and 41737, due to corrections in the LTCH PPS wage index discussed previously, we are making conforming corrections to the following:

- The area wage level adjustment budget neutrality factor.
- The fixed-loss amount for FY 2019 LTCH PPS standard Federal payment rate discharges and the high-cost outlier (HCO) threshold.
- The budget neutrality adjustment factor for the cost of the elimination of the 25-percent threshold policy for FY 2019 and the FY 2019 LTCH PPS standard Federal payment rate.
- The fixed-loss amount for FY 2019 site neutral payment rate discharges and the high-cost outlier (HCO) threshold (based on the corrections to the IPPS fixed-loss amount discussed previously).

On pages 41738 and 41739, we are making conforming corrections to the figures used in the example of computing the adjusted LTCH PPS Federal prospective payment for FY 2019.

On pages 41740 and 41741, we are making conforming corrections to the following:

- National adjusted operating standardized amounts and capital standard Federal payment rate (which also include the rates payable to hospitals located in Puerto Rico) in Tables 1A, 1B, 1C, and 1D as a result of the conforming corrections to certain budget neutrality factors and the outlier threshold (as described previously). We are also correcting a typographical error in the update factor presented in the column heading for a hospital that submitted quality data and is a meaningful EHR user.
- LTCH PPS standard Federal payment rate in Table 1E as a result of the correction to the LTCH PPS wage index values (as discussed previously).

C. Summary of Errors in the Appendices

On pages 41742, 41744 through 41751, and 41763 through 41765 in our regulatory impact analyses, we made conforming corrections to the factors, values, and tables and accompanying discussion of the changes in operating and capital IPPS payments for FY 2019 and the effects of certain IPPS budget neutrality factors as a result of the technical errors that lead to conforming changes in our calculation of the operating and capital IPPS budget neutrality factors, outlier threshold, final wage indexes, operating standardized amounts, and capital Federal rate (as described in sections II.A. and II.B. of this correcting document).

In particular, we made changes to the following tables:

- On pages 41744 through 41746, the table titled ''Table I—Impact Analysis of Changes to the IPPS for Operating Costs for FY 2019''.
- On pages 41748 through 41749, the table titled ''FY 2019 IPPS Estimated Payments Due To Rural Floor With National Budget Neutrality''.
- On pages 41750 through 41751, the table titled ''Table II—Impact Analysis of Changes for FY 2019 Acute Care Hospital Operating Prospective Payment System [Payments per discharge]''.
- On pages 41764 through 41765, the table titled ''Table III—Comparison of Total Payments per Case [FY 2018 payments compared to FY 2019 payments]''.

On pages 41753 through 41755, we are correcting the discussion of the ''Effects of the Changes to Medicare DSH and Uncompensated Care Payments for FY 2019'' for purposes of the Regulatory Impact Analysis in Appendix A of the FY 2019 IPPS/LTCH PPS final rule, including the table titled ''MODELED UNCOMPENSATED CARE PAYMENTS FOR ESTIMATED FY 2019 DSHs BY HOSPITAL TYPE: MODEL UCP $ (IN MILLIONS) * FROM FY 2018 to FY 2019'' on pages 41753 and 41754, in light of the corrections discussed in section II.D. of this correcting document.

On page 41756, in our discussion of the effects of changes under the FY 2019 Hospital Value-Based Purchasing (VBP) Program that appears in Appendix A, we are correcting an inadvertent reference to the word ''proposed'' in the heading for section I.H.6.a in the first column at the bottom of the page and in line 1 of the last paragraph of the second column at the bottom of the page.

On pages 41758 through 41759, in table entitled ''Estimated Proportion of Hospitals in the Worst-Performing Quartile (>75th Percentile) of the Total HAC Scores for the FY 2019 HAC Reduction Program'', we inadvertently included incorrect data.

On pages 41766 and 41768 through 41769, we made conforming corrections to the LTCH PPS area wage level budget neutrality factor, the budget neutrality adjustment factor for the cost of the elimination of the 25-percent threshold policy for FY 2019, and the LTCH PPS standard Federal payment rate as described in section II.B. of this correcting document.

On pages 41768 through 41770, we are making conforming corrections to ''Table IV—Impact of Payment Rate and Policy Changes to LTCH PPS Payments for Standard Payment Rate Cases for FY 2019'' and the corresponding summary text. We are also correcting the inadvertent mislabeling of the Pacific and Mountain rows in that table.

D. Summary of Errors in and Corrections to Files and Tables Posted on the CMS Website

We are correcting the errors in the following IPPS tables that are listed on pages 41739 through 41740 of the FY 2019 IPPS/LTCH PPS final rule and are available on the internet on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/FY2019-IPPS-Final-Rule-Home-Page.html.* The tables that are available on the internet have been updated to reflect the revisions discussed in this correcting document.

Table 2—Case-Mix Index and Wage Index Table by CCN–FY 2019. The wage data errors (as discussed in section II.A. of this correcting document) related to the three hospitals (CCNs 010001, 060016, and 100044) required the recalculation of the FY 2019 national average hourly wages unadjusted for occupational mix and adjusted for occupational mix which resulted in recalculating the FY 2019 wage indexes. Additionally, for the four providers (CCNs 050025, 050573, 120001, and 120002) for which we are applying urban to rural reclassification under § 412.103 (as discussed in section II.B. of this correcting document), we are correcting the values where applicable in the columns titled ''FY 2019 Wage Index'', ''Reclassified/Redesignated CBSA'', ''Hospital Reclassified as Rural Under Section 1886(d)(8)(E) of the Act (§ 412.103)'' and ''Dual Status 412.103 and MGCRB/LUGAR''. Also, the revisions to Factor 3 of the uncompensated care payment methodology and recalculation of the FY 2019 wage index necessitated the recalculation of the rural floor budget neutrality factor (as discussed in section II.B. of this correcting document). Therefore, we are correcting the values in the column titled ''FY 2019 Wage Index'' for all hospitals. Additionally, for the two hospitals (CCNs 010001 and 100044) for which we inadvertently used the incorrect wage and occupational mix data (as discussed in section II.A. of this correcting document), we are correcting the average hourly wages in the columns titled ''Average Hourly Wage FY 2019'' and ''3-Year Average Hourly Wage (2017, 2018, 2019)''. Furthermore, we are deleting provider 060016 from the wage index and Table 2 since it is a CAH (as discussed in section II.A. of this correcting document).

Table 3.—Wage Index Table by CBSA—FY 2019. The correction of the wage data errors (as discussed in section II.A. of this correcting document) related to the three hospitals (CCNs 010001, 060016, and 100044) required the recalculation of the FY 2019 national average hourly wage adjusted for occupational mix which resulted in recalculating the FY 2019 wage indexes. Also, the revisions to Factor 3 of the uncompensated care payment methodology, recalculation of the FY 2019 wage index, and correction of the reclassification errors discussed in section II.B. of this correcting document necessitated the recalculation of the rural floor budget neutrality factor (as discussed in section II.B. of this correcting document). Therefore, we are making corresponding changes to the wage indexes and GAFs of all CBSAs listed in Table 3. Specifically, we are correcting the values and flags in the columns titled ''Wage Index'', ''Reclassified Wage Index'', ''GAF'', ''Reclassified GAF'', ''Pre-Frontier and/or Pre-Rural Floor Wage Index'' and ''Eligible for Rural Floor Wage Index''. Also, we are making changes to reflect the application of urban to rural reclassification under § 412.103 for the four providers (CCNs 050025, 050573, 120001 and 120002) discussed in section II.B. of this correcting document. Specifically, we are correcting the values and flags in the columns titled ''Wage Index'', ''Reclassified Wage Index'', ''GAF'', ''Reclassified GAF'', ''Pre-Frontier and/or Pre-Rural Floor Wage Index'' and ''Eligible for Rural Floor Wage Index''. Additionally, for the 3 CBSAs (06, 20020, and 38940) where the three hospitals (CCNs 010001, 060016, and 100044) for which there were wage data errors are located (as discussed in section II.A. of this correcting document), we are correcting the average hourly wages in the columns titled ''FY 2019 Average Hourly Wage'' and ''3-Year Average Hourly Wage (2017, 2018, 2019)''.

Table 4.—List of Counties Eligible for the Out-Migration Adjustment under Section 1886(d)(13) of the Act—FY 2019. The correction of the wage data errors related to the three hospitals (CCNs 010001, 060016, and 100044), as discussed in section II.A. of this correcting document, required the recalculation of the FY 2019 national average hourly wage adjusted for occupational mix which resulted in recalculating the FY 2019 wage indexes. Also, the revisions to Factor 3 of the uncompensated care payment methodology, recalculation of the FY 2019 wage indexes, and correction of the reclassification errors discussed in section II.B. of this correcting document necessitated the recalculation of the rural floor budget neutrality factor (as discussed in section II.B. of this correcting document). Also, we are making changes to reflect the application of urban to rural reclassification under § 412.103 for the four providers (CCNs 050025, 050573, 120001 and 120002), as discussed in section II.B. of this correcting document. Therefore, we are making corresponding changes to the eligible counties and out migration values listed in Table 4. Specifically, we are correcting the list of counties and values in the columns titled ''FIPS County Code'', ''County Name'', ''State'', ''State Code'', ''Fiscal Year Begin of Adjustment'' and ''FY 2019 Out Migration''.

Table 18.—FY 2019 Medicare DSH Uncompensated Care Payment Factor 3. We are correcting this table to reflect revisions to the Factor 3 calculations for purposes of determining uncompensated care payments for the FY 2019 IPPS/LTCH PPS final rule for the following reasons:

- To reflect mergers where data for the merged hospital were not combined with the data for the surviving hospital.
- To correct the projected DSH eligibility for a SCH that now has CAH status, and therefore is no longer included in Table 18.
- To correct a provider's Factor 3 that was inadvertently calculated using the methodology for all-inclusive rate providers.
- To correct the Factor 3s that were computed for hospitals whose FY 2014 or FY 2015 cost report in the June 2018 extract of Healthcare Cost Report Information System (HCRIS) inadvertently omitted amended uncompensated care cost data that had been reported by the hospital on an amended Worksheet S–10 in a timely manner per Change Request (CR) 10378 issued on December 1, 2017, or where the FY 2014 or FY 2015 cost report for a DSH eligible hospital had inadvertently been uploaded into HCRIS without making the calculation modifications described in Transmittal 11, and to reflect the cost-to-charge ratio (CCR) trim changes resulting from the inclusion of the inadvertently omitted data.

We are revising Factor 3 for all hospitals to correct these errors. We are also revising the amount of the total uncompensated care payment calculated for each DSH-eligible hospital. The total uncompensated care payment that a hospital receives is used to calculate the amount of the interim uncompensated care payments the hospital receives per discharge. We also corrected the per discharge interim uncompensated care payment for all hospitals to reflect the 2017 discharges as shown on the FY 2019 IPPS Impact File. We also corrected the per discharge interim uncompensated care payment calculated for a merged hospital to reflect the discharges for the subsumed hospital. Per discharge uncompensated care payments are included when determining total payments for purposes of all of the budget neutrality factors and the final outlier threshold. As a result, these corrections to the uncompensated care payments impacted the calculation of all the budget neutrality factors as well as the outlier fixed-loss cost threshold. These corrections will be reflected in Table 18 and the Medicare DSH Supplemental Data File. In section IV.C. of this correcting document, we have made corresponding revisions to the discussion of the ''Effects of the Changes to Medicare DSH and Uncompensated Care Payments for FY 2019'' for purposes of the Regulatory Impact Analysis in Appendix A of the FY 2019 IPPS/LTCH PPS final rule to reflect the corrections discussed previously.

We are also correcting the errors in the following LTCH PPS tables that are listed on 41739 through 41740 of the FY 2019 IPPS/LTCH PPS final rule and are available on the internet on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/index.html* under the list item for regulation number CMS–1694–F. The tables that are available on the internet have been updated to reflect the revisions discussed in this correcting document.

Table 11.—MS–LTC–DRGs, Relative Weights, Geometric Average Length of Stay, Short-Stay Outlier (SSO) Threshold for Discharges Occurring from October 1, 2018 through September 30, 2019 under the LTCH PPS. We are correcting this table to reflect the revisions to the MS–LTC–DRG relative weights, geometric average length-of-stay, and short-stay outlier threshold due to the inadvertent inclusion of an all-inclusive rate provider as discussed in section II.A. of this correcting document.

Table 12A.—LTCH PPS Wage Index for Urban Areas for Discharges Occurring from October 1, 2018 through September 30, 2019. We are correcting this table to reflect the revisions to the LTCH PPS wage index values discussed in section II.A. of this correcting document.

Table 12B.—LTCH PPS Wage Index for Rural Areas for Discharges Occurring

from October 1, 2018 through September 30, 2019. We are correcting this table to reflect the revisions to the LTCH PPS wage index values discussed in section II.A. of this correcting document.

III. Waiver of Proposed Rulemaking, 60-Day Comment Period, and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rulemaking in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. The document corrects technical and typographical errors in the preamble, addendum, payment rates, tables, and appendices included or referenced in the FY 2019 IPPS/LTCH PPS final rule, but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the information in the FY 2019 IPPS/LTCH PPS final rule accurately reflects the policies adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the FY 2019 IPPS/LTCH PPS final rule accurately reflects our methodologies and policies. Furthermore, such procedures would be unnecessary, as we are not making substantive changes to our methodologies or policies, but rather, we are simply implementing correctly the methodologies and policies that we previously proposed, requested comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2019 IPPS/LTCH PPS final rule accurately reflects these methodologies and policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Rule Doc. 2018–16766 of August 17, 2018 (83 FR 41144), we are making the following corrections:

A. Corrections of Errors in the Preamble

1. On page 41144, third column, sixth and seventh full paragraph, the contact information ''Elizabeth Holland, (410) 786–1309, Promoting Interoperability Programs. Clinical Quality Measure Related Issues. Kathleen Johnson, (410) 786–3295 and Steven Johnson (410) 786–3332, Promoting Interoperability Programs Nonclinical Quality Measure Related Issues.'' is corrected to read ''Jessica Wright, (410) 786–3838, Medicare Promoting Interoperability Program''.

2. On page 41151, second column, second bulleted paragraph,

a. Line 13, the figure ''2,610'' is corrected to read ''2,599''.

b. Line 19, the figure ''$566'' is corrected to read ''$550''.

3. On page 41200, between the untitled tables, first column, first full paragraph, line 27, the phrase ''primary and secondary diagnoses'' is corrected to read ''principal and secondary diagnoses''.

4. On page 41219, middle of the page, third column, partial paragraph, line 13, the phrase ''primary and secondary diagnoses'' is corrected to read ''principal and secondary diagnoses''.

5. On page 41236, lower half of the page, third column, first partial paragraph, line 2, the phrase ''primary diagnosis'' is corrected to read ''principal diagnosis''.

6. On page 41254, lower two-thirds of the page, first column, partial paragraph, lines 12 through 17, the phrase ''MS–DRGs 163, 164, and 165 (Major Chest Procedures with MCC, with CC, and without CC/MCC, respectively) in MDC 4 (Diseases and Disorders of the Respiratory System);'' to read ''MS–DRGs 163, 164, and 165 (Major Chest Procedures with MCC, with CC, and without CC/MCC, respectively) and MS–DRGs 166, 167, and 168 (Other Respiratory System O.R. Procedures with MCC, with CC, and without CC/MCC, respectively) in MDC 4 (Diseases and Disorders of the Respiratory System);''.

7. On page 41299, second column, first partial paragraph, lines 2 through 7, the sentence ''Cases involving KYMRIAH and YESCARTA that are eligible for new technology add-on payments will be identified by ICD–10–PCS procedure codes XW033C3 and XW043C3.'' is corrected to read ''Cases involving KYMRIAH and YESCARTA that are eligible for new technology add-on payments will be identified by either of the following ICD–10–PCS procedure codes: XW033C3 (Introduction of engineered autologous chimeric antigen receptor T-cell immunotherapy into peripheral vein, percutaneous approach, new technology group 3) or XW043C3 (Introduction of engineered autologous chimeric antigen receptor T-cell immunotherapy into central vein, percutaneous approach, new technology group 3).''

8. On page 41311, second column, first partial paragraph, lines 46 through 51, the phrase ''FY 2019 cases involving the use of VABOMERE™ that are eligible for the FY 2019 new technology add-on payments will be identified by the NDC of 65293–009–01 (VABOMERE™ Meropenem-Vaborbactam Vial).'' is corrected to read ''FY 2019 cases involving the use of VABOMERE™ that are eligible for the FY 2019 new technology add-on payments will be identified by the NDC of 65293–0009–01 (VABOMERE™ Meropenem-Vaborbactam Vial).''

9. On page 41313, first column, first partial paragraph, line 8, the phrase ''primary diagnosis'' is corrected to read ''principal diagnosis''.

10. On page 41320, second column, first partial paragraph, line 15, the code ''05H043MZ'' is corrected to read ''05H43MZ''.

11. On page 41334, second column, first full paragraph, lines 20 through 24,

the sentence ''Cases involving ZEMDRI™ that are eligible for new technology add-on payments will be identified by ICD–10–PCS procedure codes XW033G4 and XW043G4.'' is corrected to read ''Cases involving ZEMDRI™ that are eligible for new technology add-on payments will be identified by either of the following ICD–10–PCS procedure codes: XW033G4 (Introduction of Plazomicin anti-infective into peripheral vein, percutaneous approach, new technology group 4) or XW043G4 (Introduction of Plazomicin anti-infective into central vein, percutaneous approach, new technology group 4).''

12. On page 41342, second column, first partial paragraph, lines 3 and 4, the phrase ''identified by ICD–10–PCS procedure codes XW033H4 and XW043H4.'' is corrected to read ''identified by either of the following ICD–10–PCS procedure codes: XW033H4 (Introduction of synthetic human angiotensin II into peripheral vein, percutaneous approach, new technology group 4) or XW043H4 (Introduction of synthetic human angiotensin II into central vein, percutaneous approach, new technology group 4).''

13. On page 41348, second column, first full paragraph, line 17, the figure ''$2,400'' is corrected to read ''$2,800''.

14. On page 41362, first column, first partial paragraph, lines 4 through 7, the phrase ''eligible for new technology add-on payments will be identified by ICD–10–PCS procedure codes XW03372 and XW04372.'' is corrected to read ''eligible for new technology add-on payments will be identified by either of the following ICD–10–PCS procedure codes: XW03372 (Introduction of Andexanet alfa, factor Xa inhibitor reversal agent into peripheral vein, percutaneous approach, new technology group 2) or XW04372 (Introduction of Andexanet alfa, factor Xa inhibitor reversal agent into central vein, percutaneous approach, new technology group 2).''

15. On page 41364, third column, first partial paragraph—

a. Line 10, the figure ''3'' is corrected to read ''4''.

b. Line 18, the figure ''11'' is corrected to read ''12''.

c. Line 21, the figure ''3'' is corrected to read ''4''.

d. Line 23, the figure ''3,283'' is corrected to read ''3,282''.

e. Lines 23 through 24, the figure ''(3,260 + 28 − 2 − 3 = 3,283)'' is corrected to read ''(3,260 + 28 − 2 − 4 = 3,282)''.

16. On page 41365—

a. Second column, third full paragraph, last line, the figure ''$42.997789358'' is corrected to read ''$42.998002633''.

b. Third column, first partial paragraph, line 32, the figure ''$42.997789358'' is corrected to read ''$42.998002633''.

17. On page 41368, third column, first partial paragraph, line 21, the figure ''3,283'' is corrected to read ''3,282''.

18. On page 41375—

a. Second column—

i. First partial paragraph—

A. Line 2, the figure ''3,283'' is corrected to read ''3,282''.

B. Line 3, the figure ''3,114'' is corrected to read ''3,113''.

C. Lines 6 and 7, the parenthetical figures ''(3,114/3,283)'' are corrected to read ''(3,113/3,282)''.

D. Last line, the figure ''$42.955567020'' is corrected to read ''$42.955981146''.

ii. Following the first full paragraph the untitled table is corrected to read as follows:

Final unadjusted national average hourly wage	Final occupational mix adjusted national average hourly wage
$42.998002633	$42.955981146

b. Third column,

i. Top of the column (before the first full paragraph), the untitled table is corrected to read as follows:

Occupational mix nursing subcategory	Average hourly wage
National RN	$41.65745883
National LPN and Surgical Technician	24.73751208
National Nurse Aide, Orderly, and Attendant	16.96596364
National Medical Assistant	18.13187187
National Nurse Category	35.03615689

ii. First full paragraph, line 4, the figure ''$35.04005228'' is corrected to read ''$35.03615689''.

19. On page 41406, second column, first full paragraph, line 30, the term ''Facto'' is corrected to read ''Factor''.

20. On page 41415, third column—

a. Second full paragraph,

i. Line 26, the phrase ''5 hospitals'' is corrected to read ''16 hospitals''.

ii. Line 28, the figure ''1.031'' is corrected to read ''1.032''.

iii. Line 30, the figure ''0.93'' is corrected to read ''0.929''.

b. Fourth full paragraph, line 10, the phrase ''14 hospitals'' is corrected to read ''25 hospitals''.

21. On page 41432, first column, first partial paragraph, lines 2 and 3, the phrase ''FY 2018'' is corrected to read ''FY 2019''.

22. On page 41436, second column, last bulleted paragraph, the sentence, ''March 2018 update of the FY 2017 MedPAR files to identify claims within FY 2017'' is corrected to read ''March 2018 update of the FY 2017 MedPAR file to identify claims within FY 2017 with discharge dates that are on or before June 30, 2017.''

23. On page 41446, third column, section heading ''c. Removal of Ten Measures From the Hospital VBP Program'' is corrected to read ''c. Removal of Four Measures From the Hospital VBP Program''.

24. On page 41452, third column, footnote paragraph (footnote 241), the date ''(August 20, 2017)'' is corrected to read ''(August 30, 2017)''.

25. On page 41469, table titled ''Previously Adopted and Newly Displayed Performance Standards for the FY 2021 Program Year: Safety, Clinical Outcomes, and Efficiency and Cost Reduction Domains'', under ''Safety Domain'', the entries in the ''Benchmark'' column for the CAUTI, CLABSI, MRSA Bacteremia, and Colon and Abdominal Hysterectomy SSI measures are corrected to read to three decimal places as follows:

Measure short name	Achievement threshold	Benchmark
Safety Domain		
CAUTI	0.774	0.000
CLABSI	0.687	0.000
CDI	0.748	0.067
MRSA Bacteremia	0.763	0.000

Measure short name	Achievement threshold	Benchmark
Colon and Abdominal Hysterectomy SSI	• 0.754 • 0.726	• 0.000 • 0.000

26. On page 41488, first column, last paragraph, line 7, the phrase ''HAI data'' is corrected to read ''HAI measure''.

27. On page 41528, third column, last paragraph, line 29, the figure ''0.9931052'' is corrected to read ''0.9935905''.

28. On page 41529, first column, first full paragraph, line 7, the figure ''0.9931052'' is corrected to read ''0.9935905''.

29. On page 41536, third column—

a. First bulleted paragraph, line 2, the figure ''0.990884'' is corrected to read ''0.990878''.

b. Second bulleted paragraph, line 2, the figure ''0.990741'' is corrected to read ''0.990737''.

30. On page 41537—

a. Second column, last paragraph, last line, the figure ''0.990741'' is corrected to read ''0.990737''.

b. Third column, second full paragraph—

i. Line 6, the figure ''0.990884'' is corrected to read ''0.990878''.

ii. Lines 13, the figure ''0.990884'' is corrected to read ''0.990878''.

31. On page 41556, third column, last bulleted paragraph, line 4, the parenthetical phrase (NQF # 2515) is corrected to read ''(NQF # 2558)''.

32. On page 41558, second column, last paragraph, line 7, the phrase ''FYs 2020, 2021, and 2020'' is corrected to read ''FYs 2020, 2021, and 2022''

33. On page 41576, in the table titled ''SUMMARY OF HOSPITAL IQR PROGRAM MEASURES NEWLY FINALIZED FOR REMOVAL,'' under the ''Claims-Based Coordination of Care Measures'', first column (Short name), the fifth entry ''READM–30–PNA'' is corrected to read ''READM–30–PN''.

34. On page 41579, table titled ''MEASURES FOR THE FY 2021 PAYMENT DETERMINATION,'' under ''Claims-Based Mortality Measures'', the following entries are corrected by:

a. Removing the inadvertently included asterisk at the end of the full measure name for MORT–30–STK; and

b. Adding a row to the table to include an entry for MORT–30–CABG, which was inadvertently omitted, such that the table will read as follows:

Claims-Based Mortality Measures		
MORT–30–CABG	Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Coronary Artery Bypass Graft (CABG) Surgery.	2558
MORT–30–STK	Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Acute Ischemic Stroke.	N/A

35. On page 41579, table titled ''MEASURES FOR THE FY 2021 PAYMENT DETERMINATION,'' under ''EHR-Based Clinical Process of Care Measures (that is, Electronic Clinical Quality Measures (eCQMs))'', third column (NQF #), line 11, for the entry for STK–06, the NQF number ''0438'' is corrected to read ''0439'' as follows:

STK–06	Discharged on Statin Medication	0439

36. On page 41579, table titled ''MEASURES FOR THE FY 2021 PAYMENT DETERMINATION,'' under ''EHR-Based Clinical Process of Care Measures (that is, Electronic Clinical Quality Measures (eCQMs))'', second column (Measure Name), the last line down, the measure name for the entry for VTE–2 is corrected from ''Intensive Care Unit Thromboembolism Prophylaxis'' to reflect the complete measure name ''Intensive Care Unit Venous Thromboembolism Prophylaxis.''

VTE–2	Intensive Care Unit Venous Thromboembolism Prophylaxis	0372

37. On page 41599, third column,

a. Third full paragraph, lines 4 and 5, the phrase ''disparity measures'' is corrected to read ''disparity methods''.

b. Last paragraph, line 9, the phrase ''disparity measures'' is corrected to read ''disparity methods''.

38. On page 41672, first column, fourth paragraph, lines 9 through 11, the phrase ''Spring 2017 version of the CQM electronic specifications'' is corrected to read ''2018 eCQM specifications update (published in May 2018)''.

B. Correction of Errors in the Addendum

1. On page 41715, third column, fourth full paragraph, lines 3 and 8, the figure ''0.997192'' is corrected to read ''0.997190''.

2. On page 41716—

a. First column, fourth full paragraph, line 9, the figure ''1.000748'' is corrected to read ''1.000746''.

b. Second column, second full paragraph, line 11, the figure ''0.985932'' is corrected to read ''0.985335''.

c. Third column, second full paragraph, line 3, the figure ''0.993142'' is corrected to read ''0.993911''.

3. On page 41722—

a. Middle of the page, the untitled table is corrected to read as follows:

Quarter	Covered charges (April 1, 2016, through March 31, 2017)	Cases (April 1, 2016, through March 31, 2017)	Covered charges (April 1, 2017, through March 31, 2018)	Cases (April 1, 2017, through March 31, 2018)
April–June	$135,512,389,540	2,415,120	$141,310,805,358	2,407,887
July–September	132,339,957,018	2,356,775	136,951,808,593	2,319,109
October–December	138,602,493,305	2,413,871	141,939,083,023	2,363,685
January–March	150,230,629,335	2,559,371	120,924,791,134	1,983,155
Total	556,685,469,198	9,745,137	541,126,488,108	9,073,836

b. Bottom of the page, first column,

i. First paragraph,

ii. Lines 5, the figures ''$57,448 ($559,839,156,948/9,745,137)'' are corrected to read ''$57,124 ($556,685,469,198/9,745,137)''.

iii. Lines 9 through 10, the figures ''$59,939.96 ($543,885,328,430/9,073,836)'' are corrected to read ''$59,636 ($541,126,488,108/9,073,836)''.

iv. Lines 13 through 14, the figures ''4.3 percent (1.04338)'' are corrected to read ''4.4 percent (1.04396)''.

v. Line 14, the figures ''8.9 percent (1.08864)'' are corrected to read ''9.0 percent (1.08986)''.

4. On page 41723, first column—

a. Third full paragraph—

i. Line 5, the figure ''$25,769'' is corrected to read ''$25,743''.

ii. Line 7, the figure ''$88,484,589,041'' is corrected to read ''$88,485,100,546''.

iii. Line 8, the figure ''$4,755,375,555'' is corrected to read ''$4,755,311,111''.

iv. Lines 12 through 13, the parenthetical phrase ''(($88,484,589,041/$93,239,964,596) × 100 = 5.1 percent)'' is corrected to read ''((1 − ($88,485,100,546/$93,240,411,657)) × 100 = 5.1 percent)''.

v. Last line, the figure ''$25,769'' is corrected to read ''$25,743''.

c. Following the sixth full paragraph, the untitled table is corrected to read as follows:

	Operating standardized amounts	Capital Federal rate
National	0.948999	0.949417

5. On pages 41724 through 41725, the table titled ''CHANGES FROM FY 2018 STANDARDIZED AMOUNTS TO THE FY 2019 STANDARDIZED AMOUNTS'', is corrected to read as follows:

CHANGES FROM FY 2018 STANDARDIZED AMOUNTS TO THE FY 2019 STANDARDIZED AMOUNTS

	Hospital submitted quality data and is a meaningful EHR user	Hospital submitted quality data and is NOT a meaningful EHR user	Hospital did NOT submit quality data and is a meaningful EHR user	Hospital did NOT submit quality data and is NOT a meaningful EHR user
FY 2018 Base Rate after removing: 1. FY 2018 Geographic Reclassification Budget Neutrality (0.987985) 2. FY 2018 Operating Outlier Offset (0.948998)	If Wage Index is Greater Than 1.0000: Labor (68.3%): $4,059.36 .. Nonlabor (30.4%): $1,884.07. If Wage Index is less Than or Equal to 1.0000: Labor (62%): $3,684.92. Nonlabor (38%): $2,258.50.	If Wage Index is Greater Than 1.0000: Labor (68.3%): $4,059.36 .. Nonlabor (30.4%): $1,884.07. If Wage Index is less Than or Equal to 1.0000: Labor (62%): $3,684.92. Nonlabor (38%): $2,258.50.	If Wage Index is Greater Than 1.0000: Labor (68.3%): $4,059.36 .. Nonlabor (30.4%): $1,884.07. If Wage Index is less Than or Equal to 1.0000: Labor (62%): $3,684.92. Nonlabor (38%): $2,258.50.	If Wage Index is Greater Than 1.0000: Labor (68.3%): $4,059.36. Nonlabor (30.4%): $1,884.07. If Wage Index is less Than or Equal to 1.0000: Labor (62%): $3,684.92. Nonlabor (38%): $2,258.50.
FY 2019 Update Factor	1.0135	0.99175	1.00625	0.9845.
FY 2019 MS–DRG Recalibration Budget Neutrality Factor.	0.99719	0.99719	0.99719	0.99719.
FY 2019 Wage Index Budget Neutrality Factor.	1.000746	1.000746	1.000746	1.000746.
FY 2019 Reclassification Budget Neutrality Factor.	0.985335	0.985335	0.985335	0.985335.
FY 2019 Operating Outlier Factor	0.948999	0.948999	0.948999	0.948999.
FY 2019 Rural Demonstration Budget Neutrality Factor.	0.999467	0.999467	0.999467	0.999467.
Adjustment for FY 2019 Required under Section 414 of Public Law 114–10 (MACRA).	1.005	1.005	1.005	1.005.
National Standardized Amount for FY 2019 if Wage Index is Greater Than 1.0000; Labor/Non-Labor Share Percentage (68.3/31.7).	Labor: $3,856.27 Nonlabor: $1,789.81	Labor: $3,773.51 Nonlabor: $1,751.40	Labor: $3,828.68 Nonlabor: $1,777.01	Labor: $3,745.93. Nonlabor: $1,738.60.
National Standardized Amount for FY 2019 if Wage Index is Less Than or Equal to 1.0000; Labor/Non-Labor Share Percentage (62/38).	Labor: $3,500.57 Nonlabor: $2,145.51	Labor: $3,425.44 Nonlabor: $2,099.47	Labor: $3,475.53 Nonlabor: $2,130.16	Labor: $3,400.41. Nonlabor: $2,084.12.

6. On page 41727—

a. First column, second full paragraph, line 13, the figure ''0.997192'' is corrected to read, ''0.997190''.

b. Second column, second full paragraph, line 6, the figure ''1.27 percent'' is corrected to read ''1.20 percent''.

7. On page 41728, third column—

a. Second full paragraph, line 12, the figure ''0.9986'' is corrected to read ''0.9980''.

b. Third full paragraph, line 14, the figure ''0.9975'' is corrected to read ''0.9969''.

8. On page 41729—

a. Top of the page—

i. First column—

A. First full paragraph—

1. Line 2, the figure ''0.9975'' is corrected to read ''0.9969''.

2. Line 4, the figure ''0.9986'' is corrected to read ''0.9980''.

ii. Second column—

B. First full paragraph—

1. Line 8, the figure ''$459.72'' is corrected to read ''$459.41''.

2. Line 17, the figure ''0.9975'' is corrected to read ''0.9969''.

3. Third column, first paragraph—

a. Line 14, the figure ''0.25'' is corrected to read ''0.31''.

b. Line 20, the figure ''1.27'' is corrected to read ''1.20''.

b. Middle of page,

i. The table titled ''COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2018 CAPITAL FEDERAL RATE AND FY 2019 CAPITAL FEDERAL RATE'' is corrected to read as follows:

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2018 CAPITAL FEDERAL RATE AND FY 2019 CAPITAL FEDERAL RATE

	FY 2018	FY 2019	Change	Percent change
Update Factor [1]	1.0130	1.0140	1.014	1.40
GAF/DRG Adjustment Factor [1]	0.9987	0.9969	0.9969	−0.31
Outlier Adjustment Factor [2]	0.9483	0.9494	1.0012	0.12
Capital Federal Rate	$453.95	$459.41	1.0120	[3] 1.20

[1] The update factor and the GAF/DRG budget neutrality adjustment factors are built permanently into the capital Federal rates. Thus, for example, the incremental change from FY 2018 to FY 2019 resulting from the application of the 0.9969 GAF/DRG budget neutrality adjustment factor for FY 2019 is a net change of 0.9969 (or −0.31percent).

[2] The outlier reduction factor is not built permanently into the capital Federal rate; that is, the factor is not applied cumulatively in determining the capital Federal rate. Thus, for example, the net change resulting from the application of the FY 2019 outlier adjustment factor is 0.9494/0.9483 or 1.0012 (or 0.12 percent).

[3] Percent change may not sum due to rounding.

ii. The table titled ''COMPARISON OF FACTORS AND ADJUSTMENTS: PROPOSED FY 2019 CAPITAL FEDERAL RATE AND FINAL FY 2019 CAPITAL FEDERAL RATE'' is corrected to read as follows:

COMPARISON OF FACTORS AND ADJUSTMENTS: PROPOSED FY 2019 CAPITAL FEDERAL RATE AND FINAL FY 2019 CAPITAL FEDERAL RATE

	Proposed FY 2019	Final FY 2019	Change	Percent change *
Update Factor	1.0120	1.0140	1.0020	0.20
GAF/DRG Adjustment Factor	0.9997	0.9969	0.9972	−0.28
Outlier Adjustment Factor	0.9494	0.9494	0.0000	0.00
Capital Federal Rate	$459.78	$459.41	0.9992	−0.0008

* Percent change may not sum due to rounding.

c. Bottom of page, second column, first partial paragraph, last line, the figure, ''$25,769'' is corrected to read ''$25,743''.

9. On page 41730, third column, last paragraph, line 21, the figure ''0.999713.'' is corrected to read ''0.999215''.

10. On page 41731, first column, first partial paragraph—

a. Line 3, the figure ''0.990884'' is corrected to read ''0.990878''.

b. Lines 10 and 11, the mathematical phrase ''$41,579.65 (calculated as $41,415.11 × 1.0135 × 0.999713× 0.990884)'' is corrected to read ''$41,558.68 (calculated as $41,415.11 × 1.0135 × 0.999215 × 0. 990878)''.

c. Lines 18 through 20, ''$40,759.12 (calculated as $41,415.11 × 0.9935 × 0.999713× 0.990884)'' is corrected to read ''$40,738.57 (calculated as $41,415.11 × 0.9935 × 0.999215 × 0. 990878)''.

11. On page 41733, second column, last paragraph,

a. Line 6, the figure ''0.999713'' is corrected to read ''0.999215''.

b. Line 11, the figure ''0.999713'' is corrected to read ''0.999215''.

12. On page 41736, second column—

a. Third full paragraph—

i. Line 26, the figure, ''$27,124'' is corrected to read ''$27,121''.

ii. Line 32, the figure, ''$27,124'' is corrected to read ''$27,121''.

iii. Last line, the figure, ''$27,124'' is corrected to read ''$27,121''.

b. Last partial paragraph, last line, the figure, ''$27,124'' is corrected to read ''$27,121''.

13. On page 41737—

a. Second column, last paragraph, line 8, the figure, ''$25,769'' is corrected to read ''$25,743''.

b. Third column—

i. First partial paragraph, last line, the figure, ''$25,769'' is corrected to read ''$25,743''.

ii. Third full paragraph, line 3, the figure, ''$25,769'' is corrected to read ''$25,743''.

14. On page 41738, third column, last paragraph, line 26, the figure ''$41,579.65'' is corrected to read ''$41,558.68''.

15. On page 41739, top of page—

a. Second column, second partial paragraph, last line, the figure ''$41,579.65'' is corrected to read ''$41,558.68''.

b. Third column, first partial paragraph, line 13, the parenthetical figure ''($41,189.62)'' is corrected to read ''($41,190.33)''.

c. Untitled table, the table is corrected to read as follows:

Unadjusted LTCH PPS Standard Federal Prospective Payment Rate	$41,558.68
Labor-Related Share	× 0.660
Labor-Related Portion of the LTCH PPS Standard Federal Payment Rate	= $27,428.73
Wage Index (CBSA 16974)	1.0511
Wage-Adjusted Labor Share of LTCH PPS Standard Federal Payment Rate	= $28,830.34
Nonlabor-Related Portion of the LTCH PPS Standard Federal Payment Rate ($41,558.68 x 0.340)	+ $14,129.95

Adjusted LTCH PPS Standard Federal Payment Amount	= $42,960.29
MS–LTC–DRG 189 Relative Weight	× 0.9588
Total Adjusted LTCH PPS Standard Federal Prospective Payment	= $41,190.33

16. On page 41740, bottom of the page, the table titled ''TABLE 1A—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR [(68.3 percent labor share/31.7 percent nonlabor share if wage index is greater than 1)—FY 2019]'' is corrected to read as follows:

TABLE 1A—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

[(68.3 percent labor share/31.7 percent nonlabor share if wage index is greater than 1)—FY 2019]

Hospital submitted quality data and is a meaningful EHR user (update = 1.35 percent)		Hospital submitted quality data and is NOT a meaningful EHR user (update = −0.825 percent)		Hospital did NOT submit quality data and is a meaningful EHR user (update = 0.625 percent)		Hospital did NOT submit quality data and is NOT a meaningful EHR user (update = −1.55 percent)	
Labor	Nonlabor	Labor	Nonlabor	Labor	Nonlabor	Labor	Nonlabor
$3,856.27	$1,789.81	$3,773.51	$1,751.40	$3,828.68	$1,777.01	$3,745.93	$1,738.60

17. On page 41741—

a. Top of the page—

i. The table titled ''TABLE 1B—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR [(62 percent labor share/38 percent nonlabor share if wage index is less than or equal to 1)—FY 2019]'' is corrected to read as follows:

TABLE 1B—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

[(62 percent labor share/38 percent nonlabor share if wage index is less than or equal to 1)—FY 2019]

Hospital submitted quality data and is a meaningful EHR user (update = 1.35 percent)		Hospital submitted quality data and is NOT a meaningful EHR user (update = −0.825 percent)		Hospital did NOT submit quality data and is a meaningful EHR user (update = 0.625 percent)		Hospital did NOT submit quality data and is NOT a meaningful EHR user (update = −1.55 percent)	
Labor	Nonlabor	Labor	Nonlabor	Labor	Nonlabor	Labor	Nonlabor
$3,500.57	$2,145.51	$3,425.44	$2,099.47	$3,475.53	$3,475.53	$3,400.41	$2,084.12

ii. The table titled ''Table 1C—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR HOSPITALS IN PUERTO RICO, LABOR/NONLABOR [(National: 62 percent labor share/38 percent nonlabor share because wage index is less than or equal to 1)—FY 2019]'' is corrected to read as follows:

TABLE 1C—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR HOSPITALS IN PUERTO RICO, LABOR/NONLABOR

[(National: 62 percent labor share/38 percent nonlabor share because wage index is less than or equal to 1)—FY 2019]

Standardized amount	Rates if wage index is greater than 1		Rates if wage index is less than or equal to 1	
	Labor	Nonlabor	Labor	Nonlabor
National [1]	Not Applicable	Not Applicable	$3,500.57	$2,145.51

[1] For FY 2019, there are no CBSAs in Puerto Rico with a national wage index greater than 1.

b. Middle of the page—

i. The table titled ''Table 1D—CAPITAL STANDARD FEDERAL PAYMENT RATE [FY 2019]'' is corrected to read as follows:

TABLE 1D—CAPITAL STANDARD FEDERAL PAYMENT RATE

[FY 2019]

	Rate
National	$459.41

ii. The table titled ''Table 1E—LTCH PPS STANDARD FEDERAL PAYMENT RATE [FY 2019]'' is corrected to read as follows:

TABLE 1E—LTCH PPS STANDARD FEDERAL PAYMENT RATE

[FY 2019]

	Full update (1.35 percent)	Reduced update * (−0.65 Percent)
Standard Federal Rate	$41,558.68	$40,738.57

* For LTCHs that fail to submit quality reporting data for FY 2019 in accordance with the LTCH Quality Reporting Program (LTCH QRP), the annual update is reduced by 2.0 percentage points as required by section 1886(m)(5) of the Act.

C. Corrections of Errors in the Appendices

1. On page 41742—

a. Second column, second full paragraph—

i. Line 1, the figure ''3,256'' is corrected to read ''3,255''.

ii. Line 7, the figure ''1,398'' is corrected to read ''1,399''.

2. On pages 41744 through 41746, the table and table notes for the table titled ''TABLE I—IMPACT ANALYSIS OF CHANGES TO THE IPPS FOR OPERATING COSTS FOR FY 2019'' are corrected to read as follows:

TABLE I—IMPACT ANALYSIS OF CHANGES TO THE IPPS FOR OPERATING COSTS FOR FY 2019

	Number of hospitals [1] (1) [2]	Hospital rate update and adjustment under MACRA (2) [3]	FY 2019 weights and DRG changes with application of recalibration budget neutrality (3) [4]	FY 2019 wage data with application of wage budget neutrality (4) [5]	FY 2019 MGCRB reclassifications (5) [6]	Rural floor with application of national rural floor budget neutrality (6) [7]	Application of the frontier wage index and outmigration adjustment (7) [8]	All FY 2019 changes
All Hospitals	3,255	1.8	0	0	0	0	0.1	2.4
By Geographic Location:								
Urban hospitals	2,483	1.8	0	0	−0.1	0	0.1	2.5
Large urban areas	1,302	1.8	0.1	0	−0.8	0	0	2.4
Other urban areas	1,181	1.8	0	0	0.6	0	0.2	2.5
Rural hospitals	772	1.5	−0.3	−0.1	1.2	−0.1	0.1	1.2
Bed Size (Urban):								
0–99 beds	644	1.7	−0.5	0.1	−0.8	0.2	0.2	1.7
100–199 beds	763	1.8	0	0	−0.1	0.2	0.2	2.2
200–299 beds	433	1.8	0	0	0.1	0	0.1	2.3
300–499 beds	424	1.8	0.1	0	0	−0.1	0.1	2.5
500 or more beds	219	1.8	0.1	0	−0.2	0	0	2.9
Bed Size (Rural):								
0–49 beds	305	1.4	−0.5	0	0.2	−0.1	0.2	0.9
50–99 beds	274	1.3	−0.4	0	0.7	−0.1	0.2	1.1
100–149 beds	108	1.6	−0.5	−0.1	0.9	−0.1	0	1.2
150–199 beds	45	1.7	−0.1	−0.2	2	−0.2	0.3	1.4
200 or more beds	40	1.7	0.1	−0.2	2.3	−0.2	0	1.5
Urban by Region:								
New England	113	1.8	0.1	−0.5	2.7	2.4	0.1	4.7
Middle Atlantic	310	1.8	0.2	0	0.2	−0.3	0.1	2.3
South Atlantic	401	1.8	0	−0.1	−0.6	−0.3	0	2
East North Central	386	1.8	0.1	−0.2	−0.5	−0.3	0.1	2
East South Central	147	1.8	0	0	−0.5	−0.3	0	2.1
West North Central	158	1.8	−0.1	0	−0.9	−0.3	0.6	2.1
West South Central	379	1.8	0	0.2	−0.8	−0.3	0	2.3
Mountain	164	1.7	−0.1	−0.7	0.4	0.6	0.3	2.2
Pacific	374	1.8	−0.1	0.8	0.1	0.2	0.1	3.3
Puerto Rico	51	1.8	0	−1.2	−1.3	0.1	0.1	0.7
Rural by Region:								
New England	20	1.5	0.1	−0.5	1.5	−0.2	0	0.9
Middle Atlantic	53	1.5	−0.2	−0.1	0.6	−0.1	0.1	1.4
South Atlantic	122	1.6	−0.2	−0.2	1.7	−0.1	0.1	1.2
East North Central	114	1.5	−0.3	0.1	0.9	−0.1	0	1.1
East South Central	150	1.7	−0.1	−0.2	2.5	−0.3	0.1	1.8
West North Central	94	1.3	−0.5	0	0.1	0	0.2	0.9
West South Central	145	1.5	−0.3	0.2	1.3	−0.3	0.2	1.5
Mountain	51	1.3	−1.1	−0.4	−0.1	−0.1	0.8	0.8
Pacific	23	1.4	−0.4	−0.2	0.8	−0.1	0	1
By Payment Classification:								
Urban hospitals	2,264	1.8	0	0	−0.6	0.1	0.1	2.3
Large urban areas	1,317	1.8	0.1	0	−0.7	0	0	2.4
Other urban areas	947	1.8	0	0	−0.4	0.2	0.2	2.1
Rural areas	991	1.7	−0.1	0	2.1	−0.2	0.1	2.7
Teaching Status:								
Nonteaching	2,156	1.7	−0.1	0	0.1	0.1	0.1	2.1
Fewer than 100 residents	849	1.8	0	0	−0.2	−0.1	0.2	2.2
100 or more residents	250	1.8	0.2	0	0.1	−0.1	0	3.1
Urban DSH:								

TABLE I—IMPACT ANALYSIS OF CHANGES TO THE IPPS FOR OPERATING COSTS FOR FY 2019—Continued

	Number of hospitals [1]	Hospital rate update and adjustment under MACRA	FY 2019 weights and DRG changes with application of recalibration budget neutrality	FY 2019 wage data with application of wage budget neutrality	FY 2019 MGCRB reclassifications	Rural floor with application of national rural floor budget neutrality	Application of the frontier wage index and outmigration adjustment	All FY 2019 changes
	(1) [2]	(2) [3]	(3) [4]	(4) [5]	(5) [6]	(6) [7]	(7) [8]	
Non–DSH	520	1.8	−0.3	−0.2	−0.2	−0.1	0.2	2
100 or more beds	1,462	1.8	0.1	0	−0.6	0.1	0.1	2.3
Less than 100 beds	367	1.7	−0.2	0.3	−0.6	0.2	0.1	1.9
Rural DSH:								
SCH	255	1.2	−0.6	−0.1	0	0	0	0.7
RRC	382	1.7	0	0.1	2.4	−0.3	0.1	3.1
100 or more beds	33	1.8	0	−0.6	1.6	−0.4	0.1	2.9
Less than 100 beds	236	1.6	−0.3	0	0.7	−0.2	0.3	1.5
Urban teaching and DSH:								
Both teaching and DSH	805	1.8	0.1	0	−0.7	0	0.1	2.4
Teaching and no DSH	89	1.9	−0.1	−0.1	−0.5	−0.1	0	2.3
No teaching and DSH	1,024	1.8	0	0.1	−0.4	0.3	0.1	2.2
No teaching and no DSH	346	1.8	−0.3	−0.2	−0.6	−0.1	0.2	1.7
Special Hospital Types:								
RRC	327	1.8	0	0.2	2.7	−0.3	0.2	3.4
SCH	311	1.1	−0.5	0.1	−0.1	0	0	0.8
MDH	140	1.5	−0.5	−0.1	0.7	0	0	1.2
SCH and RRC	134	1.4	−0.2	−0.2	0.3	0	0.1	1.2
MDH and RRC	16	1.5	−0.4	0	0.8	−0.1	0	1.1
Type of Ownership:								
Voluntary	1,898	1.8	0	0	0.1	0	0.1	2.4
Proprietary	856	1.8	0	−0.1	−0.1	0	0.1	2.1
Government	501	1.7	0	0.2	−0.2	−0.1	0	2.5
Medicare Utilization as a Percent of Inpatient Days:								
0–25	602	1.8	0.1	−0.1	−0.4	−0.1	0	2.3
25–50	2,138	1.8	0	0	0	0	0.1	2.5
50–65	421	1.7	−0.2	−0.1	0.5	0.3	0.1	1.7
Over 65	73	1.1	0.5	−0.1	−0.4	−0.2	0.1	2.5
FY 2019 Reclassifications by the Medicare Geographic Classification Review Board:								
All Reclassified Hospitals	859	1.8	0	0.1	2.4	−0.3	0	2.8
Non-Reclassified Hospitals	2,396	1.8	0	0	−1.1	0.1	0.1	2.2
Urban Hospitals Reclassified	588	1.8	0	0.1	2.5	−0.3	0	3.1
Urban Non-reclassified Hospitals	1,835	1.8	0	0	−1.2	0.1	0.1	2.3
Rural Hospitals Reclassified Full Year	271	1.5	−0.2	−0.1	2.1	−0.2	0.1	1.5
Rural Non-reclassified Hospitals Full Year	454	1.4	−0.5	−0.1	−0.4	−0.1	0.2	0.8
All Section 401 Reclassified Hospitals	266	1.7	0	0.1	2.5	−0.3	0.1	3.4
Other Reclassified Hospitals (Section 1886(d)(8)(B))	47	1.7	−0.2	−0.1	2.8	−0.3	0	1.5

[1] Because data necessary to classify some hospitals by category were missing, the total number of hospitals in each category may not equal the national total. Discharge data are from FY 2017, and hospital cost report data are from reporting periods beginning in FY 2016 and FY 2015.

[2] This column displays the payment impact of the hospital rate update and other adjustments, including the 1.35 percent adjustment to the national standardized amount and the hospital-specific rate (the estimated 2.9 percent market basket update reduced by 0.8 percentage point for the multifactor productivity adjustment and the 0.75 percentage point reduction under the Affordable Care Act), and the 0.5 percent adjustment to the national standardized amount required under section 414 of the MACRA.

[3] This column displays the payment impact of the changes to the Version 36 GROUPER, the changes to the relative weights and the recalibration of the MS–DRG weights based on FY 2017 MedPAR data in accordance with section 1886(d)(4)(C)(iii) of the Act. This column displays the application of the recalibration budget neutrality factor of 0.997190 in accordance with section 1886(d)(4)(C)(iii) of the Act.

[4] This column displays the payment impact of the update to wage index data using FY 2015 cost report data and the OMB labor market area delineations based on 2010 Decennial Census data. This column displays the payment impact of the application of the wage budget neutrality factor, which is calculated separately from the recalibration budget neutrality factor, and is calculated in accordance with section 1886(d)(3)(E)(i) of the Act. The wage budget neutrality factor is 1.000746.

[5] Shown here are the effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB). The effects demonstrate the FY 2019 payment impact of going from no reclassifications to the reclassifications scheduled to be in effect for FY 2019. Reclassification for prior years has no bearing on the payment impacts shown here. This column reflects the geographic budget neutrality factor of 0.985335.

[6] This column displays the effects of the rural floor and expiration of the imputed floor. The Affordable Care Act requires the rural floor budget neutrality adjustment to be 100 percent national level adjustment. The rural floor budget neutrality factor applied to the wage index is 0.993911.

[7] This column shows the combined impact of the policy required under section 10324 of the Affordable Care Act that hospitals located in frontier States have a wage index no less than 1.0 and of section 1886(d)(13) of the Act, as added by section 505 of Public Law 108–173, which provides for an increase in a hospital's wage index if a threshold percentage of residents of the county where the hospital is located commute to work at hospitals in counties with higher wage indexes. These are not budget neutral policies.

[8] This column shows the estimated change in payments from FY 2018 to FY 2019.

3. On page 41746, lower half of page, second column, third paragraph, line 6, the figure ''0.997192'' is corrected to read ''0.997190''.

4. On page 41747—

a. Top half of page, second column, first partial paragraph, line 19, the figure ''1.000748'' is corrected to read ''1.000746''.

b. Lower half of page, third column, first partial paragraph—

i. First line, the figure ''0.985932'' is corrected to read ''0.985335''.

ii. Line 11, ''which will experience no change'' is corrected to read, ''which will experience a 0.1 percent decrease''.

5. On page 41748, top of page—

a. First column, second full paragraph—

i. Line 6, the figure ''0.993142'' is corrected to read ''0.993911''.

ii. Line 7, the figure ''0.69 percent'' is corrected to read ''0.61 percent''.

b. Second column, first full paragraph—

i. Line 1, the figure ''263'' is corrected to read ''253''.

ii. Line 5, the figure ''0.993142'' is corrected to read ''0.993911''.

iii. Line 7, the figure ''0.2'' is corrected to read ''0.1''.

iv. Line 22, the figure ''2.5'' is corrected to read ''2.4''.

v. Line 30, the figure ''$121 million'' is corrected to read ''$123 million''.

6. On pages 41748 and 41749, the table titled ''FY 2019 IPPS ESTIMATED PAYMENTS DUE TO RURAL FLOOR WITH NATIONAL BUDGET NEUTRALITY'' is corrected to read as follows:

FY 2019 IPPS Estimated Payments Due to Rural Floor With National Budget Neutrality

State	Number of hospitals (1)	Number of hospitals that would receive the rural floor (2)	Percent change in payments due to application of rural floor with budget neutrality (3)	Difference (in $ millions) (4)
Alabama	84	2	−0.3	$−5
Alaska	6	3	0.1	0
Arizona	56	33	1.3	26
Arkansas	45	0	−0.3	−3
California	297	59	0.4	42
Colorado	45	9	0.7	9
Connecticut	30	8	1.3	21
Delaware	6	0	−0.3	−2
Washington, DC	7	0	−0.3	−2
Florida	168	7	−0.3	−20
Georgia	101	0	−0.3	−8
Hawaii	12	6	−0.1	0
Idaho	14	0	−0.3	−1
Illinois	125	2	−0.3	−14
Indiana	85	0	−0.3	−7
Iowa	34	0	−0.3	−3
Kansas	51	0	−0.2	−2
Kentucky	64	0	−0.3	−5
Louisiana	90	0	−0.3	−5
Maine	17	0	−0.3	−2
Massachusetts	56	29	3.3	123
Michigan	94	0	−0.3	−14
Minnesota	49	0	−0.2	−6
Mississippi	59	0	−0.3	−3
Missouri	72	0	−0.2	−6
Montana	13	1	−0.2	−1
Nebraska	23	0	−0.3	−2
Nevada	22	3	0.4	3
New Hampshire	13	8	2.4	14
New Jersey	64	0	−0.4	−16
New Mexico	24	2	−0.2	−1
New York	149	16	−0.3	−21
North Carolina	84	0	−0.3	−9
North Dakota	6	3	0.4	1
Ohio	130	7	−0.3	−11
Oklahoma	79	2	−0.3	−4
Oregon	34	1	−0.2	−2
Pennsylvania	150	3	−0.3	−17
Puerto Rico	51	11	0.1	0
Rhode Island	11	0	−0.4	−1

FY 2019 IPPS ESTIMATED PAYMENTS DUE TO RURAL FLOOR WITH NATIONAL BUDGET NEUTRALITY—Continued

State	Number of hospitals (1)	Number of hospitals that would receive the rural floor (2)	Percent change in payments due to application of rural floor with budget neutrality (3)	Difference (in $ millions) (4)
South Carolina	54	6	−0.1	−1
South Dakota	17	0	−0.2	−1
Tennessee	90	6	−0.3	−7
Texas	310	13	−0.3	−18
Utah	31	0	−0.3	−2
Vermont	6	0	−0.2	0
Virginia	74	1	−0.2	−6
Washington	48	3	−0.3	−7
West Virginia	29	2	−0.2	−1
Wisconsin	66	5	−0.3	−5
Wyoming	10	2	0	0

7. On pages 41750 and 41751, the table titled ''TABLE II—IMPACT ANALYSIS OF CHANGES FOR FY 2019 ACUTE CARE HOSPITAL OPERATING PROSPECTIVE PAYMENT SYSTEM [Payments per discharge]'' is corrected to read as follows:

TABLE II—IMPACT ANALYSIS OF CHANGES FOR FY 2019 ACUTE CARE HOSPITAL OPERATING PROSPECTIVE PAYMENT SYSTEM

[Payments per discharge]

	Number of hospitals (1)	Estimated average FY 2018 payment per discharge (2)	Estimated average FY 2019 payment per discharge (3)	FY 2019 changes (4)
All Hospitals	3,255	12,172	12,463	2.4
By Geographic Location:				
Urban hospitals	2,483	12,508	12,819	2.5
Large urban areas	1,302	12,986	13,302	2.4
Other urban areas	1,181	12,049	12,355	2.5
Rural hospitals	772	9,193	9,307	1.2
Bed Size (Urban):				
0–99 beds	644	9,945	10,113	1.7
100–199 beds	763	10,399	10,623	2.2
200–299 beds	433	11,384	11,650	2.3
300–499 beds	424	12,606	12,917	2.5
500 or more beds	219	15,449	15,893	2.9
Bed Size (Rural):				
0–49 beds	305	7,826	7,897	0.9
50–99 beds	274	8,746	8,843	1.1
100–149 beds	108	9,150	9,256	1.2
150–199 beds	45	9,667	9,805	1.4
200 or more beds	40	10,734	10,899	1.5
Urban by Region:				
New England	113	13,491	14,131	4.7
Middle Atlantic	310	14,099	14,429	2.3
South Atlantic	401	11,145	11,372	2
East North Central	386	11,830	12,072	2
East South Central	147	10,517	10,742	2.1
West North Central	158	12,266	12,524	2.1
West South Central	379	11,310	11,574	2.3
Mountain	164	12,938	13,218	2.2
Pacific	374	15,773	16,289	3.3
Puerto Rico	51	9,117	9,185	0.7
Rural by Region:				
New England	20	12,613	12,728	0.9
Middle Atlantic	53	9,137	9,265	1.4
South Atlantic	122	8,497	8,598	1.2
East North Central	114	9,444	9,551	1.1

TABLE II—IMPACT ANALYSIS OF CHANGES FOR FY 2019 ACUTE CARE HOSPITAL OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Payments per discharge]

	Number of hospitals	Estimated average FY 2018 payment per discharge	Estimated average FY 2019 payment per discharge	FY 2019 changes
	(1)	(2)	(3)	(4)
East South Central	150	8,142	8,285	1.8
West North Central	94	10,019	10,112	0.9
West South Central	145	7,844	7,958	1.5
Mountain	51	11,139	11,226	0.8
Pacific	23	12,734	12,858	1
By Payment Classification:				
Urban hospitals	2,264	12,276	12,557	2.3
Large urban areas	1,317	12,974	13,290	2.4
Other urban areas	947	11,325	11,559	2.1
Rural areas	991	11,833	12,155	2.7
Teaching Status:				
Nonteaching	2,156	10,059	10,267	2.1
Fewer than 100 residents	849	11,616	11,866	2.2
100 or more residents	250	17,680	18,220	3.1
Urban DSH:				
Non-DSH	520	10,533	10,748	2
100 or more beds	1,462	12,643	12,939	2.3
Less than 100 beds	367	9,220	9,397	1.9
Rural DSH:				
SCH	255	10,239	10,313	0.7
RRC	382	12,516	12,901	3.1
100 or more beds	33	13,322	13,711	2.9
Less than 100 beds	236	7,300	7,410	1.5
Urban teaching and DSH:				
Both teaching and DSH	805	13,783	14,112	2.4
Teaching and no DSH	89	11,402	11,664	2.3
No teaching and DSH	1,024	10,322	10,549	2.2
No teaching and no DSH	346	9,951	10,125	1.7
Special Hospital Types:				
RRC	327	12,440	12,863	3.4
SCH	311	11,126	11,219	0.8
MDH	140	7,958	8,056	1.2
SCH and RRC	134	11,502	11,640	1.2
MDH and RRC	16	10,039	10,149	1.1
Type of Ownership:				
Voluntary	1,898	12,323	12,624	2.4
Proprietary	856	10,658	10,879	2.1
Government	501	13,378	13,708	2.5
Medicare Utilization as a Percent of Inpatient Days:				
0–25	602	14,927	15,266	2.3
25–50	2,138	11,996	12,294	2.5
50–65	421	9,817	9,985	1.7
Over 65	73	7,271	7,450	2.5
FY 2019 Reclassifications by the Medicare Geographic Classification Review Board:				
All Reclassified Hospitals	859	12,226	12,572	2.8
Non-Reclassified Hospitals	2,396	12,148	12,415	2.2
Urban Hospitals Reclassified	588	12,821	13,212	3.1
Urban Nonreclassified Hospitals	1,835	12,349	12,629	2.3
Rural Hospitals Reclassified Full Year	271	9,566	9,710	1.5
Rural Nonreclassified Hospitals Full Year	454	8,750	8,821	0.8
All Section 401 Reclassified Hospitals	266	13,625	14,091	3.4
Other Reclassified Hospitals (Section 1886(d)(8)(B))	47	8,609	8,736	1.5

8. On pages 41753 through 41754 the table titled ''MODELED UNCOMPENSATED CARE PAYMENTS FOR ESTIMATED FY 2019 DSHs BY HOSPITAL TYPE: MODEL UCP $ (IN MILLIONS) * FROM FY 2018 to FY 2019'' is corrected to read as follows:

MODELED UNCOMPENSATED CARE PAYMENTS FOR ESTIMATED FY 2019 DSHS BY HOSPITAL TYPE: MODEL UCP $ (IN MILLIONS) * FROM FY 2018 TO FY 2019

	Number of estimated DSHs	FY 2018 final rule CN estimated UCP $ (in millions)	FY 2019 final rule estimated UCP $ (in millions)	Dollar difference: FY 2019–FY 2018 (in millions)	Percent change **
	(1)	(2)	(3)	(4)	(5)
Total	2,447	$6,767	$8,273	$1,506	22.26
By Geographic Location:					
Urban Hospitals	1,953	6,422	7,802	1,380	21.49
Large Urban Areas	1,046	3,847	4,706	859	22.33
Other Urban Areas	907	2,575	3,096	521	20.22
Rural Hospitals	494	345	471	126	36.64
Bed Size (Urban):					
0 to 99 Beds	342	177	257	79	44.80
100 to 249 Beds	860	1,519	1,903	384	25.28
250+ Beds	751	4,726	5,642	916	19.39
Bed Size (Rural):.					
0 to 99 Beds	365	164	229	64	39.19
100 to 249 Beds	116	146	200	54	36.66
250+ Beds	13	34	43	8	24.33
Urban by Region:					
New England	91	259	279	20	7.76
Middle Atlantic	244	1,004	1,058	55	5.45
South Atlantic	320	1,343	1,769	426	31.69
East North Central	323	864	1,010	146	16.92
East South Central	133	389	477	88	22.71
West North Central	104	312	386	74	23.68
West South Central	254	981	1,423	442	45.03
Mountain	125	313	397	84	26.78
Pacific	318	874	899	25	2.88
Puerto Rico	41	82	102	20	24.47
Rural by Region:					
New England	9	14	17	3	19.24
Middle Atlantic	26	19	22	2	12.43
South Atlantic	88	79	116	37	47.54
East North Central	69	40	56	16	41.12
East South Central	135	93	106	13	13.78
West North Central	29	16	22	6	40.28
West South Central	106	66	102	36	53.62
Mountain	27	14	26	12	84.16
Pacific	5	4	5	1	24.85
By Payment Classification:					
Urban Hospitals	1,866	5,917	7,257	1,340	22.65
Large Urban Areas	1,058	3,855	4,717	862	22.37
Other Urban Areas	808	2,062	2,540	478	23.16
Rural Hospitals	581	850	1,016	166	19.54
Teaching Status:					
Nonteaching	1,509	2,020	2,597	578	28.62
Fewer than 100 residents	694	2,246	2,744	498	22.17
100 or more residents	244	2,501	2,931	430	17.20
Type of Ownership:					
Voluntary	1,447	4,137	4,895	758	18.32
Proprietary	561	1,015	1,259	244	24.05
Government	439	1,615	2,119	504	31.24
Medicare Utilization Percent: ***					
0 to 25	472	2,255	2,720	464	20.60
25 to 50	1,674	4,290	5,266	977	22.77
50 to 65	262	215	276	61	28.34
Greater than 65	36	7	11	4	56.55

Source: Dobson | DaVanzo analysis of 2013–2015 Hospital Cost Reports.

* Dollar UCP calculated by [0.75 * estimated section 1886(d)(5)(F) payments * Factor 2 * Factor 3]. When summed across all hospitals projected to receive DSH payments, uncompensated care payments are estimated to be $6,767 million in FY 2018 and $8,273 million in FY 2019.

** Percentage change is determined as the difference between Medicare UCP payments modeled for the FY 2019 IPPS/LTCH PPS proposed rule (column 3) and Medicare UCP payments modeled for the FY 2018 IPPS/LTCH PPS final rule correction notice (column 2) divided by Medicare UCP payments modeled for the FY 2018 final rule correction notice (column 2) times 100 percent.

*** Hospitals with Missing or Unknown Medicare Utilization are not shown in table.

9. On page 41754,

a. Second column, first full paragraph,

i. Line 5, the figure ''36.66'' is corrected to read ''36.64''.

ii. Line 8, the figure ''21.48'' is corrected to read ''21.49''.

b. Third column, first partial paragraph,

i. Line 2, the figure ''39.52'' is corrected to read ''39.19''.

ii. Line 5, the figure ''36.35'' is corrected to read ''36.66''

iii. Line 7, the figure ''24.35'' is corrected to read ''24.33''.

iv. Line 13, the figure ''44.83'' is corrected to read ''44.80''.

v. Line 16, the figure ''25.23'' is corrected to read ''25.28''.

vi. Line 19, the figure ''19.40'' is corrected to read ''19.39''.

10. On page 41755, first column, second paragraph—

a. Line 5, the figure ''22.14'' is corrected to read ''22.17''.

b. Line 9, the figure ''17.23'' is corrected to read ''17.20''.

c. Line 12, the figure ''31.26'' is corrected to read ''31.24''.

d. Line 12, the figure ''24.06'' is corrected to read ''24.05''.

e. Line 15, the figure ''18.30'' is corrected to read ''18.32''.

11. On page 41756, bottom of the page—

a. First column, before the first paragraph, the section heading ''a. Effects of Proposed Changes for FY 2019'' is corrected to read ''a. Effects of Changes for FY 2019''.

b. Second column, last paragraph, line 1, the phrase ''The proposed estimated impacts'' is corrected to read ''The estimated impacts''.

12. On pages 41758 through 41759, the table titled ''ESTIMATED PROPORTION OF HOSPITALS IN THE WORST-PERFORMING QUARTILE (>75th PERCENTILE) OF THE TOTAL HAC SCORES FOR THE FY 2019 HAC REDUCTION PROGRAM'' is corrected to read as follows:

ESTIMATED PROPORTION OF HOSPITALS IN THE WORST-PERFORMING QUARTILE (>75TH PERCENTILE) OF THE TOTAL HAC SCORES FOR THE FY 2019 HAC REDUCTION PROGRAM

[By hospital characteristic]

Hospital characteristic	Number of hospitals	Number of hospitals in the worst-performing quartile [a]	Percent of hospitals in the worst-performing quartile [b]
Total [c]	3,219	804	25.0
By Geographic Location (n = 3,201): [d]			
Urban hospitals	2,416	628	26.0
1–99 beds	622	133	21.4
100–199 beds	728	182	25.0
200–299 beds	430	119	27.7
300–399 beds	278	80	28.8
400–499 beds	145	39	26.9
500 or more beds	213	75	35.2
Rural hospitals	785	165	21.0
1–49 beds	304	68	22.4
50–99 beds	282	56	19.9
100–149 beds	116	22	19.0
150–199 beds	44	10	22.7
200 or more beds	39	9	23.1
By Safety-Net Status (n = 3,201): [e]			
Non-safety net	2,555	576	22.5
Safety-net	646	217	33.6
By DSH Percent (n = 3,201): [f]			
0–24	1,313	292	22.2
25–49	1,507	366	24.3
50–64	198	75	37.9
65 and over	183	60	32.8
By Teaching Status (n = 3,201): [g]			
Non-teaching	2,121	484	22.8
Fewer than 100 residents	832	196	23.6
100 or more residents	248	113	45.6
By Ownership (n = 3,173):			
Voluntary	1,868	466	24.9
Proprietary	813	175	21.5
Government	492	145	29.5
By MCR Percent (n = 3,175): [h]			
0–24	511	144	28.2
25–49	2,118	505	23.8
50–64	473	117	24.7
65 and over	73	15	20.5
By Region (n = 3,217): [i]			
New England	133	43	32.3
Mid-Atlantic	364	101	27.7
South Atlantic	522	133	25.5
East North Central	498	108	21.7
East South Central	299	68	22.7
West North Central	256	57	22.3
West South Central	519	114	22.0
Mountain	229	60	26.2

ESTIMATED PROPORTION OF HOSPITALS IN THE WORST-PERFORMING QUARTILE (>75TH PERCENTILE) OF THE TOTAL HAC SCORES FOR THE FY 2019 HAC REDUCTION PROGRAM—Continued

[By hospital characteristic]

Hospital characteristic	Number of hospitals	Number of hospitals in the worst-performing quartile [a]	Percent of hospitals in the worst-performing quartile [b]
Pacific	397	118	29.7

Source: FY 2019 HAC Reduction Program Final Rule Results are based on CMS PSI 90 Composite data from October 2015 through June 2017 and CDC CLABSI, CAUTI, SSI, CDI, and MRSA results from January 2016 through December 2017. Hospital Characteristics are based on the FY 2019 Hospital Inpatient Prospective Payment System (IPPS) Proposed Rule Impact File.

[a] This column is the number of non-Maryland hospitals with a Total HAC Score within the corresponding characteristic that are estimated to be in the worst-performing quartile.

[b] This column is the percent of non-Maryland hospitals within each characteristic that are estimated to be in the worst-performing quartile. The percentages are calculated by dividing the number of non-Maryland hospitals with a Total HAC Score in the worst-performing quartile by the total number of non-Maryland hospitals with a Total HAC Score within that characteristic.

[c] The number of non-Maryland hospitals with a FY 2019 Total HAC Score (N=3,219). Note that not all hospitals have data for all hospital characteristics.

[d] The number of hospitals that had information for geographic location with bed size, Safety-net status, Disproportionate Share Hospital (DSH) percent, teaching status, and ownership status (n=3,201).

[e] A hospital is considered a Safety-net hospital if it is in the top quintile for DSH percent.

[f] The DSH patient percentage is equal to the sum of (1) the percentage of Medicare inpatient days attributable to patients eligible for both Medicare Part A and Supplemental Security Income and (2) the percentage of total inpatient days attributable to patients eligible for Medicaid but not Medicare Part A.

[g] A hospital is considered a teaching hospital if it has an Indirect Medical Education adjustment factor for Operation PPS (TCHOP) greater than zero.

[h] Not all hospitals had data for MCR percent (n=3,175).

[i] Not all hospitals had data for Region (n=3,217).

13. On page 41763—

a. Second column, fourth bullet, the figure ''0.9975'' is corrected to read ''0.9969''.

b. Third column, first full paragraph, line 5, the figure ''3,256'' is corrected to read ''3,255''.

14. On page 41764, third column—

a. Line 12, the figure ''1.0'' is corrected to read ''1.1''.

b. Line 14, the figure ''3.0'' is corrected to read ''2.9''.

15. On pages 41764 through 41765, the table titled ''TABLE III—COMPARISON OF TOTAL PAYMENTS PER CASE [FY 2018 payments compared to FY 2019 payments]'' is corrected to read as follows:

TABLE III—COMPARISON OF TOTAL PAYMENTS PER CASE

[FY 2018 payments compared to FY 2019 payments]

	Number of hospitals	Average FY 2018 payments/case	Average FY 2019 payments/case	Percent change
By Geographic Location:				
All hospitals	3,255	$943	$963	2.1
Large urban areas (populations over 1 million)	2,483	974	997	2.3
Other urban areas (populations of 1 million of fewer)	1,302	1,011	1,042	3.2
Urban hospitals	1,181	939	952	1.4
0–99 beds	644	789	812	3.0
100–199 beds	763	835	854	2.4
200–299 beds	433	902	922	2.2
300–499 beds	424	981	1,003	2.2
500 or more beds	219	1,170	1,197	2.3
Rural hospitals	772	666	659	−0.9
0–49 beds	305	541	556	2.6
50–99 beds	274	606	621	2.3
100–149 beds	108	677	654	−3.3
150–199 beds	45	729	706	−3.2
200 or more beds	40	808	781	−3.3
By Region:				
Urban by Region	2,483	974	997	2.3
New England	113	1,068	1,108	3.8
Middle Atlantic	310	1,069	1,090	2.0
South Atlantic	401	866	883	2.0
East North Central	386	938	951	1.4
East South Central	147	821	838	2.1
West North Central	158	959	977	1.9
West South Central	379	881	908	3.1
Mountain	164	1,011	1,028	1.5
Pacific	374	1,238	1,281	3.4
Puerto Rico	51	447	455	1.7

TABLE III—COMPARISON OF TOTAL PAYMENTS PER CASE—Continued

[FY 2018 payments compared to FY 2019 payments]

	Number of hospitals	Average FY 2018 payments/case	Average FY 2019 payments/case	Percent change
Rural by Region	772	666	660	−0.9
New England	20	922	918	−0.5
Middle Atlantic	53	639	638	−0.3
South Atlantic	122	619	610	−1.4
East North Central	114	675	671	−0.6
East South Central	150	623	606	−2.6
West North Central	94	706	704	−0.2
West South Central	145	590	588	−0.3
Mountain	51	742	752	1.2
Pacific	23	865	864	−0.5
By Payment Classification:				
All hospitals	3,255	943	963	2.1
Large urban areas (populations over 1 million)	1,317	1,010	1,042	3.2
Other urban areas (populations of 1 million of fewer)	947	895	919	2.6
Rural areas	991	884	875	−1.1
Teaching Status:				
Non-teaching	2,156	800	816	1.9
Fewer than 100 Residents	849	909	925	1.8
100 or more Residents	250	1,308	1,342	2.7
Urban DSH:				
Non-DSH	520	867	890	2.6
100 or more beds	1,462	984	1,013	3.0
Less than 100 beds	367	720	743	3.1
Rural DSH:				
Sole Community (SCH/EACH)	255	680	681	0.1
Referral Center (RRC/EACH)	382	947	931	−1.6
Other Rural:				
100 or more beds	33	1,068	1,053	−1.4
Less than 100 beds	236	530	543	2.4
Urban teaching and DSH:				
Both teaching and DSH	805	1,055	1,087	3.1
Teaching and no DSH	89	912	934	2.4
No teaching and DSH	1,024	833	856	2.8
No teaching and no DSH	346	847	871	2.8
Rural Hospital Types:				
Plain Rural	178	831	831	0.0
RRC/EACH	327	968	960	−0.7
SCH/EACH	312	749	752	0.5
SCH, RRC and EACH	134	807	797	−1.3
Hospitals Reclassified by the Medicare Geographic Classification Review Board:				
FY2018 Reclassifications:				
All Urban Reclassified	588	995	1,006	1.1
All Urban Non-Reclassified	1,835	966	996	2.9
All Rural Reclassified	271	704	690	−1.8
All Rural Non-Reclassified	454	613	615	0.2
All Section 401 Reclassified Hospitals	266	1,033	1,022	−1.1
Other Reclassified Hospitals (Section 1886(d)(8)(B))	47	651	661	1.6
Type of Ownership:				
Voluntary	1,898	959	976	1.8
Proprietary	856	851	871	2.3
Government	501	981	1,011	3.1
Medicare Utilization as a Percent of Inpatient Days:				
0–25	601	1,076	1,104	2.6
25–50	2,139	942	961	2.1
50–65	421	774	784	1.3
Over 65	73	567	582	2.7

16. On page 41766,

a. First column, last paragraph,

i. Line 4, the figure ''41,579.65'' is corrected to read ''$41,558.68''.

ii. Line 8, the figure ''0.999713'' is corrected to read ''0.999215''.

b. Second column,

i. First partial paragraph,

A. Line 4, the figure ''0.990884'' is corrected to read ''0.990878''.

B. Line 12, the figure ''$40,759.12'' is corrected to read ''$40,738.57''.

ii. Second full paragraph, line 14, the figure ''0.999713'' is corrected to read ''0.999215''.

iii. Last paragraph, line 7, the figure ''0.990884'' is corrected to read ''0.990878''.

17. On page 41768, first column,

a. Line 8, the figure ''41,579.65'' is corrected to read ''$41,558.68''.

b. Line 9, the figure ''40,759.12'' is corrected to read ''$40,738.57''.

18. On pages 41768 and 41769, the table entitled ''TABLE IV—IMPACT OF PAYMENT RATE AND POLICY CHANGES TO LTCH PPS PAYMENTS FOR LTCH PPS STANDARD FEDERAL PAYMENT RATE CASES FOR FY 2019'', is corrected to read as follows:

TABLE IV—IMPACT OF PAYMENT RATE AND POLICY CHANGES TO LTCH PPS PAYMENTS FOR LTCH PPS STANDARD FEDERAL PAYMENT RATE CASES FOR FY 2019

[Estimated FY 2018 payments compared to estimated FY 2019 payments]

LTCH classification	Number of LTCHS	Number of LTCH PPS standard payment rate cases	Average FY 2018 LTCH PPS payment per standard payment rate	Average FY 2019 LTCH PPS payment per standard payment rate [1]	Percent change due to change to the annual update to the standard federal rate [2]	Percent change due to changes to area wage adjustment with wage budget neutrality [3]	Percent change due to all standard payment rate changes [4]
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
All Providers	409	75,416	$46,852	$47,334	1.3	0	1.0
By Location:							
Rural	21	2,457	39,339	39,714	1.3	−0.1	1.0
Urban	388	72,959	47,105	47,591	1.3	0	1.0
Large	195	40,491	50,164	50,740	1.3	0	1.1
Other	193	32,468	43,291	43,664	1.3	0	0.9
By Participation Date:							
Before Oct. 1983	11	1,923	43,083	43,225	1.3	−0.5	0.3
Oct. 1983–Sept. 1993	42	9,632	51,709	52,481	1.3	0.2	1.5
Oct. 1993–Sept. 2002	169	31,338	45,565	45,991	1.3	0	0.9
After October 2002	187	32,523	46,877	47,347	1.3	0	1.0
By Ownership Type:							
Voluntary	77	10,614	48,824	49,614	1.3	0.3	1.6
Proprietary	319	63,040	46,378	46,799	1.3	−0.1	0.9
Government	13	1,762	51,945	52,739	1.3	0.0	1.5
By Region:							
New England	12	2,707	43,164	43,275	1.3	−0.4	0.3
Middle Atlantic	24	5,959	50,920	51,553	1.3	−0.1	1.2
South Atlantic	66	13,792	47,641	48,127	1.3	−0.1	1.0
East North Central	68	11,843	46,386	46,711	1.3	−0.3	0.7
East South Central	36	6,385	45,490	45,978	1.3	0	1.1
West North Central	28	4,412	45,951	46,428	1.3	−0.3	1.0
West South Central	120	18,361	41,402	41,785	1.3	0.2	0.9
Mountain	29	4,070	47,897	48,125	1.4	−0.5	0.5
Pacific	26	7,887	58,121	59,205	1.3	0.7	1.9
By Bed Size:							
Beds: 0–24	43	4,206	44,740	45,008	1.3	−0.4	0.6
Beds: 25–49	185	26,270	44,623	45,044	1.3	0	0.9
Beds: 50–74	107	20,178	47,733	48,246	1.3	0	1.1
Beds: 75–124	43	12,086	50,145	50,770	1.3	0.1	1.2
Beds: 125–199	22	7,709	47,404	47,768	1.3	−0.3	0.8
Beds: 200+	9	4,967	47,988	48,682	1.3	0.5	1.4

[1] Estimated FY 2019 LTCH PPS payments for LTCH PPS standard Federal payment rate criteria based on the payment rate and factor changes applicable to such cases presented in the preamble of and the Addendum to this final rule.

[2] Percent change in estimated payments per discharge for LTCH PPS standard Federal payment rate cases from FY 2018 to FY 2019 for the annual update to the LTCH PPS standard Federal payment rate.

[3] Percent change in estimated payments per discharge for LTCH PPS standard Federal payment rate cases from FY 2018 to FY 2019 for changes to the area wage level adjustment under § 412.525(c) (as discussed in section V.B. of the Addendum to this final rule).

[4] Percent change in estimated payments per discharge for LTCH PPS standard Federal payment rate cases from FY 2018 (shown in Column 4) to FY 2019 (shown in Column 5), including all of the changes to the rates and factors applicable to such cases presented in the preamble and the Addendum to this final rule. We note that this column, which shows the percent change in estimated payments per discharge for all changes, does not equal the sum of the percent changes in estimated payments per discharge for the annual update to the LTCH PPS standard Federal payment rate (Column 6) and the changes to the area wage level adjustment with budget neutrality (Column 7) due to the effect of estimated changes in estimated payments to aggregate HCO payments for LTCH PPS standard Federal payment rate cases (as discussed in this impact analysis), as well as other interactive effects that cannot be isolated.

19. On page 41769, lower two-thirds of the page—

a. First column, last paragraph, line 13, the figure ''0.999713'' is corrected to read ''0.999215''.

b. Second column,

i. First partial paragraph, line 1, the figure ''0.999713'' is corrected to read ''0.999215''.

ii. Last paragraph, line 16, the figure ''0.9'' is corrected to read ''1.0''.

c. Third column, second full paragraph, line 5, the figure ''0.4'' is corrected to read ''0.3''.

20. On page 41770, first column,

a. First full paragraph, line 5, the word ''Pacific'' is corrected to read ''Mountain'',

b. First full paragraph, line 7, the word ''Mountain'' is corrected to read ''Pacific'',

c. First full paragraph, line 9, the figure ''0.4'' is corrected to read ''0.5'',

d. Second full paragraph, line 9, the figure ''1.5'' is corrected to read ''1.4''.

Dated: September 27, 2018.

Wilma M. Robinson,

Deputy Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2018–21500 Filed 9–28–18; 4:15 pm]

BILLING CODE 4120–01–P

Proposed Rules

Federal Register
Vol. 83, No. 192
Wednesday, October 3, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722

RIN 3133–AE79

Real Estate Appraisals

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The NCUA Board (Board) is inviting comment on a proposed rule to amend the agency's regulation requiring real estate appraisals for certain transactions. The proposed rule would accomplish four objectives. First, the proposed rule would increase the threshold below which appraisals would not be required for non-residential real estate transactions from $250,000 to $1,000,000. Second, the proposed rule would restructure the NCUA's appraisal regulation to clarify its requirements for the reader. Third, the proposed rule would exempt from the NCUA's appraisal regulation certain federally related transactions involving real estate where the property is located in a rural area, valued below $400,000, and no state certified or licensed appraiser is available. Finally, the proposed rule would also make certain conforming amendments to the definitions section.

DATES: Comments must be received on or before December 3, 2018.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA website: https://www.ncua.gov/regulation-supervision/Pages/rules/proposed.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Proposed Rule part 722, Real Estate Appraisals'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard S. Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on NCUA's website at *https://www.ncua.gov/regulation-supervision/Pages/rules/proposed.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: *Technical information:* Jeffrey Marshall, Program Officer, (703) 548–2415, Office of Examination and Insurance, or *legal information:* Rachel Ackman, Staff Attorney, (703) 518–6540, or John Brolin, Senior Staff Attorney, (703) 518–6540, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI) [1] directs each federal financial institutions regulatory agency [2] to publish appraisal regulations for federally related transactions within its jurisdiction. In 1994, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (other banking agencies) established thresholds for all real estate-related financial transactions with a transaction value [3] of $250,000 or less, as well as certain real estate-secured business loans (qualifying business loans or QBLs) with a transaction value of $1 million or less.[4] Transactions below these established threshold levels were not required to have Title XI appraisals. QBLs are business loans [5] that are real estate-related financial transactions and that are not dependent on the sale of, or rental income derived from, real estate as the primary source of repayment.[6]

Thereafter, first in 1995 and again in 2001, the NCUA promulgated rules similar to those then in effect of the other banking agencies, eventually establishing a similar Title XI appraisal threshold level for most real estate-related transactions.[7] In particular, the rulemakings established that all real estate-related financial transactions with a transaction value [8] of $250,000 or less do not require appraisals.[9] The NCUA did not, however, adopt the separate exemption provided in the other banking agencies' appraisal regulations for qualifying business loans with transaction values of $1 million or less.

[1] 12 U.S.C. 3331 *et seq.*

[2] ''Federal financial institutions regulatory agency'' means the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation (FDIC); the Office of the Comptroller of the Currency, Treasury (OCC); the NCUA, and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

[3] For loans and extensions of credit, the transaction value is the amount of the loan or extension of credit. For sales, leases, purchases, investments in or exchanges of real property, the transaction value is the market value of the real property. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of each loan or the market value of each real property, respectively. *See* OCC: 12 CFR 34.42(n); Fed: 12 CFR 225.62(n); and FDIC: 12 CFR 323.2(n).

[4] *See* 59 FR 29482 (June 7, 1994); *see also* OCC: 12 CFR 34.43(a)(1) and (5); Board of Governors of the Federal Reserve System: 12 CFR 225.63(a)(1) and (5); and FDIC: 12 CFR 323.3(a)(1) and (5).

[5] The other banking agencies' Title XI appraisal regulations define ''business loan'' to mean ''a loan or extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship, or other business entity.'' OCC: 12 CFR 34.42(d); Fed: 12 CFR 225.62(d); and FDIC: 12 CFR 323.2(d).

[6] *See* OCC: 12 CFR 34.43(a)(5); Fed: 12 CFR 225.63(a)(5); and FDIC: 12 CFR 323.3(a)(5).

[7] *See* 60 FR 51889 (Oct. 4, 1995) *and* 66 FR 58656 (Nov. 23, 2001).

[8] Transaction value means, for loans or other extensions of credit, the amount of the loan or extension of credit, for sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and for the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property. 12 CFR 722.2(l).

[9] 12 CFR 722.3(a)(1).

B. The Other Banking Agencies 2017–2018 Rulemaking

In July 2017, the other banking agencies invited comment on a notice of proposed rulemaking (2017 proposal or 2017 proposed rule) [10] that would have amended the other banking agencies' appraisal regulations promulgated pursuant to Title XI. Specifically, the 2017 proposal would have increased the monetary threshold at or below which financial institutions that are regulated by the other banking agencies (regulated institutions) would not be required to obtain appraisals in connection with commercial real estate transactions (commercial real estate appraisal threshold) from $250,000 to $400,000. The other banking agencies consulted with the NCUA throughout the rule development process and NCUA staff participated in interagency meetings and calls related to the rulemaking.

The 2017 proposal followed the completion in early 2017 of the regulatory review process required by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA).[11] During the EGRPRA process, the other banking agencies received numerous comments related to the Title XI appraisal regulations, including recommendations to increase the thresholds at or below which transactions are exempt from the Title XI appraisal requirements. Among other proposals developed through the EGRPRA process, the other banking agencies recommended increasing the commercial real estate appraisal threshold to $400,000.[12]

In the other banking agencies' EGRPRA Report and proposed rule, they also addressed whether it would be appropriate to increase the current $250,000 threshold for transactions secured by residential real estate. The other banking agencies determined that it would not be appropriate to increase the threshold for this category of transactions at this time based on three considerations. First, the other banking agencies observed that any increase in the threshold for residential transactions would have a limited impact on burden, as appraisals would still be required for the vast majority of these transactions pursuant to rules of other federal government agencies and the standards set by the government-sponsored enterprises (GSEs).[13] As reflected in the 2015 Home Mortgage Disclosure Act (HMDA) data,[14] at least 90 percent of residential mortgage loan originations had loan amounts at or below the threshold, were eligible for sale to GSEs, or were insured by the Federal Housing Administration or the United States Department of Veterans Affairs. Those transactions are not subject to the Title XI appraisal regulations, but the majority of those transactions are subject to the appraisal requirements of other government agencies or the GSEs. Therefore, raising the appraisal threshold for residential transactions in the Title XI appraisal regulations would have limited impact on burden.

Second, the other banking agencies determined that appraisals can provide protection to consumers by helping to assure the residential purchaser that the value of the property supports the purchase price and the mortgage amount.[15] The consumer protection role of appraisals is reflected in amendments made to Title XI and the Truth in Lending Act (TILA) [16] through the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act),[17] governing the scope of transactions requiring the services of a state-certified or state-licensed appraiser. These include the addition of the Bureau of Consumer Financial Protection (BCFP) to the group of agencies assigned a role in the appraisal threshold-setting process for Title XI,[18] and a new TILA provision requiring appraisals for loans involving ''higher-risk mortgages.'' [19]

During the EGRPRA process, the staff of the other banking agencies conferred with the BCFP regarding comments the agencies received supporting an increase in the threshold for 1-to-4 family residential transactions. BCFP staff shared the view that appraisals can provide consumer protection benefits and their concern about potential risks to consumers resulting from an expansion of the number of residential mortgage transactions that would be exempt from the Title XI appraisal requirement.

Third, the other banking agencies considered safety and soundness concerns that could result from a threshold increase for residential transactions. As the EGRPRA Report noted, the 2008 financial crisis showed that, like other asset classes, imprudent residential mortgage lending can pose significant risks to financial institutions.

For these reasons, the other banking agencies concluded in the EGRPRA Report that a change to the current $250,000 threshold for residential mortgage loans would not be appropriate at the present time.

The NCUA concluded in its EGRPRA report that the agency would work with the other banking agencies to develop a proposal to increase the threshold level related to commercial real estate loans, and would consider any other recommendations developed by the other banking agencies. The NCUA, however, would still like to receive comments on whether there are other factors that should be considered in evaluating the current threshold for 1-to-4 family residential transactions and whether the threshold can and should be raised, consistent with consumer protection, safety and soundness, and reduction of unnecessary regulatory burden. The NCUA and the other banking agencies will continue to consider possibilities for relieving burden related to appraisals for residential mortgage loans, such as coordination of the agencies' Title XI appraisal regulations with the practices of HUD, the GSEs, and other federal participants in the residential real estate market.

The comment period for the other banking agencies' 2017 proposal closed

[10] 82 FR 35478 (July 31, 2017).

[11] Public Law 104–208, Div. A, Title II, section 2222, 110 Stat. 3009–414, (1996) (codified at 12 U.S.C. 3311).

[12] *See* FFIEC, *Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act,* (March 2017), (EGRPRA Report), *available at https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

[13] Other federal government agencies involved in the residential mortgage market include the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Veterans Affairs, and the Rural Housing Service of the U.S. Department of Agriculture. These agencies, along with the GSEs (which are regulated by the Federal Housing Finance Agency (FHFA)), have the authority to set separate appraisal requirements for loans they originate, acquire, or guarantee, and generally require an appraisal by a certified or licensed appraiser for residential mortgages regardless of the loan amount.

[14] *See* FFIEC, *Home Mortgage Disclosure Act, www.ffiec.gov/hmda/.*

[15] The agencies posited in the 1994 amendments to the Title XI appraisal regulations that the timing of the appraisal may provide limited consumer protection. Changes to consumer protection regulations since 1994 now ensure that a consumer receives a copy of appraisals and other valuations used by a creditor to make a credit decision at least three business days before consummation of the transaction (for closed-end credit) or account opening (for open-end credit). *See* 12 CFR 1002.14 (for business or consumer credit secured by a first lien on a dwelling).

[16] 15 U.S.C. 1601 *et seq.*

[17] Public Law 111–203, 124 Stat.1376.

[18] Dodd-Frank Act, Pub. L. 111–203, Title XIV, sec. 1473(a), 124 Stat. 2190 (2010), (codified at 12 U.S.C. 3341(b)), as discussed earlier in the Supplementary Information section.

[19] ''Higher-risk mortgages'' are certain mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage. *See* Dodd-Frank Act, Pub. L. 111–203, Title XIV, sec. 1471, 124 Stat. 2185 (2010), which added section 129H to TILA, (codified at 15 U.S.C. 1639h). *See also* Appraisals for Higher-Priced Mortgage Loans, 78 FR 78520 (Dec. 26, 2013) (interagency rule implementing appraisal requirements for higher-priced mortgage loans).

on September 29, 2017.[20] The other banking agencies collectively received over 200 comments from appraisers, appraiser trade organizations, financial institutions, financial institutions trade organizations, and individuals.

After carefully considering the comments and conducting further analysis, the other banking agencies issued a final rule in early 2018 (2018 final rule) that increased the commercial real estate appraisal threshold with three modifications from the 2017 proposal.[21] First, the other banking agencies decided to increase the commercial real estate appraisal threshold (non-QBLs) to $500,000 rather than the $400,000 proposed. Second, the 2018 final rule also made a conforming change to the section requiring state-certified appraisers to be used for federally related transactions that are commercial real estate transactions above the increased threshold. Third, the 2018 final rule changed the proposed definition of commercial real estate transaction, to no longer include construction loans secured by a single 1-to-4 family residential property, regardless of whether the loan is for initial construction only or includes permanent financing. Thus, under the 2018 final rule, a loan that is secured by a single 1-to-4 family residential property, including a loan for construction, remains subject to the $250,000 threshold.[22]

For real estate-related financial transactions that are exempt from the appraisal requirement because they are within the applicable thresholds or qualify for the exemption for certain existing extensions of credit,[23] the other banking agencies' appraisal regulations require financial institutions to obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices.[24] An evaluation should contain sufficient information and analysis to support the financial institution's decision to engage in the transaction. However, evaluations need not be performed in accordance with USPAP or by certified or licensed appraisers. The NCUA and the other banking agencies have provided supervisory guidance for conducting evaluations in a safe and sound manner in the *Interagency Appraisal and Evaluation Guidelines* (Guidelines).[25]

C. Economic Growth, Regulatory Relief, and Consumer Protection Act

On May 24, 2018, President Trump signed the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act) into law.[26] Section 103 of the Act amends Title XI to exempt from appraisal requirements certain federally related, rural real-estate transactions valued below $400,000 if no state-certified or state-licensed appraiser is available.[27] The exemption provided in the Act is self-implementing so credit unions may avail themselves of the statute's exemption immediately, provided the transaction meets all of the requirements under section 103.

II. Legal Authority

Title XI[28] directs each federal financial institutions regulatory agency[29] to publish appraisal regulations for federally related transactions within its jurisdiction. The purpose of Title XI is to protect federal financial and public policy interests[30] in real estate-related transactions by requiring that real estate appraisals used in connection with federally related transactions (Title XI appraisals) be performed in accordance with uniform standards, by individuals whose competency has been demonstrated, and whose professional conduct will be subject to effective supervision.[31]

Title XI directs the NCUA to prescribe appropriate standards for Title XI appraisals under the NCUA's jurisdiction,[32] including, at a minimum that Title XI appraisals be: (1) Performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP);[33] (2) written appraisals, as defined by the statute; and (3) subject to appropriate review for compliance with USPAP. All federally related transactions must have Title XI appraisals.

Title XI defines a ''federally related transaction'' as a real estate-related financial transaction that is regulated or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser.[34] A real estate-related financial transaction is defined as any transaction that involves: (i) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.[35]

The NCUA has authority to determine those real estate-related financial transactions that do not require the services of a state-certified or state-licensed appraiser and are therefore exempt from the appraisal requirements of Title XI. These real estate-related financial transactions are not federally related transactions under the statutory or regulatory definitions because they are not required to have Title XI appraisals.[36]

The NCUA has exercised this authority by exempting several categories of real estate-related financial transactions from the Title XI appraisal requirements.[37] The NCUA has determined that these categories of transactions do not require appraisals by state-certified or state-licensed

[20] 82 FR 35478 (July 31, 2017).

[21] 83 FR 15019 (April 9, 2018).

[22] Residential construction loans secured by more than one 1-to-4 family residential property are considered commercial real estate transactions subject to the higher threshold.

[23] Transactions that involve an existing extension of credit at the lending institution are exempt from the Title XI appraisal requirements, but are required to have evaluations, provided that there has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies; or there is no advancement of new monies, other than funds necessary to cover reasonable closing costs. *See* OCC: 12 CFR 34.43(a)(7) and (b); Fed: 12 CFR 225.63(a)(7) and (b); FDIC: 12 CFR 323.3(a)(7) and (b).

[24] *See* OCC: 12 CFR 34.43(b); Fed: 12 CFR 225.63(b); FDIC: 12 CFR 323.3(b).

[25] 75 FR 77450 (Dec. 10, 2010).

[26] Public Law 115–174.

[27] *Id* at sec. 103.

[28] 12 U.S.C. 3331 *et seq.*

[29] ''Federal financial institutions regulatory agency'' means the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation (FDIC); the Office of the Comptroller of the Currency, Treasury (OCC); the NCUA, and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

[30] These interests include those stemming from the federal government's roles as regulator and deposit insurer of financial institutions that engage in real estate lending and investment, guarantor or lender on mortgage loans, and as a direct party in real estate-related financial transactions. These federal financial and public policy interests have been described in predecessor legislation and accompanying Congressional reports. *See* Real Estate Appraisal Reform Act of 1988, H.R. Rep. No. 100–1001, pt. 1, at 19 (1988); 133 Cong. Rec. 33047–33048 (1987).

[31] 12 U.S.C. 3331.

[32] 12 U.S.C. 3339. The NCUA's Title XI appraisal regulations apply to transactions entered into by the NCUA or by federally insured credit unions. 12 CFR 722.1(b).

[33] USPAP is written and interpreted by the Appraisal Standards Board of the Appraisal Foundation. Adopted by Congress in 1989, USPAP contains generally recognized ethical and performance standards for the appraisal profession in the United States, including real estate, personal property, and business appraisals. *See http://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx?hkey=a6420a67-dbfa-41b3-9878-fac35923d2af.*

[34] 12 U.S.C. 3350(4) (defining ''federally related transaction'').

[35] 12 U.S.C. 3350(5).

[36] See 59 FR 29482 (June 7, 1994).

[37] See 12 CFR 722.3(a).

appraisers in order to protect federal financial and public policy interests or to satisfy principles of safety and soundness.

In 1992, Congress amended Title XI, expressly authorizing the NCUA to establish a threshold level below which an appraisal by a state-certified or state-licensed appraiser is not required in connection with federally related transactions. The NCUA may establish a threshold level that the NCUA determines, in writing, does not represent a threat to the safety and soundness of federally insured credit unions.[38]

In the Dodd-Frank Act, Congress amended the threshold provision to require concurrence ''from the BCFP that such threshold level provides reasonable protection for consumers who purchase 1–4 unit single-family residences.'' [39] As noted above, transactions below the threshold level are exempt from the Title XI appraisal requirements and thus are not federally related transactions.

III. Section-by-Section Analysis

The Board is now proposing to amend part 722–Appraisals of the NCUA regulations to more clearly indicate for the reader when a written estimate of market value, an appraisal conducted by a state-licensed appraiser, or an appraisal conducted by a state-certified appraiser is required for a real estate-related financial transaction; incorporate the relevant changes in the Economic Growth, Regulatory Relief, and Consumer Protection Act; and, provide relief for appraisal requirements for non-residential real estate-related financial transactions.[40] In particular, the proposal would establish a new threshold—$1,000,000 or more—for non-residential real estate-related financial transactions. The proposed new threshold for non-residential real estate-related financial transactions represents a significant increase from the current level of $250,000.

Additionally, the NCUA is proposing to add or remove various definitions in support of the proposed changes and to improve clarity. Further, the NCUA proposes to substantially reorganize § 722.3 of the appraisal regulation to clarify and update requirements and make it easier for credit unions to determine when an appraisal or written estimate of market value is required. The NCUA will consult with the BCFP regarding this proposal in developing a final rule.

Section 722.2 Definitions

The NCUA Board is proposing various changes to the terms and definitions applicable to part 722. The proposal would also make technical non-substantive amendments to the section, including removing the individual numbering of the definitions within the section to make edits of part 722 easier in the future. The definitions in the section would continue to be listed in alphabetic order. The following definitions would be added, removed, or amended under this proposed rule:

Complex

The proposal would amend current § 722.2(d) to remove the current definition for *complex 1- to 4-family residential property appraisal* and replace it with the shorter term *complex.* The proposed definition for *complex* real estate-related financial transaction is similar to the current definition for *complex 1- to 4-family residential property appraisal,* but would allow the term *complex* to be used more broadly in conjunction with other amendments being made in proposed § 722.3, which are discussed in more detail below. Accordingly, proposed § 722.2 provides that *complex,* when used in regard to a real estate-related financial transaction, means a transaction in which the property to be appraised, the form of ownership, or market conditions are atypical. The proposed definition would also state that a regulated institution may presume that appraisals of 1- to 4-family residential properties are not complex unless the institution has readily available information that a given appraisal will be complex. This presumption is in the current rule and its addition to the definition of *complex* is not a substantive change in policy. The presumption would be moved from § 722.3(b)(3) as part of the overall restructuring of § 722.3.

Federal Financial Institutions Regulatory Agency

Proposed § 722.2 would add a definition for *federal financial institutions regulatory agency* in response to changes to Title XI under the Economic Growth, Regulatory Relief, and Consumer Protection Act.[41] Consistent with the definition provided under Title XI, the proposal would define *federal financial institutions regulatory agency* as the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation (FDIC); the Office of the Comptroller of the Currency, Treasury (OCC); the NCUA, and, formerly, the Office of Thrift Supervision.[42]

Real Estate or Real Property

The proposal would amend current § 722.2(g) by adding parentheses around the words ''or real property'' to help clarify for the reader that the terms *real estate* and *real property* can be used interchangeably and have the same meaning for purposes of part 722. No substantive change is intended by this technical amendment. Accordingly, proposed § 722.2 provides that real estate (or real property) means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a parcel or tract of land, but does not include mineral rights, timber rights, and growing crops, water rights and similar interests severable from the land when the transaction does not involve the associated parcel or tract of land. For consistency, the proposal uses the term real estate in place of the term real property.

Real Estate-Related Financial Transaction

Proposed § 722.2 would make minor, non-substantive technical amendments to the current § 722.2(h) and the definition of *real estate-related financial transaction.* In particular, the proposal would replace the words ''real property'' with the words ''real estate'' each place they occur within the definition for consistency. As discussed above, under the both the current rule and this proposal the terms ''real property'' and ''real estate'' have the same meaning and can be used interchangeably. Accordingly, proposed § 722.2 provides that real estate-related financial transaction means any transaction involving: The sale, lease, purchase, investment in or exchange of real estate, including interests in property, or the financing thereof; or the refinancing of real estate or interests in real estate; or the use of real estate or interests in property as security for a loan or investment, including mortgage-backed securities.

Residential Real Estate Transaction

The proposal would add a definition for the term *residential real estate transaction* to identify for the reader

[38] 12 U.S.C. 3341(b). See also, Housing and Community Development Act of 1992, Public Law 102–550, section 954, 106 Stat. 3894 (amending 12 U.S.C. 3341).

[39] Dodd-Frank Act, sec. 1473, 124 Stat. 2190 (amending 12 U.S.C. 3341(b)).

[40] *See* 83 FR 15019 (Apr. 9, 2018); *see also* OCC: 12 CFR 34.43(a)(5) and (a)(13); Fed: 12 CFR 225.63(a)(5) and (a)(14); *and* FDIC: 12 CFR 323.3(a)(5) and (a)(13).

[41] Public Law 115–174.

[42] 12 U.S.C. 3350(6).

which federally related transactions would still be subject to the $250,000 appraisal threshold, which is discussed in more detail below. Proposed § 722.2 provides that a *residential real estate transaction* means a real estate-related financial transaction that is secured by a single 1- to 4-family residential property.[43] Under the other banking agencies' 2018 final rule, a loan that is secured by a single 1-to-4 family residential property, including a loan for construction, remains subject to the $250,000 threshold.[44] Accordingly, the NCUA is proposing to take the same approach in its appraisal regulation by including any loan for construction of a one, two, three, or four individual dwelling units, including manufactured homes permanently affixed to the underlying land as a single 1- to 4-family residential property.

Staff Appraiser

For clarity, this proposal would add a new definition for *staff appraiser,* which is a term currently used in § 722.5 of the regulation. Proposed § 722.2 provides that staff appraiser means a state-certified or state-licensed appraiser that is an employee of the credit union.

Transaction Value

Proposed § 722.2 would make minor, non-substantive technical amendments to the current § 722.2(l) and the definition of *transaction value.* In particular, the proposal would replace the words ''real property'' with the words ''real estate'' each place they occur within the definition for consistency. As discussed above, under both the current rule and this proposal the terms ''real property'' and ''real estate'' have the same meaning and can be used interchangeably. Accordingly, proposed § 722.2 provides that transaction value means, for loans or other extensions of credit, the amount of the loan or extension of credit; for sales, leases, purchases, and investments in or exchanges of real estate, the market value of the real estate interest involved; and for the pooling of loans or interests in real estate for resale or purchase, the amount of the loan or market value of the real estate calculated with respect to each such loan or interest in real estate.

[43] A 1-to-4 family residential property is a property containing one, two, three, or four individual dwelling units, including manufactured homes permanently affixed to the underlying land (when deemed to be real property under state law).

[44] Residential construction loans secured by more than one 1-to-4 family residential property would be considered commercial real estate transactions subject to the higher threshold. 83 FR 15019 (April 9, 2018).

Section 722.3 Appraisals and Written Estimates of Market Value Requirements for Real Estate-Related Financial Transactions

The NCUA proposes to amend current § 722.3 to increase the threshold level at or below which appraisals would not be required for certain non-residential real estate transactions, incorporate relevant changes under the Economic Growth, Regulatory Relief, and Consumer Protection Act, and reorganize the section to make it easier for credit unions to determine when an appraisal or written estimate of market value is required. Current § 722.3 provides the general requirement that all real estate-related financial transactions must have a state-certified or state-licensed appraisal unless the transaction qualifies for a listed exception. Under the current structure of the section, the NCUA believes that it is difficult for a reader to quickly determine whether a written estimate of market value is required, or whether an appraisal performed by a state-licensed or state-certified appraiser is required for certain real estate-related financial transactions. Accordingly, this proposal would reorder current § 722.3 to help the reader more readily determine: (a) Whether the real estate-related financial transaction does not require an appraisal or written estimate of market value under part 722; (b) when an appraisal required under part 722 must be prepared by a state-certified appraiser; (c) when an appraisal required under part 722 may be prepared by either a state-certified or state-licensed appraiser; and (d) when only a written estimate of market value is required.

3(a) Real Estate-Related Financial Transactions Not Requiring an Appraisal or Written Estimate of Value Under This Part

The NCUA is proposing to reorganize current § 722.3(a) to make it clearer upfront when no appraisal or written estimate of market value is required under part 722 for a real estate-related financial transaction. The proposal would also include language from current § 722.3(f), which merely serves as a cross reference to remind the reader that there are also Truth in Lending Act appraisal requirements under 12 CFR 1026.35 that apply to certain real estate-related financial transactions. Accordingly, proposed new § 722.3(a) states: provided the transaction is not a ''higher-priced mortgage loan'' under 12 CFR 1026.35, which must meet separate appraisal requirements under section 129H of the Truth in Lending Act, 15 U.S.C. 1639h, an appraisal or written estimate of market value is not required for certain real estate-related financial transaction, which are described in more detail below.

3(a)(1)–(6)

Proposed new § 722.3(a)(1)–(6) would incorporate and update the list of exempt transactions under current § 722.3(a)(1)–(9). As discussed in more detail below, proposed § 722.3(a)(1)–(6) would retain many of the transactions listed under current paragraph (a). But, because proposed paragraph (a) lists transactions that do not require an appraisal or written estimate of value, and current paragraph (a) includes transactions that require a written estimate of market value, the proposal would move certain provisions in current § 722.3(a) to proposed § 722.3(d). Accordingly, proposed § 722.3(a)(1)–(6) provides that an appraisal or written estimate of market value is not required for a real estate-related financial transaction under the following circumstances:

(a)(1). The transaction involves an existing extension of credit and is not considered a new loan under Generally Accepted Accounting Principles. The proposed (a)(1) would replace the current § 722.3(a)(5). The current paragraph (a)(5) exempts an existing extension of credit provided there was no advancement of new monies, other than funds necessary to cover reasonable closing costs; or there has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the credit union's real estate collateral protection after the transaction, even with the advancement of new monies. The revised paragraph (a)(1) would provide, instead, that an existing extension of credit would not require an appraisal or written estimate of market value if the transaction is not considered a new loan under Generally Accepted Accounting Principles.[45] The

[45] ASC 320–20–20: Lending, committing to lend, refinancing or restructuring loans, arranging standby letters of credit, syndicating loans, and leasing activities are lending activities. A loan is a contractual right to receive money on demand or on fixed or determinable dates that is recognized as an asset in the creditor's statement of financial position. Examples include but are not limited to accounts receivable (with terms exceeding one year) and notes receivable. This definition encompasses loans accounted for as debt securities. ASC 310–20–35–9: If the terms of the new loan resulting from a loan refinancing or restructuring other than a troubled debt restructuring are at least as favorable to the lender as the terms for comparable loans to other customers with similar collection risks who are not refinancing or restructuring a loan with the lender, the refinanced loan shall be accounted for

Continued

current § 722.3(a)(5) conditions can involve significant subjectivity, may be difficult to apply in practice, and do not necessarily align with financial reporting standards. While this proposed change varies somewhat from the respective provision in the other banking agencies' rules, linking this exemption to Generally Accepted Accounting Principles should increase consistency and better achieve the objectives of this regulation. Further, the NCUA does not believe a written estimate of market value needs to be required for all modifications, workouts, or troubled debt restructurings of existing loans. Credit unions should use sound judgement in determining when a written estimate of market value, or an appraisal, is warranted to support a loan workout. The Board does not believe that linking this exemption to Generally Accepted Accounting Principles will result in any substantial change from current practice. However, the Board recognizes that there may be rare circumstances that would result in an appraisal being required under this proposed rule that would not be required under the current rule due to linking the exemption to Generally Accepted Accounting Principles. Therefore, the Board is specifically seeking comment on this proposed change, and whether the current language in the regulation should be maintained.

The exemption provided under current paragraph (a)(1), for real estate-related financial transactions with a transaction value of $250,000 or less, would be amended and moved to proposed § 722.3(b), (c), and (d) to reflect whether an appraisal or written estimates of market value is required based on the transactions value. Specific aspects of those changes are discussed in more detail below.

(a)(2). A lien on real estate has been taken as collateral through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of a lien. The proposal retains current § 722.3(a)(2) as proposed § 722.3(a)(2). The Board is not proposing any substantive changes to this provision.

(a)(3). A lien on real estate has been taken for purposes other than the real estate's value. The proposal retains current § 722.3(a)(3) as proposed § 722.3(a)(3). The Board is not proposing any substantive changes to this provision.

(a)(4). A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate. The proposal retains current § 722.3(a)(4) as proposed § 722.3(a)(4). The Board is not proposing any substantive changes to this provision.

(a)(5). The transaction involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real estate, including mortgage-backed securities, and each loan or interest in a loan, pooled loan, or real estate interest met the requirements of this regulation, if applicable, at the time of origination. The proposal would move current § 722.3(a)(6) to proposed § 722.3(a)(5). The Board is not proposing any substantive changes to this provision.

(a)(6). The transaction either qualifies for sale to a United States government agency or United States government sponsored agency, or involves a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate. The proposal moves current § 722.3(a)(8) to proposed § 722.3(a)(6). The Board is not proposing any substantive changes to this provision.

The proposed rule would remove the current § 722.3(a)(7). The proposal changes the appraisal and written estimate of market value requirements for real estate-related financial transactions that are fully or partially guaranteed by a U.S. government agency [46] or U.S. government sponsored agency.[47] Under the current rule, any real estate-related financial transaction that is insured or guaranteed by a U.S. government agency or U.S. government-sponsored agency (regardless of whether the insurance or guarantee is for the full transaction value or only a part of the transaction value) are exempt from appraisal and written estimate of market value requirements. In contrast, under the proposed rule, there is no categorical exemption for such transactions. Instead, a real estate-related financial transaction that is insured or guaranteed by a U.S. government agency or U.S. government sponsored agency is only exempt from appraisal and written estimate of market value requirements if the transaction value is less than $1 million and the transaction is fully insured or guaranteed.

When the other banking agencies (and subsequently the NCUA) adopted current § 722.3(a)(7) in 1994, it was based on the presumption that any U.S. government agency's or sponsored agency's insurance or guarantee program would have a prudent appraisal requirement.[48] The NCUA continues to believe this to be the case. The Board, however, notes it is possible that new insurance and guarantee programs could be developed, or existing ones modified, where any partial insurance or guarantee provided is small enough that the insurer/guarantor does not require an appraisal, and the uninsured or unguaranteed portion of the transaction could still be significant to the federally insured credit union or the borrower.

The proposed approach would better align the appraisal and written estimate of market value requirements to the potential risk to the federally insured credit union, and preserve the consumer protection benefits appraisals provide. While this proposed change varies somewhat from the respective provisions in the other banking agencies' rules, in practice the Board does not expect this change to result in a material difference in appraisal requirements or burden, given U.S. government guaranty and insurance programs currently require appraisals, with limited exceptions. However, the Board is specifically seeking comment on this proposed change, and whether the current approach in the regulation should be maintained. In particular, the Board requests commenters note if and how a credit union's current use of a U.S. government agency's or sponsored agency's insurance or guarantee program(s) would be affected by this change.

as a new loan. This condition would be met if the new loan's effective yield is at least equal to the effective yield for such loans and modifications of the original debt instrument are more than minor. Any unamortized net fees or costs and any prepayment penalties from the original loan shall be recognized in interest income when the new loan is granted. The effective yield comparison considers the level of nominal interest rate, commitment and origination fees, and direct loan origination costs and would also consider comparison of other factors where appropriate, such as compensating balance arrangements.

[46] United States government agency means an instrumentality of the U.S. government whose obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the U.S. government. U.S. government agency includes NCUA.

[47] United States government sponsored agency means an entity established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress, but whose debt obligations are not explicitly guaranteed by the full faith and credit of the U.S. government.

[48] June 1994 final rule (59 FR 29482 June 7, 1994). Federal agencies insuring or guaranteeing loans are generally required to conduct real estate appraisal programs in a manner to reduce default risk to the federal government.

Additional discussion on the requirements for other transactions with government insurance or guarantees are in proposed § 722.3(b), (c), and (d) and are discussed below in subsequent sections.

As discussed, appraisal requirements for transactions that are partially or fully guaranteed by a U.S. government agency or a sponsored agency have been revised to no longer be categorical exemptions from the appraisal and written evaluation requirements of part 722. Instead, such transactions would be subject to the statutory threshold of $1 million or more. Either the credit union or the United States government agency, or sponsored agency, would need to obtain an appraisal by a state-certified appraiser.[49] The Board believes that such transactions are currently required to have appraisals under the rules of the United States government agency, or sponsored agency, insuring or guaranteeing the transaction. Therefore, the Board considers this change to be clarifying and only a reflection of current industry practice.

The proposed rule would remove the current § 722.3(a)(9). The Board is proposing to eliminate the option for a Regional Director to grant a waiver from the appraisal requirement for a category of loans meeting the definition of a member business loan. The provision was removed due to the proposal's increase for the non-residential real estate-related financial transaction appraisal threshold to the requirement of $1 million or more.

3(b) Real Rstate-Related Financial Transactions Requiring an Appraisal by a State-Certified Appraiser

Proposed § 722.3(b) identifies the real estate-related financial transactions for which an appraisal performed by a state-certified appraiser is required. The proposal states that an appraisal performed by a state-certified appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) in which:

3(b)(1)

Proposed § 722.3(b)(1) requires an appraisal performed by a state-certified appraiser for transactions that are not exempt under paragraph (a) and the transaction value is $1 million or more. This would increase the threshold at which non-residential real estate-related financial transactions are exempt from appraisal requirements from $250,000 to $1 million. The Board notes this is the only provision in the proposal that necessitates an appraisal for non-residential transactions not otherwise exempt,[50] as the current § 722.3(b)(2) is removed as part of the overall reorganization of § 722.3. This proposed increase in the threshold for non-residential real estate-related financial transactions would reduce regulatory burden by providing credit unions greater flexibility in commercial lending. For commercial real estate-related financial transactions with transaction values below $1 million, credit unions would be able to use their judgment, consistent with safe and sound lending practices, to determine whether to use an appraisal or a written estimate of market value. This proposed approach aligns with the other banking agencies' appraisal requirements for QBLs with a transaction value of $1 million or less.[51] The proposed approach provides more flexibility, however, than the commercial real estate appraisal threshold for non-QBLs, which the other banking agencies established at $500,000 in their 2018 final rule.

In considering whether to propose an increased threshold for commercial real estate transactions that would require an appraisal by a state-certified appraiser, the NCUA considered the comments received through the EGRPRA process. The NCUA has also carefully considered the other banking agencies' 2017 proposed rule [52] and 2018 final rule [53] regarding real estate appraisals. The Board carefully considered whether changes to the threshold for requiring an appraisal by a state-certified appraiser would be appropriate to reduce regulatory burden, while consistent with public policy interests and safety and soundness.

The NCUA last modified the threshold for exempt transactions in 2001 and used the same threshold for both residential and commercial real estate.[54] Given increases in commercial property values since that time, the current threshold requires credit unions to obtain Title XI appraisals on a larger proportion of commercial real estate transactions than in 2001. This increase in the number of appraisals required likely has contributed to the increased burden in time and cost described by the EGRPRA commenters.

Based on supervisory experience and available data, the other risk mitigations incorporated into the proposal, and other regulatory requirements and supervisory expectations, the proposed increase to the threshold for requiring an appraisal by a state-certified appraiser for commercial real estate transactions would not pose a material threat to the safety and soundness of credit unions or create undue risk to the National Credit Union Share Insurance Fund (NCUSIF). A more detailed analysis supporting this conclusion is provided below in the Section *Analysis of Higher Commercial Appraisal Threshold.*

(b)(2)

Proposed § 722.3(b)(2) also requires an appraisal performed by a state-certified appraiser for a transaction that is not exempt where the transaction is complex, involves a residential real estate transaction, $250,000 or more of the transaction value is not insured or guaranteed by a U.S. government agency or U.S. government sponsored agency,[55] and the transaction does not qualify for the rural area exemption in paragraph (f). This requirement is similar to the requirement in current § 722.3(b)(3) that complex residential transactions of $250,000 or more have appraisals performed by a state certified appraiser. The substantive difference between current § 722.3(b)(3) and the proposed § 722.3(b)(2) is regarding transactions that are partially insured or guaranteed by a U.S. government agency or U.S. government sponsored agency. Specifically, a complex residential real estate transaction that is partially insured or guaranteed by a U.S. government agency or U.S. government sponsored agency, but has $250,000 or more of the transaction value not insured or guaranteed, would be required to have a state-certified appraisal under the proposed rule.[56] Such a transaction is exempt from appraisal requirements under the current rule.

The NCUA seeks comments on whether there are other factors that should be considered in evaluating the threshold for complex, residential real estate-related transactions and whether

[49] The Board notes that if the insurer/guarantor obtains the appraisal to support the transaction, the credit union need not obtain one as well.

[50] Unless so required to address safety and soundness concerns under current and proposed § 722.3(e).

[51] *See* 59 FR 29482 (June 7, 1994); *see also* OCC: 12 CFR 34.43(a)(1) and (5); Board of Governors of the Federal Reserve System: 12 CFR 225.63(a)(1) and (5); and FDIC: 12 CFR 323.3(a)(1) and (5).

[52] 82 FR 35478 (July 31, 2017).

[53] 83 FR 15019 (Apr. 9, 2018).

[54] 66 FR 58656 (Nov. 23, 2001).

[55] The proposal aligns all the dollar thresholds used as either the dollar amount ''or more'' (greater than or equal to), or ''less than'' the dollar amount. This was done to ensure consistency within the regulation and with the relevant statutory requirements.

[56] As noted above, if the insurer or guarantor obtained an appraisal by a state-certified appraiser, the credit union could use that to satisfy this requirement.

the threshold should be raised, consistent with consumer protection, safety and soundness, and reduction of unnecessary regulatory burden.

§ 722.3(c) Real Estate-Related Financial Transactions Requiring an Appraisal by Either a State-Certified or State-Licensed Appraiser

Proposed § 722.3(c) reflects the provisions in current § 722.3(c) for when an appraisal performed by either a state-certified or state-licensed appraiser is required. Proposed § 722.3(c) includes terminology updates and clarifications and incorporates the proposed new approach to appraisal thresholds discussed above.

3(c)(1)

Proposed § 722.3(c)(1) would require an appraisal performed by a state-certified or state-licensed appraiser for a transaction that is not exempt where the transaction is not complex, involves a residential real estate transaction, $250,000 or more of the transaction value is not insured or guaranteed by a U.S. government agency or U.S. government sponsored agency, and the transaction does not qualify for the rural area exemption in paragraph (f). This requirement would be consistent with the current rule that non-complex residential transactions of $250,000 or more require an appraisal from either a state-certified or state-licensed appraisal. The one substantive difference, which is discussed above, is the addition of certain transactions that are partially insured or guaranteed by a U.S. government agency or U.S. government sponsored agency. For clarity, this requirement would be explicit under the current rule, instead of implicitly including this requirement through the current § 722.3(c). The Board believes the proposal more clearly indicates when an appraisal conducted by a state-licensed appraiser or a state-certified appraiser is acceptable.

The NCUA seeks comments on whether there are other factors that should be considered in evaluating the threshold for non-complex residential real estate transactions and whether the threshold should be raised, consistent with consumer protection, safety and soundness, and reduction of unnecessary regulatory burden.

3(c)(2)

Proposed § 722.3(c)(2) reflects the provisions in current § 722.3(b)(3) for situations where, during the course of an appraisal performed by a state-licensed appraiser, the transaction is determined to be complex. The language of this provision was simplified so as to be clearly based on the regulation's definition of complex. While the credit union is responsible for properly applying the complex transaction definition, the NCUA maintains interpretive authority with respect to the regulatory definition.

§ 722.3(d) Real Estate-Related Financial Transactions Requiring a Written Estimate of Market Value

Proposed § 722.3(d) reflects the provisions in current § 722.3(d) for when a written estimate of market value is required. Under proposed § 722.3(d), a written estimate of market value is required for a transaction that is (i) not fully insured or guaranteed by a U.S. government agency or U.S. government sponsored agency, (ii) not exempt under paragraph (a), and (iii) an appraisal performed by a state-certified or state-licensed appraiser has not been obtained.

For non-residential real estate transactions with a transaction value below $250,000, the requirement would be the largely the same. For non-residential real estate transactions with a transaction value of $250,000 or more, but less than $1 million, credit unions would no longer be required to obtain an appraisal by a state-certified appraiser. Therefore, these transactions, if not fully insured or guaranteed or otherwise exempted, would need to be supported by a written estimate of market value.

A written estimate of market value would also be required for certain transactions that are partially insured or guaranteed by a U.S. government agency or U.S. government sponsored agency. The Board does not believe, as discussed above, this proposed requirement would represent a substantial burden on credit unions. The Board, however, is seeking comment on whether the NCUA should establish a de minimis threshold for transactions. For example, if the uninsured or unguaranteed dollar amount is below a de minimis threshold amount, such as $50,000, should the transaction be exempt from written estimate of market value requirements.

The current requirements in § 722.3(d) that the individual performing the written estimate of market value have no direct or indirect interest in the property, and be properly qualified and experienced,[57] are incorporated into proposed § 722.3(d). Under proposed § 722.3(d), the independence standards for the individual performing the written estimate of market value have been amended to codify certain independence provisions in the Interagency Appraisal and Evaluations Guidelines (Guidelines). Specifically, the proposed rule incorporates the existing Guidelines that the individual performing a written estimate of market value be independent of the loan production and collection process. The Board believes that an enhanced independence requirement is an important prudential safeguard, as the proposed rule would permit non-residential real estate transactions that are less than $1 million to have a written estimate of market value instead of a state-certified or state-licensed appraisal. The proposed rule further would clarify that if independence cannot be achieved, the credit union must be able to demonstrate clearly that it has prudent safeguards to isolate its collateral valuation program from influence or interference from the loan production process.[58]

The Board notes a written estimate of market value needs to provide appropriate information to enable the institution to make a prudent decision regarding the transaction. Through the Guidelines, the NCUA has provided guidance to credit unions on the agency's safety and soundness expectations regarding when and how written estimates (evaluations) of market value should be used.[59] The Guidelines indicate that credit unions should develop policies and procedures for conducting written estimates. The policies and procedures should specify situations when the credit union will still obtain an appraisal by a state-licensed or state-certified appraiser.[60] Written estimates of market value may be completed by a credit union employee or by a third party.[61]

In evaluating this proposal, the NCUA considered the impact to credit unions and borrowers. Based on information from banking agency data, the cost of third-party evaluations of commercial

[57] Also see Interagency Appraisal and Evaluations Guidelines at 75 FR 77458.

[58] Guidelines at 75 FR 77457–58. *See also* Valuation Independence rules in Regulation Z, which apply to all creditors and cover extensions of consumer credit that are or will be secured by a consumer's principal dwelling: Fed: 12 CFR 226.42; CFPB: 12 CFR 1026.42.

[59] Interagency Appraisal and Evaluations Guidelines, 75 FR 77450 (Dec. 10, 2010).

[60] Guidelines at 75 FR 77461.

[61] *See* Interagency Advisory on Use of Evaluations in Real Estate-Related Financial Transactions, OCC Bulletin 2016–8 (March 4, 2016); Fed SR Letter 16–05 (March 4, 2016); Supervisory Expectations for Evaluations, FDIC FIL–16–2016 (March 4, 2016).

real estate generally ranges from $500 to over $1,500, whereas the cost of appraisals of such properties generally ranges from $1,000 to over $3,000. Non-residential real estate transactions with values above $250,000, but below $1 million (applicable transaction value range), are likely to involve smaller and less complex properties, and appraisals and evaluations on such properties would likely be at the lower end of the cost range. This third-party pricing information suggests a savings of several hundred dollars per transaction. The NCUA also notes there is a greater pool of individuals qualified to conduct written estimates of market value than state-certified appraisers, particularly in rural areas, thereby reducing the associated time and costs.

§ 722.3(f) Exemption From Appraisals of Real Property Located in Rural Areas

Proposed § 722.3(f) incorporates a new exemption that was included in the Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, signed on May 24, 2018. Under this provision, transactions involving real estate or an interest in real estate located in a rural area, as described in 12 CFR 1026.35(b)(2)(iv)(A) are exempt from appraisal requirements if certain conditions are met. The exemption provided in the Act is self-implementing so credit unions may avail themselves of the statute's exemption immediately, provided the transaction meets all of the requirements under section 103. However, the Board proposes to incorporate the exemption explicitly into part 722 of the regulations for easier reference and does not intent to make any substantive changes to the statutory requirement.

The Board notes that if a transaction does not require an appraisal under proposed § 722.3(f), a written estimate of market value may still be required under § 722.3(d).

Analysis of Higher Commercial Appraisal Threshold

Title XI, expressly authorizes the agencies to establish a threshold level at or below which an appraisal by a state certified or state licensed appraiser is not required in connection with federally related transactions if the agencies determine in writing that the threshold does not represent a threat to the safety and soundness of financial institutions.[62] The Board does not believe that increasing the threshold that non-residential real estate transactions are exempt from Title XI appraisals represents a threat to the safety and soundness of credit unions as there are several factors that inherently mitigate the risk from commercial loans in the credit union system.

Under the Federal Credit Union Act, most credit unions are restricted to holding no more than 1.75 times the credit union's total net worth for member business loans.[63] The statutory ceiling of 1.75 times net worth limits risk for credit unions granting all forms of commercial loans, of which non-residential real estate transactions are a subset. Therefore, increasing the threshold to $1 million would not pose the same safety and soundness risk to credit unions as it would to similarly situated banking organizations, which do not have the same commercial lending restrictions.

Currently, commercial loans represent only 5.7 percent of the total assets of credit unions granting commercial loans, and less than 53 percent of total net worth of those credit unions. Comparatively, commercial loans in the banking industry represent 25 percent of total assets and 267 percent of tier one capital.[64]

Under the proposed rule, the increased threshold would not substantially reduce the total dollar amount of commercial real estate transactions that would be subject to appraisal requirements. The NCUA used the CoStar Comps database[65] to estimate the dollar volume and number of commercial real estate transactions that would potentially be exempted from obtaining an appraisal performed by a state-certified appraiser due to the proposed increase in the threshold. The CoStar Comps database provides sales value data on specific commercial real estate transactions. While there are some limitations regarding use of the CoStar Comps database, as detailed below, the database contains information on sales values for individual transactions. Thus, it can be used to estimate the number and percentage of transactions that would become exempt under the proposed threshold change (*i.e.,* those commercial real estate transactions with transaction values of $250,000 or more, but less than $1 million).[66]

The CoStar Comps database contains data for transactions involving nonresidential commercial mortgages, multifamily, and land, and is derived from sales data and reflects the total transaction amount, as opposed to the loan amount. For purposes of this analysis, the NCUA included only financed transactions and assumed a loan-to-value ratio of 85 percent for nonresidential and multifamily commercial mortgages and a loan-to-value ratio of 65 percent for raw land transactions[67] to arrive at an estimated loan amount, which would be equivalent to the ''transaction value'' under the appraisal regulation. While the CoStar Comps database has some limitations for the purposes of evaluating the proposed increase,[68] it provides information that can be used to estimate the dollar volume and number of commercial real estate transactions that would potentially be exempted by the proposed threshold increase.

An analysis of the CoStar Comps database suggests that increasing the threshold to $1 million would significantly increase the number of commercial real estate transactions exempted from appraisal requirements. The estimated percentage of commercial properties that would be exempted from the appraisal requirement would increase from 27 percent to 66 percent if the threshold were raised from $250,000 to $1 million. However, the total dollar amount of commercial real estate transactions that would be exempted is relatively small and would not expose credit unions to undue risk. The total dollar volume of loans for

[62] 12 U.S.C. 3341.

[63] Some credit unions are subject to one of several exemptions under the Federal Credit Union Act. *See* 12 U.S.C. 1757a(b).

[64] For non-residential real estate transactions, the NCUA does not propose to differentiate between QBL and non-QBL commercial transactions like the other banking agencies. Based on credit union Call Report data, the NCUA estimates that $17 billion of the $57 billion of commercial real estate loans in the credit union system would meet the definition of a QBL and be subject to a $1 million appraisal threshold under the rules for banks. Setting the threshold at $1 million provides relief for credit unions and a simplified standard.

[65] The CoStar Comps database is comprised of sales data involving commercial real estate properties. The agencies have limited their analysis to arms-length completed sales, where the price is provided. The agencies have also limited the sample to properties that were financed. Owner-occupied properties and sales of coops and condominiums were excluded. The sample was also limited to existing buildings. Land includes only raw land defined as land held for development or held for investment.

[66] This same analysis could not be performed using Call Report data because transactions reported for purposes of the Call Report are either reported in groupings of large value ranges or not reported by size at all.

[67] The Interagency Guidelines for Real Estate Lending provides that institutions' loan-to-value limits should not exceed 85 percent for loans secured by improved property and 65 percent for loans secured by raw land. *See* OCC: 12 CFR part 34, subpart D, appendix A; Fed: 12 CFR part 208, appendix C; FDIC: 12 CFR part 365, subpart A, appendix A.

[68] For example, the database tends to underrepresent sales of smaller properties and transactions in rural markets, and includes transactions that are not financed by depository institutions.

commercial properties would only increase from 1.8 percent to 13 percent. Exempting an additional 39 percent of commercial real estate transactions would provide significant burden relief to credit unions, but would still cover almost 90 percent of the total dollar volume of such transactions. This incremental risk can be controlled through sound risk management practices. In particular, the Board notes that written estimates of market value would be required for such transactions not requiring an appraisal.

The NCUA's analysis of data reported on the Call Report suggests that the threshold for requiring an appraisal conducted by a state-certified appraiser for commercial real estate transactions could be raised and be comparable to the risk that these transactions posed when the current threshold was imposed on commercial real estate transactions in 2002. According to Bank Call Report data, when the threshold for real estate-related financial transactions was raised for banks from $100,000 to $250,000 in 1994, approximately 18 percent of the dollar volume of all non-farm, non-residential (NFNR) loans reported by banks had original loan amounts of $250,000 or less. As of the fourth quarter of 2016, approximately 4 percent of the dollar volume of such loans had original loan amounts of $250,000 or less. The NCUA does not possess similar data for credit unions; however, this analysis generally suggests that a larger proportion of commercial real estate transactions now require appraisals than when the threshold was last established and, therefore, the threshold could be raised without unduly affecting the safety and soundness of credit unions.

Also, the Board notes that many variables beyond appraisal requirements, including market conditions and various loan underwriting and credit administration practices, affect an institution's loss experience. For credit unions, the $250,000 threshold has been applicable to commercial real estate transactions since March 2002. Analysis of supervisory information concerning losses on commercial real estate transactions suggests that faulty valuations of the underlying real estate collateral have not been a material cause of losses. In the last three decades, the banking industry suffered two crises in which poorly underwritten and administered commercial real estate loans were a key feature in elevated levels of loan losses, and bank and credit union failures.[69] Supervisory experience and a review of material loss reviews[70] covering those decades suggest that factors other than faulty appraisals were the cause(s) for an institution's loss experience. For example, larger acquisition, construction, and development[71] transactions were more likely to be troublesome. This is due to the lack of appropriate underwriting and administration of issues unique to larger properties, such as longer construction periods, extended ''lease up'' periods (the time required to lease a building after construction), and the more complex nature of the construction of such properties.

Additionally, effective January 1, 2017, NCUA implemented a modernized commercial lending regulation and supervisory program.[72] The regulation streamlined standards and established principles-based requirements that instill appropriate discipline. Also, the Guidelines provide regulated institutions with guidance on establishing parameters for ordering Title XI appraisals for transactions that present significant risk, even if those transactions are eligible for written estimates of market value under the regulation. Regulated institutions are encouraged to continue using a risk-focused approach when considering whether to order an appraisal for real estate-related financial transactions.

The NCUA believes statutory limits, combined with appropriate prudential and supervisory oversight, offset any potential risk that could occur by raising the appraisal threshold for non-residential real estate-related transactions. Therefore, the Board concludes that increasing the commercial real estate appraisal threshold to $1 million does not pose a threat to safety and soundness.

IV. Request for Comment

The Board invites comment on all aspects of this proposed rulemaking. Throughout the section-by-section analysis of the preamble, the Board has requested information and comments on specific amendments outlined in this proposed rule. Additionally, the NCUA Board is specifically seeking comments on whether the proposed changes achieve the intended goal of clarifying the types of transactions that require an appraisal or written estimate of market value.

V. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million) and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

Data currently available to the NCUA are not sufficient to estimate how many small credit unions make commercial real estate loans in amounts that fall between the current and proposed thresholds. Therefore, the NCUA cannot estimate how many small entities may be affected by the increased threshold and how significant the reduction in burden may be for such small entities. The NCUA believes, however, that the proposed threshold increase will meaningfully reduce burden for small credit unions. Accordingly, the NCUA certifies that the proposed rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

Certain provisions of the proposed rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995.[73] In accordance with the requirements of the PRA, an agency may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it

[69] *See, e.g.,* FDIC, *History of the Eighties—Lessons for the Future, Chapter 3: Commercial Real Estate and the Banking Crises of the 1980s and Early 1990s,* available at *https://www.fdic.gov/bank/historical/history/137_165.pdf;* FDIC, Office of the Inspector General, EVAL–13–002, *Comprehensive Study on the Impact of the Failure of Insured Depository Institutions* 50, Table 6 (January 2013), available at *https://www.fdicig.gov/reports13/13-002EV.pdf.*

[70] Section 38(k) of the FDI Act, as amended, provides that if the Deposit Insurance Fund incurs a ''material loss'' with respect to an IDI, the Inspector General of the appropriate regulator (which for the OCC is the Inspector General of the Department of the Treasury) shall prepare a report to that agency, identifying the cause of failure and reviewing the agency's supervision of the institution. 12 U.S.C. 1831o(k).

[71] Acquisition, development and construction refers to transactions that finance construction projects including land, site development, and vertical construction. This type of financing is typically recorded in the land or construction categories of the Call Report.

[72] 12 CFR part 721.

[73] 44 U.S.C. 3501–3521.

displays a currently-valid Office of Management and Budget (OMB) control number. The OMB control number for the NCUA is 3133–0125, which will be extended, without revision. The NCUA concludes that the proposed rule does not contain any changes to the current information collections; however, the NCUA is revising the methodology for calculating the burden estimates. The information collection requirements contained in this proposed rulemaking have been submitted to OMB for review and approval under section 3507(d) of the PRA [74] and section 1320.11 of the OMB's implementing regulations.[75]

Title of Information Collection: Real Estate Appraisals.

Frequency of Response: Event generated.

Affected Public: Private Sector: Not-for-profit institutions.

Respondents: Federally insured credit unions.

General Description of Report: For federally related transactions, Title XI requires regulated institutions to obtain appraisals prepared in accordance with USPAP promulgated by the Appraisal Standards Board of the Appraisal Foundation. Generally, these standards include the methods and techniques used to estimate the market value of a property as well as the requirements for reporting such analysis and a market value conclusion in the appraisal. The NCUA expects credit unions to maintain records that demonstrate that appraisals used in their real estate-related lending activities comply with these regulatory requirements. For commercial real estate transactions exempted from the Title XI appraisal requirements by the proposed rule, regulated institutions would still be required to obtain an evaluation to justify the transaction amount. The NCUA estimate that the recordkeeping burden associated with evaluations would be the same as the recordkeeping burden associated with appraisals for such transactions.

Current Action: The threshold change in the proposed rule will result in credit unions being able to use evaluations instead of appraisals for certain transactions. It is estimated that the time required to document the review of an appraisal or an evaluation is the same. While the rulemaking described in this proposed rule would not change the amount of time that federally insured credit unions spend complying with the Title XI appraisal regulation, the NCUA is using a more accurate methodology for calculating the burden of the information collections based on the experience of the NCUA and the other financial institutions regulators (OCC, FDIC, Federal Reserve). Thus, the PRA burden estimates shown here are different from those previously reported. The NCUA is (1) using the average number of loans per institution as the frequency and (2) using 5 minutes as the estimated time per response for the appraisals or evaluations.

PRA Burden Estimates

Estimated average time per response: 5 minutes.

Number of Respondents: 3,449.

Annual Frequency: 477.

Total Estimated Annual Burden: 137,098 hours.

The NCUA invites comments on:

(a) Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments regarding the information collection requirements of this rule should be sent to (1) Dawn Wolfgang, NCUA PRA Clearance Officer, National Credit Union Administration, 1775 Duke Street, Suite 5080, Alexandria, Virginia 22314, or Fax No. 703–519–8572, or Email at *PRAcomments@ncua.gov* and the (2) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov.*

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.

List of Subjects in 12 CFR Part 722

Appraisal, Appraiser, Credit unions, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

By the National Credit Union Administration Board on September 20, 2018.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board proposes to amend 12 CFR part 722 as follows:

PART 722—APPRAISALS

■ 1. The authority citation for part 722 is revised to read as follows:

Authority: 12 U.S.C. 1766, 1789, and 3331 *et seq.* Section 722.3(a) is also issued under 15 U.S.C. 1639h.

■ 2. Section 722.2 is revised to read as follows:

§ 722.2 Definitions.

Appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately-described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

Appraisal Subcommittee means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Complex, when used in regards to a real estate-related financial transaction, means a transaction in which the property to be appraised, the form of ownership, or market conditions are atypical. A regulated institution may presume that appraisals of 1– to 4–family residential properties are not complex unless the institution has

[74] 44 U.S.C. 3507(d).

[75] 5 CFR part 1320.

readily available information that a given appraisal will be complex.

Federal financial institutions regulatory agency means the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation (FDIC); the Office of the Comptroller of the Currency, Treasury (OCC); the NCUA, and, formerly, the Office of Thrift Supervision.

Federally related transaction means any real estate-related financial transaction entered into on or after August 9, 1990 that:

(1) The National Credit Union Administration, or any federally insured credit union, engages in or contracts for; and

(2) Requires the services of an appraiser.

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Real estate (or *real property*) means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a parcel or tract of land, but does not include mineral rights, timber rights, and growing crops, water rights and similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

Real estate-related financial transaction means any transaction involving:

(1) The sale, lease, purchase, investment in or exchange of real estate, including interests in property, or the financing thereof; or

(2) The refinancing of real estate or interests in real estate; or

(3) The use of real estate or interests in property as security for a loan or investment, including mortgage-backed securities.

Residential real estate transaction means a real estate-related financial transaction that is secured by a single 1- to 4-family residential property.

Staff appraiser means a State-certified or a State-licensed appraiser that is an employee of the credit union.

State-certified appraiser means any individual who has satisfied the requirements for certification in a state or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation. No individual shall be a state-certified appraiser unless such individual has achieved a passing grade upon a suitable examination administered by a state or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, practices, or procedures of a state or territory are inconsistent with title XI of FIRREA. The National Credit Union Administration may, from time to time, impose additional qualification criteria for certified appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

State-licensed appraiser means any individual who has satisfied the requirements for licensing in a state or territory where the licensing procedures comply with title XI of FIRREA and where the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI. The NCUA may, from time to time, impose additional qualification criteria for licensed appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

Tract development means a project of five units or more that is constructed or is to be constructed as a single development.

Transaction value means:

(1) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(2) For sales, leases, purchases, and investments in or exchanges of real estate, the market value of the real estate interest involved; and

(3) For the pooling of loans or interests in real estate for resale or purchase, the amount of the loan or market value of the real estate calculated with respect to each such loan or interest in real estate.

■ 3. Section 722.3 is revised to read as follows:

§ 722.3 Appraisals and written estimates of market value requirements for real estate-related financial transactions.

(a) *Real estate-related financial transactions not requiring an appraisal or written estimate of market value under this part.* Provided the transaction is not a ''higher-priced mortgage loan'' under 12 CFR 1026.35, which must meet separate appraisal requirements under section 129H of the Truth in Lending Act, 15 U.S.C. 1639h, an appraisal or written estimate of market value is not required for a real estate-related financial transaction in which:

(1) The transaction involves an existing extension of credit and is not considered a new loan under generally accepted accounting principles;

(2) A lien on real estate has been taken as collateral through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of a lien;

(3) A lien on real estate has been taken for purposes other than the real estate's value;

(4) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(5) The transaction involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real estate, including mortgage-backed securities, and each loan or interest in a loan, pooled loan, or real estate interest met the requirements of this regulation, if applicable, at the time of origination; or

(6) The transaction either qualifies for sale to a United States government agency or United States government sponsored agency, or involves a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate.

(b) *Real estate-related financial transactions requiring an appraisal by a state-certified appraiser.* An appraisal performed by a state-certified appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) of this section in which:

(1) The transaction value is $1,000,000 or more; or

(2) The transaction is complex, involves a residential real estate transaction, $250,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government sponsored agency, and the transaction does not meet the criteria in paragraph (f) of this section.

(3) A credit union is not required to obtain an appraisal under this paragraph (b) if the United States government agency, or United States government sponsored agency, obtains an appraisal by a state-certified appraiser.

(c) *Real estate-related financial transactions requiring an appraisal by either a state-certified or state-licensed appraiser.* An appraisal performed by a state-certified appraiser or a state licensed appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) of this section in which:

(1) The transaction is not complex, involves a residential real estate transaction, $250,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government sponsored agency, and the transaction does not meet the criteria in paragraph (f) of this section.

(2) If, during the course of an appraisal of a residential real estate transaction performed by a state-licensed appraiser, factors are identified that result in the transaction meeting the definition of complex, then the credit union may either:

(i) Ask the state-licensed appraiser to complete the appraisal and have a state-certified appraiser approve and cosign the appraisal; or

(ii) Engage a state-certified appraiser to complete the appraisal.

(3) A credit union is not required to obtain an appraisal under this paragraph if the United States government agency, or United States government sponsored agency, obtains an appraisal.

(d) *Real estate-related financial transactions requiring a written estimate of market value.* Unless fully insured or guaranteed by a United States government agency or United States government sponsored agency, exempt under paragraph (a) of this section, or an appraisal performed by a state-certified or state-licensed appraiser was obtained, any real estate-related financial transaction must be supported by a written estimate of market value that was performed by an individual:

(1) Independent of the loan production and collection processes (if independence cannot be achieved, the credit union must be able to demonstrate clearly that it has prudent safeguards to isolate its collateral valuation program from influence or interference from the loan production process and collection process);

(2) Having no direct, indirect, or prospective interest, financial or otherwise, in the property or the transaction; and

(3) Qualified and experienced to perform such estimates of value for the type and amount of credit being considered.

(e) *Appraisals to address safety and soundness concerns.* The NCUA reserves the right to require an appraisal under this subpart whenever the agency believes it is necessary to address safety and soundness concerns.

(f) *Exemption from appraisals of real estate located in rural areas.*

(1) Notwithstanding any other provision of law, an appraisal in connection with a federally related transaction involving real estate or an interest in real estate is not required if:

(i) The real estate or interest in real estate is located in a rural area, as described in 12 CFR 1026.35(b)(2)(iv)(A);

(ii) The transaction value is less than $400,000;

(iii) Any party involved in the transaction that meets the definition of mortgage originator must be subject to oversight by a Federal financial institutions regulatory agency; and

(iv) Not later than three days after the date on which the Closing Disclosure Form, made in accordance with 12 CFR parts 1024 and 1026, relating to the federally related transaction is given to the consumer, the credit union (or other party involved in the transaction that acts as the mortgage originator) or its agent, directly or indirectly:

(A) Has contacted not fewer than three state-certified appraisers or state-licensed appraisers, as applicable, on the credit union's (or other party involved in the transaction that acts as the mortgage originator) approved appraiser list in the market area in accordance with 12 CFR part 226; and

(B) Has documented that no state-certified appraiser or state-licensed appraiser, as applicable, was available within five business days beyond customary and reasonable fee and timeliness standards for comparable appraisal assignments, as documented by the credit union (or other party involved in the transaction that acts as the mortgage originator) or its agent.

(2) A credit union (or other party involved in the transaction that acts as the mortgage originator) that makes a loan without an appraisal under the terms of paragraph (f)(1) of this section shall not sell, assign, or otherwise transfer legal title to the loan unless:

(i) The loan is sold, assigned, or otherwise transferred to another party by reason of the credit union's (or mortgage originator's) bankruptcy or insolvency;

(ii) The loan is sold, assigned, or otherwise transferred to another party regulated by a Federal financial institutions regulatory agency, so long as the loan is retained in portfolio by the other party;

(iii) The sale, assignment, or transfer is pursuant to a merger of the credit union (or mortgage originator) with another party or the acquisition of the credit union (or mortgage originator) by another party or of another party by the credit union (or mortgage originator); or

(iv) The sale, loan, or transfer is to a wholly owned subsidiary of the credit union (or mortgage originator), provided that, after the sale, assignment, or transfer, the loan is considered to be an asset of the credit union (or mortgage originator) under generally accepted accounting principles.

(3)(i) For purposes of this paragraph (f), the term *transaction value* means the amount of a loan or extension of credit, including a loan or extension of credit that is part of a pool of loans or extensions of credit; and

(ii) The term *mortgage originator* has the meaning given the term in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

(4) This paragraph (f) does not apply if:

(i) The NCUA requires an appraisal under paragraph (e) of this section; or

(ii) The loan is a high-cost mortgage, as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

[FR Doc. 2018–20946 Filed 10–2–18; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 541

White Collar Exemption Regulations; Public Listening Session

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice of public listening session.

SUMMARY: The Department of Labor will conduct a public listening session to gather views on the Part 541 white collar exemption regulations. The Fair Labor Standards Act (FLSA) generally requires covered employers to pay their

employees at least the federal minimum wage (currently $7.25 an hour) for all hours worked, and overtime premium pay of not less than one and one-half times the employee's regular rate of pay for any hours worked over 40 in a workweek. The FLSA exempts from both minimum wage and overtime protection ''any employee employed in a bona fide executive, administrative, or professional capacity'' and delegates to the Secretary of Labor the power to define and delimit these terms through regulation.

DATES: The date, location, and time for the public listening session is listed below: October 17, 2018, Washington, DC, 10 a.m.–12 p.m.

Members of the public may attend this listening session in person up to the seating capacity of the room. The Department will not attempt to achieve a consensus view in this listening session, but rather is interested in hearing the views and ideas of participants.

ADDRESSES: To obtain specific location details and register to attend, please visit this link: *https://www.eventbrite.com/e/overtime-rule-listening-session-tickets-50661020476*.

FOR FURTHER INFORMATION CONTACT: Stephen Davis, Listening Session Coordinator, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION: On July 26, 2017, the Department of Labor published a Request for Information (RFI), Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees. *See* 82 FR 34616. The RFI was one opportunity for the public to provide information to aid the Department in formulating a proposal to revise the white collar exemption regulations. Public listening sessions provide further opportunity for the public to provide input on issues related to the salary level test, such as:

1. What is the appropriate salary level (or range of salary levels) above which the overtime exemptions for bona fide executive, administrative, or professional employees may apply? Why?

2. What benefits and costs to employees and employers might accompany an increased salary level? How would an increased salary level affect real wages (*e.g.,* increasing overtime pay for employees whose current salaries are below a new level but above the current threshold)? Could an increased salary level reduce litigation costs by reducing the number of employees whose exemption status is unclear? Could this additional certainty produce other benefits for employees and employers?

3. What is the best methodology to determine an updated salary level? Should the update derive from wage growth, cost-of-living increases, actual wages paid to employees, or some other measure?

4. Should the Department more regularly update the standard salary level and the total-annual-compensation level for highly compensated employees? If so, how should these updates be made? How frequently should updates occur? What benefits, if any, could result from more frequent updates?

Dated: September 28, 2018.

Robert Waterman,

Senior Compliance Specialist, Division of Regulations, Legislation and Interpretation.

[FR Doc. 2018–21521 Filed 10–2–18; 8:45 am]

BILLING CODE 4510–27–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0559; FRL–9984–80—Region 9]

Air Plan Approval; California; Feather River Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_X) from natural gas-fired water heaters, small boilers, and process heaters. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by November 2, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2018–0559, at *https://www.regulations.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*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, EPA Region IX, (415) 972–3286, *schwartz.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule number	Rule title	Adopted	Submitted
FRAQMD	3.23	Natural Gas-Fired Water Heaters, Small Boilers, And Process Heaters.	10/03/2016	05/08/2017

On November 1, 2017, the EPA determined that the submittal for FRAQMD Rule 3.23 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 3.23 in the SIP.

C. What is the purpose of the submitted rule?

Emissions of oxides of nitrogen (NO_X) contribute to ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X emissions. Rule 3.23 limits NO_X emissions in the FRAQMD from natural gas-fired water heaters, small boilers, and process heaters rated 0.075 MM [1] to 1 MM Btu/hr [2]. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Measures/Reasonably Available Control Technology (RACM/RACT) for each major source of NO_X in ozone nonattainment areas classified as moderate or above (see CAA sections 182(b)(2) and 182(f)). 40 CFR 81.305 describes FRAQMD as regulating a portion of the Sacramento Metro Area nonattainment area classified as Severe for the 1997 and 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). The rest of FRAQMD is designated as unclassifiable/attainment. Rule 3.23 regulates area sources that are too small to exceed the major source threshold of 25 tons per year for Severe ozone nonattainment areas (see CAA 182(d) and (f)) and is therefore not subject to major source ozone RACT requirements. Nonetheless, FRAQMD must implement all RACM/RACT for NO_X necessary to demonstrate attainment as expeditiously as practicable and to meet any reasonable further progress (RFP) requirements (CAA 172(c)(1), 40 CFR 51.912(d), 51.1112(c)).

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.
5. ''Alternative Control Techniques Document—NO_X Emissions from Industrial/Commercial/Institutional (ICI) Boilers'', US EPA 453/R–94–022 (March 1994).
6. ''Alternative Control Techniques Document—NO_X Emissions from Process Heaters (Revised)'' (EPA–453/R–93–034 1993/09).
7. ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters'' (California Air Resources Board, July 18, 1991).

B. Does the Rule Meet the Evaluation Criteria?

This rule is consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule but are not currently the basis for rule disapproval.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until November 2, 2018. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the FRAQMD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under

[1] MM = million.

[2] British thermal unit (Btu): The amount of heat required to raise the temperature of one pound of water from 59 °F to 60 °F at one atmosphere.

Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

• does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 21, 2018.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–21467 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0490; FRL–9984–91—Region 9]

Approval and Promulgation of Implementation Plans; California; South Coast Serious Area Plan for the 2006 $PM_{2.5}$ NAAQS

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve state implementation plan (SIP) revisions submitted by California to address Clean Air Act (CAA or ''Act'') requirements for the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or ''standards'') in the Los Angeles-South Coast air basin (South Coast) Serious $PM_{2.5}$ nonattainment area. The EPA is also proposing to approve 2017 and 2019 motor vehicle emissions budgets for transportation conformity purposes and inter-pollutant trading ratios for use in transportation conformity analyses.

DATES: Any comments must arrive by November 2, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0490 at *https://www.regulations.gov,* or via email to *tax.wienke@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Wienke Tax, Air Planning Office (AIR–2), EPA Region IX, (415) 947–4192, *tax.wienke@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. Background

On October 17, 2006, the EPA revised the 24-hour NAAQS for $PM_{2.5}$, particulate matter with a diameter of 2.5 microns or less, to provide increased protection of public health by lowering the level from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$.[1] Epidemiological studies have shown statistically significant correlations between elevated $PM_{2.5}$ levels and premature mortality. Other important health effects associated with $PM_{2.5}$ exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and

[1] 40 CFR 50.13 and 71 FR 61144 (October 17, 2006). The EPA first established NAAQS for $PM_{2.5}$ on July 18, 1997 (62 FR 38652), including annual standards of 15.0 $\mu g/m^3$ based on a 3-year average of annual mean $PM_{2.5}$ concentrations and 24-hour (daily) standards of 65 $\mu g/m^3$ based on a 3-year average of 98th percentile 24-hour concentrations (40 CFR 50.7). In 2012, the EPA revised the annual standards to lower them to 12 $\mu g/m^3$ (78 FR 3086, January 15, 2013, codified at 40 CFR 50.18). Unless otherwise noted, all references to the $PM_{2.5}$ standards in this notice are to the 2006 24-hour NAAQS of 35 $\mu g/m^3$ codified at 40 CFR 50.13.

restricted activity days), changes in lung function and increased respiratory symptoms. Individuals particularly sensitive to $PM_{2.5}$ exposure include older adults, people with heart and lung disease, and children.[2] $PM_{2.5}$ can be emitted directly into the atmosphere as a solid or liquid particle (''primary $PM_{2.5}$'' or ''direct $PM_{2.5}$'') or can be formed in the atmosphere as a result of various chemical reactions among precursor pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (''secondary $PM_{2.5}$'').[3]

Following promulgation of a new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. On November 13, 2009, the EPA designated the South Coast as nonattainment for the 2006 24-hour $PM_{2.5}$ standards.[4] This designation became effective on December 14, 2009.[5] The South Coast area is also designated nonattainment for the 1997 annual and 24-hour $PM_{2.5}$ standards.[6] On June 2, 2014, the EPA classified the South Coast area as ''Moderate'' nonattainment for both the 1997 $PM_{2.5}$ standards and the 2006 $PM_{2.5}$ standards under subpart 4 of part D, title I of the Act.[7] [8] California submitted a plan addressing the Moderate area attainment planning requirements for the 2006 $PM_{2.5}$ NAAQS in the South Coast on February 13, 2013, and submitted a supplement to this plan on March 4, 2015.[9]

On January 13, 2016, the EPA published a December 22, 2015 final rule reclassifying the South Coast area as ''Serious'' nonattainment under subpart 4, based on the EPA's determination that the area could not practicably attain the 2006 $PM_{2.5}$ standards by the December 31, 2015 attainment date.[10] This reclassification became effective on February 12, 2016. The reclassification was based upon the EPA's evaluation of ambient air quality data from the 2013–2015 period, indicating that it was not practicable for certain monitoring sites within the South Coast area to show $PM_{2.5}$ design values at or below the level of the 2006 $PM_{2.5}$ NAAQS by December 31, 2015.[11] On April 14, 2016, we partially approved and partially disapproved California's Moderate area plan for the 2006 $PM_{2.5}$ NAAQS in the South Coast.[12] On February 12, 2018, we determined that California had corrected the deficiencies identified in our prior partial disapproval of this plan and terminated all sanction clocks triggered by that action.[13]

The South Coast $PM_{2.5}$ nonattainment area is home to about 17 million people, has a diverse economic base, and contains one of the highest-volume port areas in the world. For a precise description of the geographic boundaries of the South Coast $PM_{2.5}$ nonattainment area, *see* 40 CFR 81.305. The local air district with primary responsibility for developing a plan to attain the 2006 $PM_{2.5}$ NAAQS in this area is the South Coast Air Quality Management District (''District'' or SCAQMD). The District works cooperatively with the California Air Resources Board (CARB) in preparing these plans. Authority for regulating sources in the South Coast is split between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources and some categories of consumer products.

As a consequence of its reclassification as a Serious $PM_{2.5}$ nonattainment area, the South Coast area became subject to a new attainment date under CAA section 188(c)(2) and the requirement to submit a Serious area plan that satisfies the requirements of part D of title I of the Act, including the requirements of subpart 4, for the 2006 $PM_{2.5}$ NAAQS.[14] Under subpart 4, the attainment date for an area classified as Serious is as expeditiously as practicable, but no later than the end of the tenth calendar year following designation. As explained in the EPA's final reclassification action, the Serious area plan for the South Coast must include provisions to assure that the best available control measures (BACM) for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B)), and a demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019, which is the latest permissible attainment date under CAA section 188(c)(2).[15]

Given the December 31, 2019 outermost attainment deadline for the South Coast area under section 188(c)(2), the EPA required the State to adopt and submit a Serious area plan for the South Coast within 18 months of the reclassification, well before the statutory SIP submission deadlines in CAA section 189(b)(2).[16]

II. Summary of the 2016 $PM_{2.5}$ Plan

We are proposing action on portions of two California SIP submissions that address the 2006 24-hour $PM_{2.5}$ NAAQS Serious area plan requirements in the South Coast. The first submission is the ''Final 2016 Air Quality Management Plan (March 2017),'' adopted by the SCAQMD Governing Board on March 3, 2017 (''2016 AQMP''). CARB submitted the 2016 AQMP to the EPA on April 27, 2017.[17] The second submission, also submitted to the EPA on April 27, 2017, is CARB's ''2016 State Strategy for the State Implementation Plan (March 2017)'' (''2016 State Strategy'').[18] We refer to these SIP submissions collectively as the ''2016 $PM_{2.5}$ Plan'' or ''Plan.''

The 2016 AQMP is organized into eleven chapters, each addressing a specific topic. We summarize below each of the chapters relevant to the 2006 $PM_{2.5}$ NAAQS.[19] Chapter 1,

[2] 78 FR 3086 at 3088 (January 15, 2013).

[3] 72 FR 20586, 20589 (April 25, 2007).

[4] 74 FR 58688 (November 13, 2009).

[5] 40 CFR 81.305.

[6] 70 FR 944 (January 5, 2005) and 40 CFR 81.305. In November 2007, California submitted the 2007 $PM_{2.5}$ Plan to provide for attainment of the 1997 $PM_{2.5}$ standards in the South Coast. In November 2011, the EPA approved all but the contingency measures in the 2007 $PM_{2.5}$ Plan (76 FR 69928, November 9, 2011). In November 2011 and April 2013, the State submitted a revised contingency measure plan, which the EPA approved on October 29, 2013 (78 FR 64402).

[7] 79 FR 31566.

[8] The EPA took this action in response to a decision of the Court of Appeals for the D.C. Circuit finding that the EPA had erred in implementing the $PM_{2.5}$ NAAQS pursuant solely to the general implementation provisions of subpart 1 of Part D, Title I of the Act, without also considering the particulate matter-specific provisions of subpart 4 of Part D. *Natural Resources Defense Council (NRDC)* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013).

[9] Letter from James N. Goldstene, Executive Officer, California Air Resources Board (CARB), to Jared Blumenfeld, Regional Administrator, EPA Region IX, with attachments (transmitting 2012 $PM_{2.5}$ Plan), February 13, 2013, and letter from Richard W. Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX, with attachments (transmitting 2015 supplement to 2012 $PM_{2.5}$ Plan), March 4, 2015.

[10] 81 FR 1514 (January 13, 2016).

[11] *Id.* at 1514; *see also* proposed rule, 80 FR 63640 (October 20, 2015). Air quality data for 2013–2015 indicated that the highest monitors in the South Coast area had a design value of 38 $\mu g/m^3$ for the 24-hour standard.

[12] 81 FR 22025 (April 14, 2016).

[13] 83 FR 5923 (February 12, 2018).

[14] 81 FR 1514, 1518 (January 13, 2016).

[15] *Id.*

[16] *Id.*

[17] Letter from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, with enclosures, April 27, 2017.

[18] *Id.*

[19] The following chapters in the 2016 AQMP are not relevant to the 2006 $PM_{2.5}$ NAAQS and were not reviewed as part of today's action: Chapter 7, ''Current and Future Air Quality—Desert Nonattainment Areas,'' describes the air quality status of the Coachella Valley, including emissions inventories, designations, and current and future air quality; Chapter 8, ''Looking Beyond Current

Continued

''Introduction,'' introduces the 2016 AQMP, including its purpose, historical air quality progress in the South Coast, and the District's approach to air quality planning. Chapter 2, ''Air Quality and Health Effects,'' discusses current air quality in comparison with federal health-based air pollution standards. Chapter 3, ''Base Year and Future Emissions,'' summarizes emissions inventories, estimates current emissions by source and pollutant, and projects future emissions with and without growth. Chapter 4, ''Control Strategy and Implementation,'' presents the control strategy, specific measures, and implementation schedules to attain the air quality standards by the specified attainment dates. Chapter 5, ''Future Air Quality,'' describes the modeling approach used in the 2016 AQMP and summarizes the South Coast's future air quality projections with and without the control strategy. Chapter 6, ''Federal and State Clean Air Act Requirements,'' discusses specific federal and State requirements as they pertain to the South Coast, including anti-backsliding requirements for revoked standards. Chapter 11, ''Public Process and Participation,'' describes the District's public outreach effort associated with the development of the 2016 AQMP. A ''Glossary'' is provided at the end of the document, presenting definitions of commonly used terms found in the 2016 AQMP.

The 2016 AQMP also includes numerous technical appendices, listed below:

- Appendix I (Health Effects) presents a summary of scientific findings on the health effects of ambient air pollutants.
- Appendix II (Current Air Quality) contains a detailed summary of the air quality in 2014, along with prior year trends, in both the South Coast and the Coachella Valley.
- Appendix III (Base and Future Year Emission Inventory) presents the 2012 base year emissions inventory and projected emission inventories of air pollutants in future attainment years for both annual average and summer planning inventories.
- Appendix IV–A (SCAQMD's Stationary and Mobile Source Control Measures) describes SCAQMD's proposed stationary and mobile source control measures to attain the federal ozone and $PM_{2.5}$ standards.
- Appendix IV–B (CARB's Mobile Source Strategy) describes CARB's proposed 2016 strategy to attain health-based federal air quality standards.
- Appendix IV–C (Regional Transportation Strategy and Control Measures) describes the Southern California Association of Governments' (SCAG) ''Final 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy'' and transportation control measures included in the 2016 $PM_{2.5}$ Plan.
- Appendix V (Modeling and Attainment Demonstrations) provides the details of the regional modeling for the attainment demonstration.
- Appendix VI (Compliance with Other Clean Air Act Requirements) provides the District's demonstration that the 2016 AQMP complies with specific federal and California Clean Air Act requirements.

The additional documents adopted by CARB on March 23, 2017 supplement the analysis and demonstrations adopted by the SCAQMD on March 3, 2017. In particular, the ''CARB Staff Report, ARB Review of 2016 AQMP for the South Coast Air Basin and Coachella Valley,'' (''CARB Staff Report''), includes in Appendix D a weight of evidence analysis for the SCAQMD's attainment demonstration for the 24-hour and annual $PM_{2.5}$ NAAQS. In addition, the 2016 State Strategy discusses additional statewide measures, including mobile source measures, that will help the area reach attainment of the 2006 $PM_{2.5}$ standards by the Serious area attainment date of December 31, 2019.

We present our evaluation of the 2016 $PM_{2.5}$ Plan in Section V of this proposed rule.

III. Completeness Review of the 2016 $PM_{2.5}$ Plan

CAA sections 110(a)(1) and (2) and 110(l) require each state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision to the EPA. To meet this requirement, every SIP submission should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

Both the District and CARB satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption and submission of the 2016 $PM_{2.5}$ Plan. The District conducted numerous public workshops, provided a public comment period, and held a public hearing prior to the adoption of the 2016 AQMP on March 3, 2017.[20] CARB provided the required public notice and opportunity for public comment prior to its March 23, 2017 public hearing and adoption of the 2016 AQMP and the 2016 State Strategy.[21] Each submission includes proof of publication of notices for the respective public hearings, and transcripts for the public hearings.[22] We find, therefore, that the 2016 $PM_{2.5}$ Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l).

CAA section 110(k)(1)(B) requires the EPA to determine whether a SIP submission is complete within 60 days of receipt. This section also provides that any plan that the EPA has not affirmatively determined to be complete or incomplete will become complete by operation of law six months after the date of submission. The EPA's SIP completeness criteria are found in 40 CFR part 51, Appendix V. The 2016 $PM_{2.5}$ Plan, which CARB submitted on April 27, 2017, became complete by operation of law on October 27, 2017.

IV. Clean Air Act Requirements for $PM_{2.5}$ Serious Area Plans

A. $PM_{2.5}$ Serious Area Plan Requirements

Upon reclassification of a Moderate nonattainment area as a Serious nonattainment area under subpart 4, the CAA requires a state to submit the following Serious area SIP elements:[23]

1. A comprehensive, accurate, current inventory of actual emissions from all sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the area (CAA section 172(c)(3));

2. Provisions to assure that BACM, including best available control technology (BACT), for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall

Requirements,'' assesses the South Coast air basin's status with respect to the 2015 8-hour ozone standard of 70 ppb; Chapter 9, ''Air Toxic Control Strategy,'' examines the ongoing efforts to reduce health risk from toxic air contaminants, co-benefits from reducing criteria pollutants, and potential future actions; and Chapter 10, ''Climate and Energy,'' provides a description of current and projected energy demand and supply issues in the South Coast air basin, and the relationship between air quality improvement and greenhouse gas mitigation goals.

[20] SCAQMD, Notice of Public Hearing, Proposed 2016 Air Quality Management Plan for the South Coast Air Quality Management District and Report on the Health Impacts of Particulate Matter Air Pollution in the South Coast Air Basin, December 14, 2016.

[21] CARB, ''Notice of Public Meeting to Consider Adopting the 2016 Air Quality Management Plan for Ozone and $PM_{2.5}$ for the South Coast Air Basin and the Coachella Valley,'' March 6, 2017.

[22] *See* Memorandum from Denise Garzaro, Clerk of the Board, SCAQMD, to Arlene Martinez, Administrative Secretary, Planning, Rule Development, and Area Sources, SUBJECT: SIP Documentation, January 24, 2017. *See also* California Air Resources Board, Notice of Public Meeting to Consider Adopting the 2016 Air Quality Management Plan for Ozone and $PM_{2.5}$ for the South Coast Air Basin and the Coachella Valley, March 6, 2017.

[23] *See* 81 FR 1514 (January 13, 2016) and 81 FR 58010 (August 24, 2016).

be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));

3. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019 (CAA sections 188(c)(2) and 189(b)(1)(A));

4. Plan provisions that require reasonable further progress (RFP) (CAA section 172(c)(2));

5. Quantitative milestones that are to be achieved every 3 years until the area is redesignated attainment and that demonstrate RFP toward attainment by the applicable date (CAA section 189(c));

6. Provisions to assure that control requirements applicable to major stationary sources of $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where a state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area (CAA section 189(e));

7. Contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and

8. A revision to the nonattainment new source review (NSR) program to lower the applicable ''major stationary source'' thresholds from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)).[24]

Serious area $PM_{2.5}$ plans must also satisfy: The requirements for Moderate area plans in CAA section 189(a), to the extent those requirements have not already been satisfied in the Moderate area plan submitted for the area; the general requirements applicable to all SIP submissions under section 110 of the CAA; the requirement to provide necessary assurances that the implementing agencies have adequate personnel, funding and authority under CAA section 110(a)(2)(E); and the requirements concerning enforcement provisions in CAA section 110(a)(2)(C).

The EPA provided its preliminary interpretations of the CAA's requirements for particulate matter plans under part D, title I of the Act in the following guidance documents: (1) ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (''General Preamble''); [25] (2) ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (''Supplement''); [26] and (3) ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (''Addendum'').[27]

Additionally, in an August 24, 2016 final rule entitled, ''Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements'' (''$PM_{2.5}$ SIP Requirements Rule''),[28] the EPA established regulatory requirements and provided further interpretive guidance on the statutory SIP requirements that apply to areas designated nonattainment for the $PM_{2.5}$ standards. We discuss these regulatory requirements and interpretations of the Act as appropriate in our evaluation of the 2016 $PM_{2.5}$ Plan in section V of this proposed rule.

V. Review of the South Coast Serious Area Plan Addressing the 2006 $PM_{2.5}$ NAAQS

A. Emissions Inventory

1. Requirements for Emissions Inventories

CAA section 172(c)(3) requires that each SIP include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the nonattainment area. This base year emissions inventory should provide a state's best estimate of actual emissions from all sources of the relevant pollutants in the area, *i.e.,* all emissions that contribute to the formation of a particular NAAQS pollutant. For the $PM_{2.5}$ NAAQS, the base year inventory must include direct $PM_{2.5}$ emissions, separately reported filterable and condensable $PM_{2.5}$ emissions, and emissions of all chemical precursors to the formation of secondary $PM_{2.5}$ nitrogen oxides (NO_X), sulfur dioxide (SO_2), volatile organic compounds (VOC), and ammonia (NH_3).[29]

A state must include in its SIP submission documentation explaining how the emissions data were calculated. In estimating mobile source emissions, a state should use the latest emissions models and planning assumptions available at the time the SIP is developed. A state is also required to use the EPA's *Compilation of Air Pollutant Emission Factors* (''AP–42'') road dust method for calculating re-entrained road dust emissions from paved roads.[30] [31] The latest EPA-approved version of California's mobile source emission factor model for estimating tailpipe, brake and tire wear emissions from on-road mobile sources is EMFAC2014.[32]

In addition to the base year inventory submitted to meet the requirements of CAA section 172(c)(3), the State must also submit a projected attainment year inventory and emissions projections for each reasonable further progress (RFP) milestone year.[33] These future emissions projections are necessary components of the attainment demonstration required under CAA section 189(a)(1) and (b)(1) and the demonstration of RFP required under section 172(c)(2).[34] Emissions projections for future years (referred to in the 2016 $PM_{2.5}$ Plan as ''baseline inventories'' or ''future baseline inventories'') should account for, among other things, the ongoing effects of economic growth and adopted emissions control requirements. The SIP should include documentation to

[24] For any Serious area, the terms ''major source'' and ''major stationary source'' include any stationary source that emits or has the potential to emit at least 70 tons per year of PM_{10} (CAA section 189(b)(3)).

[25] 57 FR 13498 (April 16, 1992).

[26] 57 FR 18070 (April 28, 1992).

[27] 59 FR 41998 (August 16, 1994).

[28] 81 FR 58010.

[29] 40 CFR 51.1008.

[30] The EPA released an update to AP–42 in January 2011, which revised the equation for estimating paved road dust emissions based on an updated data regression that included new emission tests results. *See* 76 FR 6328 (February 4, 2011). CARB used the revised 2011 AP–42 methodology in developing on-road mobile source emissions; *see https://www.arb.ca.gov/ei/areasrc/fullpdf/full7-9_2016.pdf.*

[31] AP–42 is the EPA's Compilation of Air Pollutant Emission Factors, and has been published since 1972 as the primary source of the EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories. A source category is a specific industry sector or group of similar emitting sources. The emission factors have been developed and compiled from source test data, material balance studies, and engineering estimates.

[32] 80 FR 77337 (December 14, 2015). EMFAC is short for *EM*ission *FAC*tor. The EPA announced the availability of the EMFAC2014 model for use in state implementation plan development and transportation conformity in California on December 14, 2015. The EPA's approval of the EMFAC2014 emissions model for SIP and conformity purposes was effective on the date of publication of the notice in the **Federal Register**. EMFAC2014 must be used for all new regional emissions analyses and CO, PM_{10} and $PM_{2.5}$ hot-spot analyses that are started on or after December 14, 2017, which is the end of the grace period for EMFAC2014.

[33] *See* 40 CFR 51.1008 and 51.1012; *see also* U.S. EPA, ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' (July 2017), available at *https://www.epa.gov/air-emissions-inventories/air-emissions-inventory-guidance-implementation-ozone-and-particulate.*

[34] *See* 40 CFR 51.1004, 51.1008, 51.1011, and 51.1012.

explain how the emissions projections were calculated.

2. Emissions Inventories in the 2016 $PM_{2.5}$ Plan

The annual average daily planning inventories for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors (NO_X, SO_X, VOC, and ammonia) [35] for the South Coast $PM_{2.5}$ nonattainment area together with documentation for the inventories are found in Chapter 3, Appendix III and Appendix V of the 2016 AQMP. Appendix V also contains additional inventory documentation specific to the air quality modeling inventories. These portions of the 2016 AQMP contain annual average daily inventories of actual emissions for the base year of 2012 and projected inventories for the future RFP baseline year of 2017 and the attainment year of 2019, as well as the post-attainment RFP year of 2020.[36] The annual average daily inventory is used to evaluate sources of emissions for attainment of the 24-hour $PM_{2.5}$ NAAQS.

Future emissions forecasts are primarily based on demographic and economic growth projections provided by SCAG, the metropolitan planning organization (MPO) for the Los Angeles area. Baseline inventories reflect all district control measures adopted prior to December 2015 and CARB rules adopted by November 2015. Growth factors used to project these baseline inventories are derived mainly from data obtained from SCAG.[37]

The emissions inventory is divided into two major source classifications: Stationary sources and mobile sources, which include on-road and non-road sources of emissions. Stationary sources include point and area sources. Point sources in the South Coast air basin that emit more than 4 tons per year (tpy) or more of VOC, NO_X, SO_2, or PM report annual emissions to the District. Point source emissions for the 2012 base year emissions inventory are generally based on reported data from facilities using the District's Annual Emissions Reporting (AER) program.[38] Area sources include smaller emissions sources distributed across the nonattainment area. CARB and the District estimate emissions for about 400 area source categories using established inventory methods, including publicly-available emission factors and activity information. Activity data may come from national survey data such as from the Energy Information Administration or from local sources such as the Southern California Gas Company, paint suppliers, and district databases. Emission factors can be based on a number of sources including source tests, compliance reports, and the EPA's AP–42.

Emissions inventories are constantly being revised and improved. Between the finalization of California's plan addressing Moderate area requirements for the 2006 $PM_{2.5}$ NAAQS in the South Coast (''2012 $PM_{2.5}$ Plan'') and the development of the 2016 $PM_{2.5}$ Plan, the District improved and updated its emissions estimation methodologies for liquefied petroleum gas combustion sources, natural gas combustion sources, NO_X emission sources subject to the District's Regional Clean Air Incentives Market (RECLAIM) program (based on 2015 program amendments), livestock waste management operations, gasoline dispensing facilities, composting operations, oil and gas production, and architectural coatings.

On-road emissions inventories are calculated using CARB's EMFAC2014 model and the travel activity data provided by SCAG in ''The 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy.'' [39] Re-entrained paved road dust emissions were calculated using the EPA's AP–42 road dust methodology.[40]

CARB provided emission inventories for off-road equipment, including construction and mining equipment, industrial and commercial equipment, lawn and garden equipment, agricultural equipment, ocean-going vessels, commercial harbor craft, locomotives, cargo handling equipment, pleasure craft, and recreational vehicles. CARB uses several models to estimate emissions for more than one hundred off-road equipment categories.[41] Aircraft emissions are developed in conjunction with the airports in the region.

Table 1 provides a summary of the District's 2012 base year emissions estimates as annual averages, for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors. These inventories provide the basis for the control measure analysis and the RFP and attainment demonstrations in the 2016 $PM_{2.5}$ Plan. For a more detailed discussion of the inventories, see Appendix III of the 2016 AQMP.

TABLE 1—SOUTH COAST 2012 BASE YEAR EMISSIONS

[Annual average, tons/day]

	Direct $PM_{2.5}$	NO_X	SO_2	VOC	Ammonia
Stationary and Area Sources	44	70	10	212	63
On-Road Mobile Sources	14	317	2	158	18
Off-Road Mobile Sources	8	153	6	100	0
Total	66	540	18	470	81

Source: 2016 AQMP, Chapter 3, Table 3–1A. Values may not be precise due to rounding.

Condensable Particulate Matter

The $PM_{2.5}$ SIP Requirements Rule states that ''[t]he inventory shall include direct $PM_{2.5}$ emissions, separately reported $PM_{2.5}$ filterable and condensable emissions, and emissions of the scientific $PM_{2.5}$ precursors, including precursors that are not $PM_{2.5}$ plan precursors pursuant to a precursor demonstration under § 51.1006.'' [42] On June 26, 2018, SCAQMD submitted a technical supplement containing emissions estimates for both condensable and filterable $PM_{2.5}$ emissions from specified sources of

[35] The 2016 $PM_{2.5}$ Plan generally uses ''sulfur oxides'' or ''SO_X'' in reference to SO_2 as a precursor to the formation of $PM_{2.5}$. We use ''SO_X'' and ''SO_2'' interchangeably throughout this notice.

[36] The 2016 $PM_{2.5}$ Plan includes summer day inventories for ozone planning purposes and both a Moderate area plan and a Serious area plan for the 2012 $PM_{2.5}$ NAAQS. The 2016 $PM_{2.5}$ Plan therefore includes annual average and summer day inventories for all years between 2017 and 2031, except 2029.

[37] *See* 2016 AQMP, Appendix III, page III–2–6.

[38] *See http://www.aqmd.gov/regulations/compliance/annual-emission-reporting.*

[39] *See http://scagrtpscs.net/Pages/FINAL2016RTPSCS.aspx.*

[40] *See* CARB, Miscellaneous Process Methodology 7.9 Entrained Road Travel, Paved Road Dust, (Revised and updated, November 2016) available at *https://www.arb.ca.gov/ei/areasrc/fullpdf/full7-9_2016.pdf.*

[41] *See* 2016 $PM_{2.5}$ Plan, Appendix III, p. III–1–24.

[42] 40 CFR 51.1008(a)(1)(iv).

direct $PM_{2.5}$ in the South Coast area.[43] The supplement provides filterable and condensable emissions estimates, expressed as annual average $PM_{2.5}$ emissions, for all of the identified source categories for the 2012 base year, the 2017 RFP year, and the 2019 attainment year, as well as subsequent years.[44]

The 2016 $PM_{2.5}$ Plan relies on several SIP-approved rules that regulate direct PM emissions as part of the $PM_{2.5}$ control strategy (*e.g.,* Rule 445 (Wood-Burning Devices), adopted March 7, 2008, most recently revised May 3, 2013; Rule 1138 (Control of Emissions from Restaurant Operations), adopted November 14, 1997; and Rule 1155 (Particulate Matter (PM) Control Devices), adopted December 4, 2009, amended May 2, 2014). As part of our action on any rules that regulate direct $PM_{2.5}$ emissions, we evaluate the emissions limits in the rule to ensure that they appropriately address condensable PM, as required by 40 CFR 51.1010(e). We note that the SIP-approved version of Rule 1138 requires testing according to the District's protocol, which requires measurement of both condensable and filterable PM in accordance with SCAQMD Test Method 5.1.[45] We also note that the SIP-approved version of Rule 1155 requires measurement of both condensable and filterable PM in accordance with SCAQMD Test Methods 5.1, 5.2, or 5.3 as applicable.[46] [47]

3. EPA's Evaluation and Proposed Action

The emissions inventories in the 2016 $PM_{2.5}$ Plan were made available to the public for comment and were subject to public hearing at both the District and State levels.[48]

The inventories in the 2016 $PM_{2.5}$ Plan are based on the most current and accurate information available to the State and District at the time the Plan and its inventories were being developed, including the latest EPA-approved version of California's mobile source emissions model, EMFAC2014, and the EPA's most recent AP–42 methodology for paved road dust.[49] The inventories comprehensively address all source categories in the South Coast and were developed consistent with the EPA's inventory guidance. In accordance with 40 CFR 51.1008(b), the 2012 base year is one of the three years for which monitored data were used for reclassifying the area to Serious, and it represents actual annual average emissions of all sources within the nonattainment area. Direct $PM_{2.5}$ and all $PM_{2.5}$ precursors are included in the inventories, and filterable and condensable direct $PM_{2.5}$ emissions are identified separately. For these reasons, we are proposing to approve the 2012 base year emissions inventory in the 2016 $PM_{2.5}$ Plan as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008. We are also proposing to find that the future baseline inventories in the Plan provide an adequate basis for the BACM, RFP, and attainment demonstrations in the 2016 $PM_{2.5}$ Plan.

B. $PM_{2.5}$ Precursors

1. Requirements for the Control of $PM_{2.5}$ Precursors

The composition of $PM_{2.5}$ is complex and highly variable due in part to the large contribution of secondary $PM_{2.5}$ to total fine particle mass in most locations, and to the complexity of secondary particle formation processes. A large number of possible chemical reactions, often non-linear in nature, can convert gaseous SO_2, NO_X, VOC, and ammonia to $PM_{2.5}$, making them precursors to $PM_{2.5}$.[50] Formation of secondary $PM_{2.5}$ may also depend on atmospheric conditions, including solar radiation, temperature, and relative humidity, and the interactions of precursors with preexisting particles and with cloud or fog droplets.[51]

The 2007 $PM_{2.5}$ Implementation Rule contained rebuttable presumptions concerning the four $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans.[52] Although the rule included presumptions that states should address SO_2 and NO_X emissions in their attainment plans, it also included presumptions that regulation of VOCs and ammonia was not necessary. Specifically, in 40 CFR 51.1002(c) (as effective July 1, 2007), the EPA provided, among other things, that a state was ''not required to address VOC [and ammonia] as . . . $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and ammonia] emissions in the state for control measures,'' unless the state or the EPA provided an appropriate technical demonstration showing that emissions from sources of these pollutants ''significantly contribute'' to $PM_{2.5}$ concentrations in the nonattainment area.[53]

In *NRDC,* however, the United States Court of Appeals for the D.C. Circuit (''D.C. Circuit'') remanded the EPA's 2007 $PM_{2.5}$ Implementation Rule in its entirety, including the presumptions concerning VOC and ammonia in that rule.[54] Although the court expressly declined to decide the specific challenge to these presumptions concerning precursors,[55] the court cited CAA section 189(e) [56] to support its observation that ''[a]mmonia is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}'' and that ''[f]or a PM_{10} nonattainment area governed by subpart 4, a precursor is presumptively regulated.'' [57] Consistent with the *NRDC* decision, the EPA now interprets the Act to require that under subpart 4, a state must evaluate all $PM_{2.5}$ precursors for regulation unless, for any given $PM_{2.5}$ precursor, it demonstrates to the Administrator's satisfaction that such precursor does not contribute

[43] Letter from Philip Fine, Deputy Executive Officer, SCAQMD, to Amy Zimpfer, Associate Director, EPA Region IX, regarding ''Condensable and Filterable Portions of $PM_{2.5}$ emissions in the 2016 AQMP,'' June 26, 2018.

[44] *Id.* at Appendix A.

[45] *See* Rule 1138 (adopted November 14, 1997, approved July 11, 2001 at 66 FR 36170), paragraph (c)(1) and (g) and SCAQMD Protocol paragraph 3.1, and SCAQMD Protocol, *Determination of Particulate and Volatile Organic Compound Emissions from Restaurant Operations,* November 14, 1997 (available at *http://yosemite.epa.gov/R9/R9Testmethod.nsf/0/3D4DEB4D21AB4AAF882570AD005DFF69/$file/SC%20Rest%20emiss.pdf*).

[46] *See* Rule 1155 (adopted December 4, 2009, revised May 2, 2014, approved into the SIP March 16, 2015 at 80 FR 13495), paragraph (e)(6).

[47] *See* SCAQMD Test Method 5.1, *Determination of Particulate Matter Emissions from Stationary Sources Using a Wet Impingement Train,* March 1989; SCAQMD Test Method 5.2, *Determination of Particulate Matter Emissions from Stationary Sources Using Heated Probe and Filter,* March 1989; and SCAQMD Test Method 5.3, *Determination of Particulate Matter Emissions from Stationary Sources Using an in-Stack Filter,* October 2005.

[48] *See* SCAQMD Board Resolution 17–2, p.3 and CARB Resolution 17–8, p. 4.

[49] CARB submitted the EMFAC2014 model to the EPA on May 21, 2015, and the EPA approved the model for use in California SIPs. 80 FR 77337 (December 14, 2015).

[50] EPA, Air Quality Criteria for Particulate Matter (EPA/600/P–99/002aF, October 2004), Chapter 3.

[51] EPA, Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter (EPA/452/R–12–005, December 2012), p. 2–1.

[52] 40 CFR 51.1002(c) (as effective July 1, 2007).

[53] 40 CFR 51.1002(c)(3), (4) (as effective July 1, 2007). *See also* 2007 $PM_{2.5}$ Implementation Rule, 72 FR 20586 at 20589–97 (April 25, 2007).

[54] *NRDC* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013).

[55] *Id.* at 437, n. 10.

[56] Section 189(e) of the CAA states that ''[t]he control requirements applicable under plans in effect under this part for major stationary sources of PM_{10} shall also apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the standard in the area.''

[57] 706 F.3d at 436, n. 7 (D.C. Cir. 2013).

significantly to $PM_{2.5}$ levels that exceed the NAAQS in the nonattainment area.

The provisions of subpart 4 do not define the term ''precursor'' for purposes of $PM_{2.5}$, nor do they explicitly require the control of any specifically identified PM precursor. The statutory definition of ''air pollutant,'' however, provides that the term ''includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.'' [58] The EPA has identified SO_2, NO_X, VOC, and ammonia as precursors to the formation of $PM_{2.5}$. Accordingly, the attainment plan requirements of subpart 4 apply to emissions of all four precursor pollutants and direct $PM_{2.5}$ from all types of stationary, area, and mobile sources, except as otherwise provided in the Act (*e.g.,* CAA section 189(e)).

Section 189(e) of the Act requires that the control requirements for major stationary sources of direct PM_{10} also apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the standard in the area. Section 189(e) contains the only express exception to the control requirements under subpart 4 (*e.g.,* requirements for reasonably available control measures (RACM) and reasonably available control technology (RACT), BACM and BACT, most stringent measures (MSM), and NSR) for sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursor emissions. Although section 189(e) explicitly addresses only major stationary sources, the EPA interprets the Act as authorizing it also to determine, under appropriate circumstances, that regulation of specific $PM_{2.5}$ precursors from other source categories in a given nonattainment area is not necessary. For example, under the EPA's longstanding interpretation of the control requirements that apply to stationary, area, and mobile sources of PM_{10} precursors in the nonattainment area under CAA section 172(c)(1) and subpart 4,[59] a state may demonstrate in a SIP submission that control of a certain precursor pollutant is not necessary in light of its insignificant contribution to ambient PM_{10} levels in the nonattainment area.[60]

The $PM_{2.5}$ SIP Requirements Rule recognizes that the treatment of $PM_{2.5}$ precursors is an important issue in developing a $PM_{2.5}$ attainment plan.[61] The rule provides flexibility for areas where a particular $PM_{2.5}$ precursor or precursors may not contribute significantly to $PM_{2.5}$ levels that exceed the NAAQS. The rule provides for optional precursor demonstrations that a state may choose to submit to the EPA to establish that sources of particular precursors need not be regulated for purposes of attainment planning or in the nonattainment NSR (NNSR) permitting program for a specific nonattainment area.

We are evaluating the 2016 $PM_{2.5}$ Plan in accordance with the presumption embodied within subpart 4 that all $PM_{2.5}$ precursors must be addressed in the State's evaluation of potential control measures, unless the State adequately demonstrates that emissions of a particular precursor or precursors do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the $PM_{2.5}$ NAAQS in the nonattainment area. In reviewing any determination by the State to exclude a $PM_{2.5}$ precursor from the required evaluation of potential control measures, we consider both the magnitude of the precursor's contribution to ambient $PM_{2.5}$ concentrations in the nonattainment area and the sensitivity of ambient $PM_{2.5}$ concentrations in the area to reductions in emissions of that precursor.

2. Evaluation of Precursors in the 2016 $PM_{2.5}$ Plan

The 2016 PM_2 Plan discusses the five primary pollutants that contribute to the mass of the ambient aerosol (*i.e.,* ammonia, NO_X, SO_2, VOC, and directly emitted $PM_{2.5}$) and states that various combinations of reductions in these pollutants could all provide a path to clean air.[62] The 2016 $PM_{2.5}$ Plan assesses and presents the relative effectiveness of each ton of precursor emission reductions, considering the resulting ambient improvements in $PM_{2.5}$ air quality measured in micrograms per cubic meter.[63] As presented in the weight of evidence discussion in the 2016 $PM_{2.5}$ Plan, trends of $PM_{2.5}$ and NOx emissions suggest a direct response between lower emissions and improved air quality. The Community Multiscale Air Quality Modeling System (CMAQ) simulations in the 2016 $PM_{2.5}$ Plan provide a set of response factors for direct $PM_{2.5}$, NO_X, SO_2 and VOCs, based on improvements to ambient 24-hour $PM_{2.5}$ levels resulting from reductions of each pollutant. The contribution of ammonia emissions is embedded as a component of the SO_2 and NO_X factors because ammonium nitrate and ammonium sulfate are the resultant particulate species formed in the atmosphere.

The 2016 $PM_{2.5}$ Plan describes how reductions in NO_X, SO_2, VOC and ammonia precursor emissions contribute to attainment of the $PM_{2.5}$ standard in the South Coast area and contain the District's evaluation of available control measures for all four of these $PM_{2.5}$ precursor pollutants, in addition to direct $PM_{2.5}$, consistent with the regulatory presumptions under subpart 4. The 2016 $PM_{2.5}$ Plan also contains a discussion of the control requirements applicable to major stationary sources under CAA section 189(e).[64]

3. Proposed Action

Based on a review of the information provided in the 2016 $PM_{2.5}$ Plan and other information available to the EPA, we agree with the State's conclusion that all four chemical precursors to $PM_{2.5}$ must be regulated for purposes of attaining the 2006 $PM_{2.5}$ NAAQS in the South Coast area. We discuss the state's evaluation of potential control measures for direct $PM_{2.5}$, NO_X, SO_2, VOC and ammonia in section V.C below.

C. Best Available Control Measures

1. Requirements for Best Available Control Measures

For any serious $PM_{2.5}$ nonattainment area, section 189(b)(1)(B) of the Act requires that a state submit provisions to assure that BACM for the control of $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than four years after the date the area is reclassified as a serious area. The EPA defines BACM as, among other things, the maximum

[58] *See* CAA section 302(g).

[59] General Preamble, 57 FR 13498 at 13539–42 (April 16, 1992).

[60] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}. *See, e.g., Assoc. of Irritated Residents* v. *EPA, et al.,* 423 F.3d 989 (9th Cir. 2005).

[61] *See, e.g.,* 81 FR 58010 at 58017.

[62] 2016 $PM_{2.5}$ Plan, Appendix VI, p. VI–F–1, as well as Appendix V, p. V–5–51 and Appendix V, Attachment 8, Relative Contributions of Precursor Emissions Reductions to Simulated Controlled Future-Year 24-hour $PM_{2.5}$ Concentrations.

[63] 2016 $PM_{2.5}$ Plan, Appendix V, Attachment 8, Relative Contributions of Precursor Emissions Reductions to Simulated Controlled Future-Year 24-hour $PM_{2.5}$ Concentrations.

[64] S*ee* 2016 $PM_{2.5}$ Plan at Appendix VI–F. In a separate rulemaking to approve revisions to SCAQMD's nonattainment New Source Review (NNSR) program, the EPA determined that the control requirements applicable under the SCAQMD SIP to major stationary sources of direct $PM_{2.5}$ also apply to major stationary sources of NO_X, SO_2, and VOC, and that major stationary sources of ammonia do not contribute significantly to $PM_{2.5}$ levels which exceed the $PM_{2.5}$ standards in the area. *See* 80 FR 24821 (May 1, 2015). This rulemaking addressed the control requirements of CAA section 189(e) only for NNSR purposes and not for attainment planning purposes under subpart 1 and 4 of part D, title I of the Act.

degree of emissions reduction achievable for a source or source category, which is determined on a case-by-case basis considering energy, environmental, and economic impacts.[65] We generally consider BACM a control level that goes beyond existing RACM-level controls, for example by expanding the use of RACM controls or by requiring preventative measures instead of remediation.[66] Indeed, as implementation of BACM and BACT is required when a Moderate nonattainment area is reclassified as Serious due to its inability to attain the NAAQS through implementation of ''reasonable'' measures, it is logical that ''best'' control measures should represent a more stringent and potentially more costly level of control.[67]

Section 189(b)(1)(B) of the Act allows states, in appropriate circumstances, to delay implementation of BACM until the date four years after reclassification. Because the EPA reclassified the South Coast area as a Serious area for the 2006 $PM_{2.5}$ NAAQS effective February 12, 2016, the date four years after reclassification is February 12, 2020. In this case, however, all BACM for $PM_{2.5}$ and $PM_{2.5}$ precursors in the South Coast must be implemented no later than December 31, 2019, the outermost statutory attainment date for the South Coast area under section 188(c)(2).[68]

Under the $PM_{2.5}$ SIP Requirements Rule, control measures that can be implemented in whole or in part by the end of the fourth year following an area's reclassification as a Serious area are considered BACM, and control measures that can only be implemented after this period but before the attainment date are considered ''additional feasible measures.'' [69] The EPA has defined ''additional feasible measures'' as ''those measures and technologies that otherwise meet the criteria for BACM/BACT but that can only be implemented in whole or in part beginning 4 years after reclassification of an area, but no later than the statutory attainment date for the area.'' [70] Given that the statutory attainment date is less than three years from the effective date of the reclassification of the South Coast area, additional feasible measures are not required in this particular case.

The Addendum and the $PM_{2.5}$ SIP Requirements Rule discuss the following steps for determining BACM:

1. Develop a comprehensive emission inventory of the sources of directly-emitted $PM_{2.5}$ and $PM_{2.5}$ precursors;
2. Identify potential control measures;
3. Determine whether an available control measure or technology is technologically feasible; and
4. Determine whether an available control technology or measure is economically feasible.[71]

Once these analyses are complete, a state must use this information to develop enforceable control measures and submit them to the EPA for evaluation under CAA section 110. We use these steps as guidelines in our evaluation of the BACM measures and related analyses in the 2016 $PM_{2.5}$ Plan.

2. BACM Analysis in the 2016 $PM_{2.5}$ Plan

a. Identifying the Sources of $PM_{2.5}$ and $PM_{2.5}$ Precursors

The first step in determining BACM is to develop a detailed emissions inventory of the sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors that can be used with modeling to determine the effects of these sources on ambient $PM_{2.5}$ levels. As discussed in section V.A of this proposed rule, Chapter 3 and Appendix III of the 2016 AQMP contain the planning inventories for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors (NO_X, SO_2, VOC, and ammonia) for the South Coast $PM_{2.5}$ nonattainment area together with documentation to support these inventories. Based on these inventories, the District identified the following source categories as key emission sources in the South Coast nonattainment area:

- Residential Fuel Combustion—Wood Combustion—Wood Stoves
- Farming Operations—Livestock Wastes
- Paved Road Dust—Paved Road Travel Dust—Local Streets
- Cooking—Commercial Charbroiling
- Other (Miscellaneous Processes)—Other[72]
- Light-Duty Passenger— Catalyst Hot Stabilized
- Light-Duty Passenger—Catalyst Brake Wear
- Light-Duty Trucks 2—Catalyst Hot Stabilized
- Medium-Duty Trucks—Catalyst Hot Stabilized
- Medium-Heavy-Duty Diesel Trucks—Diesel Hot Stabilized
- Heavy-Heavy-Duty Diesel Trucks—Diesel Hot Stabilized
- Commercial/Industrial Mobile Equipment—Construction and Mining.[73]

Of these 12 source categories, the District identified four categories that it has the authority to regulate:

- Residential Fuel Combustion—Wood combustion—Wood stoves
- Farming operations—Livestock Waste
- Paved Road dust—Paved Road Travel Dust—Local Streets
- Cooking—Commercial Charbroiling.[74]

Appendix VI of the 2016 AQMP identifies the stationary, area, and mobile sources of direct $PM_{2.5}$, NO_X, VOC, SO_2 and ammonia in the South Coast that are subject to State or District emissions control measures, or transportation control measures implemented by the SCAG. Table VI–A–6 of the 2016 AQMP lists the key source categories together with each source category's 2012 emissions levels expressed as ''$PM_{2.5}$-equivalent'' emissions in tons per day (tpd).

Based on this identification of stationary, area, and mobile sources of direct $PM_{2.5}$, NO_X, VOC, SO_2 and ammonia in the South Coast, we believe the 2016 $PM_{2.5}$ Plan appropriately identifies all emission sources and source categories that must be subject to evaluation for potential control measures consistent with the requirements of subpart 4.

b. Identification and Implementation of BACM

As part of its process for identifying candidate BACM and considering the technical and economic feasibility of additional control measures, CARB, the District and SCAG reviewed the EPA's guidance documents on BACM, guidance documents on control measures for direct $PM_{2.5}$, NO_X, VOC, ammonia and SO_2 emissions sources, and control measures implemented in other ozone and $PM_{2.5}$ nonattainment areas in California and other states. The State, District, and SCAG's evaluations of potential BACM for each source category identified above are found in

[65] Addendum at 42010, 42013.

[66] *Id.* at 42011, 42013.

[67] *Id.* at 42009–42010.

[68] CAA section 189(b)(1)(B) establishes an outermost deadline (''no later than four years after the date the area is reclassified'') and does not preclude an earlier implementation deadline for BACM where necessary to satisfy the attainment requirements of the Act.

[69] 40 CFR 51.1010(a)(4). ''Additional feasible measures'' may be necessary in certain circumstances to implement the requirements of CAA section 172(c)(6), which states that nonattainment area plans shall include enforceable emission limitations and such other control measures, means or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of the NAAQS by the applicable attainment date.

[70] 40 CFR 51.1000.

[71] *Addendum.* at 42012–42014, and 81 FR 58010 (August 24, 2016) at 58084–58085.

[72] This source category includes ammonia emissions from humans, pets, diapers and household ammonia use. *See* electronic mail from Kalam Cheung, SCAQMD, to Wienke Tax, EPA Region IX, September 29, 2017.

[73] 2016 AQMP, Appendix VI, p. VI–A–14, Table VI–A–6.

[74] *Id.*

Appendix IV–A, Appendix IV–B, Appendix IV–C, and Appendix VI of the 2016 AQMP. In the following sections, we review key components of the State, District, and SCAG's demonstrations concerning BACM for the identified sources of direct $PM_{2.5}$, NO_X, VOC, SO_2 and ammonia emissions in the South Coast. We provide a more detailed evaluation of several of the District's regulations in our technical support document (TSD),[75] together with recommendations for possible improvements to these rules.

Based on our evaluation of these demonstrations, we propose to determine that the 2016 $PM_{2.5}$ Plan provides for the implementation of BACM for sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors as expeditiously as practicable, for the purposes of the 2006 $PM_{2.5}$ NAAQS in the South Coast area in accordance with the requirements of CAA section 189(b)(1)(B) and 40 CFR 51.1010.

i. State and District Measures for Stationary and Area Sources

The District's BACM process and control measure evaluations are described in detail in Appendix IV–A and Appendix VI of the 2016 AQMP. For each identified source category, the District identified both its adopted control measures and potential additional control measures based on measures implemented in other areas, measures identified in EPA regulations or guidance (*e.g.,* in control technique guidelines (CTGs), alternative control technique documents (ACTs), new source performance standards (NSPSs), or in the EPA's ''Menu of Control Measures for NAAQS Implementation''), or measures identified in prior EPA rulemaking documents (*e.g.,* recommendations in the EPA's technical support documents for prior SIP actions).[76] [77] The District evaluated these potential additional control measures to determine whether implementation of the measures would be technologically and economically feasible in the South Coast.[78] In addition, the District considered other available control options (beyond those included in other SIPs or identified in federal/state regulations or guidance), such as measures that the State or District have previously considered ''beyond RACM.'' The District also evaluated these potential control measures to determine whether implementation would be technologically and economically feasible in the South Coast.

Residential Wood-Burning Devices

SCAQMD Rule 445 (''Wood-Burning Devices''), amended May 3, 2013, establishes requirements for the sale, operation, and installation of wood-burning devices within the South Coast air basin that are designed to reduce PM emissions from such devices. The EPA approved Rule 445, as amended, into the California SIP on September 26, 2013.[79]

Under Rule 445, persons who manufacture, sell, or install wood-burning devices, commercial firewood sellers, and property owners or tenants who operate wood-burning devices are subject to specific requirements concerning the types of wood-burning devices that may be manufactured, sold, or installed, the types of fuels that may be burned in such devices, and labeling requirements. Rule 445 also establishes a mandatory winter wood-burning curtailment whenever the Executive Officer declares that ambient $PM_{2.5}$ levels are forecasted to exceed 30 $\mu g/m^3$ at specified source receptor areas.

The District compared the requirements of Rule 445 to several rules implemented elsewhere in California that are designed to limit PM emissions from residential wood-burning devices. Based on this review, the District concludes that Rule 445 is generally equivalent to these other rules. Rule 445 does not require the removal of old wood stoves upon resale of a home, as do rules implemented in several other areas, but it does contain a categorical prohibition on the installation of any wood-burning device in new residential developments. Several other air districts prohibit or limit the installation of non-certified wood-burning devices but allow for installation of EPA-certified devices in new developments.

Based on our evaluation of the information provided in the 2016 AQMP and additional information obtained during our review of the Plan, we agree with the SCAQMD's conclusion that Rule 445 implements BACM for the control of $PM_{2.5}$ from residential wood-burning devices.

Confined Animal Facilities and Livestock Waste

SCAQMD Rule 1127 (''Emission Reductions from Livestock Waste''), adopted August 6, 2004, and Rule 223 (''Emission Reduction Permits for Large Confined Animal Facilities''), adopted June 2, 2006, together establish requirements to reduce emissions of ammonia, VOCs, and other pollutants emitted from confined animal facilities and related operations. The EPA approved Rule 1127 and Rule 223 into the California SIP on May 23, 2013 and July 13, 2015, respectively.[80]

Rule 1127 applies to dairy farms with 50 or more cows, heifers, and/or calves and to manure processing operations, such as composting operations and anaerobic digesters. The rule requires operators of dairy farms and manure processing operations to use specified best management practices to reduce pollutant emissions during the removal and disposal of manure from corrals, among other things. Rule 223 applies to large confined animal facilities (LCAFs) and prohibits owners/operators of such facilities from building, altering, replacing or operating an LCAF without first obtaining a permit from the District. The permit application must include, among other things, an emissions mitigation plan that identifies the mitigation measures to be implemented at the facility. For each source category covered by the rule, owners/operators must implement a prescribed number of mitigation measures among a list of options or as approved by the District, CARB, and the EPA.

The District compared the key requirements of Rule 1127 and Rule 223 to analogous requirements implemented in other parts of California and in Idaho. Based on this evaluation, the District concludes that Rule 1127 and Rule 223 together establish requirements for confined animal facilities and related operations that are generally equivalent to the requirements in these other areas. The District also considered several additional control methods to further reduce ammonia emissions from livestock waste, including application of acidifiers (sodium bisulfate), dietary manipulation, feed additives, manure slurry injection, and microbial/manure additives. The 2016 AQMP contains a commitment by the District to adopt in 2019 an additional ammonia control measure for livestock waste to be implemented in 2020. The proposed measure is identified in the plan as BCM–04.[81]

[75] US EPA Region 9, *Technical Support Document for the Proposed Approval of South Coast AQMD's Serious Area Plan for the 2006 $PM_{2.5}$* National Ambient Air Quality Standards (Docket Number EPA–R09–OAR–2017–0490), September 2018.

[76] 2016 AQMP, Appendix VI, pp. VI–A–12 to VI–A–36.

[77] The Menu of Control Measures can be found at *https://www.epa.gov/air-quality-implementation-plans/menu-control-measures-naaqs-implementation.*

[78] 2016 AQMP, Appendix VI, pp. VI–A–32 to VI–A–40.

[79] 78 FR 59249.

[80] 78 FR 30768 and 80 FR 39966.

[81] *See* 2016 AQMP, Chapter 4, Table 4–7; 2016 AQMP, Appendix IV–A, pp. IV–A–202 to IV–A–209

Based on our evaluation of the information provided in the 2016 AQMP and additional information obtained during our review of the Plan, we agree with the SCAQMD's conclusion that Rule 1127 and Rule 223 together implement BACM for the control of ammonia and VOCs from confined animal facilities and related operations.

Paved and Unpaved Roads and Livestock Operations

Rule 1186 (''PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations''), amended July 11, 2008, establishes requirements to reduce the entrainment of particulate matter as a result of vehicular travel on paved and unpaved public roads and livestock operations. The EPA approved Rule 1186 into the California SIP on March 7, 2012.[82]

Under Rule 1186, owners and operators of paved roads with average daily vehicle trips exceeding certain thresholds must remove visible roadway accumulation within specified periods of time and provide curbing or paved shoulders of certain widths when constructing new or widened roads. Rule 1186 also requires local government agencies that own or maintain paved roads to procure only certified street sweeping equipment for routine street sweeping; establishes requirements for owners and operators of certain unpaved roads to pave, apply chemical stabilization, or install signs to reduce vehicular speeds; and requires owners and operators of livestock operations to cease hay grinding activities during certain times of day, if visible emissions extend more than 50 feet from a hay grinding source.

The District compared the key requirements of Rule 1186 to analogous requirements implemented in other parts of California and in Nevada. Based on this evaluation, the District concludes that Rule 1186 is generally equivalent to the requirements in these other areas. To further reduce $PM_{2.5}$ emissions in areas with high vehicular activity, the District also considered several additional control techniques, such as increasing the frequency of street sweeping with certified equipment and specifying the most effective track out prevention measures. The District concludes that an increase in the required frequency of street sweeping is not economically feasible at this time because most areas in the South Coast air basin already require regular street sweeping and a requirement to conduct more frequent street sweeping would achieve only minimal emission reductions.

Based on our evaluation of the information provided in the 2016 AQMP and additional information obtained during our review of the Plan, we agree with the SCAQMD's conclusion that Rule 1186 implements BACM for the control of $PM_{2.5}$ from paved and unpaved roads and livestock operations.

Commercial Charbroiling

SCAQMD Rule 1138 (''Control of Emissions from Restaurant Operations''), adopted November 14, 1997, establishes control requirements to reduce PM and VOC emissions from ''chain-driven'' charbroilers at commercial cooking operations. The rule does not apply to ''under-fired'' charbroilers. EPA approved Rule 1138 into the California SIP on July 11, 2001.[83]

Under Rule 1138, chain-driven charbroilers that cook more than 875 pounds of meat per week are required to be equipped and operated with a catalytic oxidizer control device that has been tested and certified by the Executive Officer to reduce PM and VOC emissions. The District compared the requirements of Rule 1138 to several rules implemented in other parts of California and in other states that are designed to limit PM and/or VOC emissions from commercial charbroilers. Based on its review of analogous regulations implemented in these other areas, the District concludes that Rule 1138 is generally equivalent to those regulations.

Several times over the past 20 years and most recently in 2009, the District considered amending Rule 1138 to regulate PM emissions from under-fired charbroilers, but to date the District has not identified control measures for under-fired charbroilers that are both technologically and economically feasible for implementation in the South Coast. Although three other local agencies have adopted control requirements that apply to under-fired charbroilers (the Bay Area Air Quality Management District, the New York City Department of Environmental Protection, and the City of Aspen, Colorado), no commercially-available control devices for under-fired charbroilers have yet been found to meet these control requirements.[84] The 2016 AQMP contains a commitment by the District to adopt a control measure in 2018 that requires controls on under-fired charbroilers by 2025. The proposed measure is identified in the Plan as BCM–01.[85]

Based on our evaluation of the information provided in the 2016 AQMP and additional information obtained during our review of the Plan, we agree with the SCAQMD's conclusion that Rule 1138 and BCM–01 together implement BACM for the control of $PM_{2.5}$ from commercial charbroilers.

Consumer Products

CARB and the SCAQMD both have well-established programs to regulate VOC emissions from consumer products used by both household and institutional consumers, including detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products. Specifically, CARB has adopted three regulations that establish VOC and reactivity limits for 129 consumer product categories.[86] The first regulation (Article 1) covers the categories of antiperspirants and deodorants. The second regulation (Article 2) covers numerous categories and is simply called the ''General Consumer Products Regulation.'' The third regulation (Article 3) covers categories of aerosol coatings. The EPA approved amendments to these regulations into the California SIP on October 17, 2014.[87]

The SCAQMD also regulates certain categories of consumer products, including architectural coatings, wood products, solvents and degreasers, consumer paint thinners, and inks.[88] For example, South Coast's implementation of Rule 1113

(describing BCM–04); and SCAQMD, Governing Board Resolution No. 17–2 (March 3, 2017), at p. 9.

[82] 77 FR 13495.

[83] 66 FR 36170.

[84] *See Technical Support Document for the Proposed Approval of South Coast AQMD's Serious Area Plan for the 2006 $PM_{2.5}$ National Ambient Air Quality Standards* (Docket Number EPA–R09–OAR–2017–0490), at pp. 13–14; *see also* 2016 AQMP, Appendix IV–A, pp. IV–A–186 to IV–A–190.

[85] *See* 2016 AQMP, Chapter 4, Table 4–7; Appendix IV–A, pp. IV–A–186 to IV–A–192 (describing BCM–01); and SCAQMD, Governing Board Resolution No. 17–2 (March 3, 2017), at p. 9.

[86] These regulations are codified in the California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5—Consumer Products; Article 2—Consumer Products.

[87] 79 FR 62346 (October 17, 2014).

[88] *See, e.g.,* South Coast Rule 1107, Coating of Metal Parts and Products, approved into the SIP on November 24, 2008 (73 FR 70883); South Coast Rule 1122, Solvent Degreasers, approved into the SIP on February 8, 2006 (71 FR 6350); and South Coast Rule 1130, Graphic Arts, approved into the SIP on July 14, 2015 (80 FR 40915).

(''Architectural Coatings'') establishes emission limits for paints and other architectural coating products that have achieved VOC emission reductions in the South Coast area. The EPA approved Rule 1113, as amended June 3, 2011, into the California SIP on March 26, 2013.[89]

Based on our evaluation of the information about these programs in the 2016 AQMP, we agree with the State's and District's conclusion that these SIP-approved regulations implement BACM for the control of VOCs from consumer products.

ii. State Measures for Mobile Sources

The 2016 AQMP identifies light-duty passenger vehicles, light-duty trucks, medium-duty trucks, medium-heavy-duty diesel trucks, heavy-heavy-duty diesel trucks, and commercial/industrial mobile equipment (construction and mining equipment) as key mobile sources of emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors. CARB describes the mobile source control measures that regulate $PM_{2.5}$ and $PM_{2.5}$ precursor emissions from these sources in Appendix VI–A, Attachment VI–A–3, and Attachment VI–C–1 of the 2016 AQMP.

Under the CAA, the EPA is charged with establishing national emissions limits for mobile sources. States are generally preempted from establishing such limits except for California, which can establish these limits subject to EPA waiver or authorization under CAA section 209 (referred to herein as ''waiver measures''). Over the years, the EPA has issued waivers (for on-road vehicles and engines measures) or authorizations (for non-road vehicle and engine measures) for many mobile source regulations adopted by CARB. California attainment and maintenance plans, including the 2016 $PM_{2.5}$ Plan for the South Coast, rely on emissions reductions from implementation of the waiver measures through the use of emissions models such as EMFAC2014.

Historically, the EPA has allowed California to take into account emissions reductions from CARB regulations for which the EPA has issued waiver or authorizations under CAA section 209, notwithstanding the fact that these regulations have not been approved as part of the California SIP. However, in response to the decision by the United States Court of Appeals for the Ninth Circuit (''Ninth Circuit'') in *Committee for a Better Arvin* v. *EPA,* the EPA has since approved mobile source regulations for which waiver authorizations have been issued as revisions to the California SIP.[90]

Given the need for significant emissions reductions from mobile sources to meet the NAAQS in California nonattainment areas, CARB has been a leader in the development of stringent control measures for on-road and off-road mobile sources and fuels.[91] CARB's mobile source program extends beyond regulations that are subject to the waiver or authorization process set forth in CAA section 209 to include standards and other requirements to control emissions from in-use heavy-duty trucks and buses, gasoline and diesel fuel specifications, and many other types of mobile sources. Generally, these regulations have been submitted and approved as revisions to the California SIP.[92]

In addition to waiver measures, CARB has adopted operational requirements for in-use vehicles, rules that limit the amount of pollutants allowed in transportation fuels, and incentive programs that provide funding to replace or retrofit older, dirtier vehicles and equipment with cleaner technologies.[93]

The EPA previously determined that California's mobile source control programs constituted BACM for PM_{10} purposes in the San Joaquin Valley.[94] Since then, the State has adopted additional mobile source control measures including the Advanced Clean Cars (ACC) program, heavy-duty vehicle idling rules, revisions to the State's vehicle inspection and maintenance (I/M) program, in-use rules for on-road and non-road diesel vehicles, and emissions standards for non-road equipment, farm and cargo handling equipment, and recreational vehicles.[95]

CARB's BACM analysis provides a discussion of the measures adopted and implemented for each of the source categories identified in Table VI–A–6 of the 2016 AQMP that are not under district jurisdiction. We discuss each of these mobile source categories below.

Light and Medium-Duty Vehicles

This category includes light-duty passenger cars, light-duty trucks, and medium-duty trucks. The source category's base year emissions are approximately 119 tpd NO_X, 129 tpd VOC, 1.7 tpd SO_2, 17.1 tpd ammonia, and 8.2 tpd direct $PM_{2.5}$.[96]

CARB has a long history of adopting programs for reducing emissions from this source category. Light-duty and medium-duty motor vehicles are currently subject to California's ''Low-Emission Vehicle III'' (LEV III) standards as well as a ''Zero Emission Vehicle'' (ZEV) requirement. The LEV III standards are consistent, or harmonized, with the subsequently adopted national Tier 3 standards for the same vehicles. California's ZEV program, however, does not have a national counterpart and results in additional emissions reductions as it phases in a requirement that 15% of new light-duty vehicle sales consist of ZEV or partial ZEV.[97] Light and medium-duty vehicles are also regulated under California's ACC program. We approved the ACC into the SIP on June 16, 2016.[98] Taken as a whole, California's standards for light and medium-duty vehicles are more stringent than the federal standards.

California has also adopted regulations for gasoline fuel (California Reformulated Gasoline or ''CaRFG'') that reduce emissions from light-duty and medium-duty vehicles. The EPA approved the CaRFG regulations into the California SIP on May 12, 2010.[99] In our action proposing to approve CaRFG3, we noted that the EPA had previously determined that emissions reductions from CaRFG3 would be equal to or greater than the emissions reductions from the corresponding federal RFG program.[100]

Heavy-Duty Vehicles

This category includes heavy-heavy-duty diesel vehicles, heavy-duty gas and diesel trucks, heavy-duty gas and diesel urban buses, school buses and motor homes. The emissions from this category are approximately 195 tpd NO_X, 6.23 tpd direct $PM_{2.5,}$ 12.47 tpd VOC, 0.29 tpd, $SO_{2,}$ and 0.97 tpd ammonia.[101]

California has the most stringent heavy-duty vehicle emissions control measures in the nation, including engine standards for diesel and gasoline

[89] 78 FR 18244 (March 26, 2013).

[90] *See, e.g.,* 81 FR 39424 (June 16, 2016), 82 FR 14447 (March 21, 2017), and 83 FR 23232 (May 18, 2018). See also *Committee for a Better Arvin,* 786 F.3d 1169 (9th Cir. 2015).

[91] California regulations use the term ''off-road'' to refer to ''nonroad'' vehicles and engines.

[92] *See, e.g.,* the EPA's approval of standards and other requirements to control emissions from in-use heavy-duty diesel-powered trucks, at 77 FR 20308 (April 4, 2012), revisions to the California on-road reformulated gasoline and diesel fuel regulations at 75 FR 26653 (May 12, 2010), and revisions to the California motor vehicle I/M program at 75 FR 38023 (July 1, 2010).

[93] 2016 AQMP, Appendix VI–A, Attachment VI–A–3, pp. VI–A–108–109.

[94] 69 FR 5412 at 5419 (February 4, 2004).

[95] 2016 AQMP, Appendix VI–A, Attachment VI–A–3, p. VI–A–103.

[96] 2016 AQMP, Appendix III, Attachment A.

[97] 78 FR 2112 at 2119 (January 9, 2013).

[98] 81 FR 39424 (June 16, 2016).

[99] 75 FR 26653 (May 12, 2010).

[100] 74 FR 33196 at 33198 (July 10, 2009).

[101] 2016 AQMP, Appendix III, Attachment A.

vehicles, idling requirements, certification procedures, on-board diagnostic requirements, and verification measures for emissions control devices. Many of these control measures are subject to the CAA waiver process and have also been submitted for inclusion in and approved into the SIP.[102]

California has also adopted many in-use requirements to help reduce emissions from the vehicles already on the road, which may remain in use for many years. Among the most recently adopted in-use requirements are the Truck and Bus Regulation and Drayage Truck Regulation (often referred to as the ''Cleaner In-Use Heavy-Duty Trucks Measure''), which became effective in 2011 and the EPA approved into the SIP in 2012.[103] The Truck and Bus Regulation and Drayage Truck Regulation are designed to reduce emissions of diesel PM, NO_X, and other pollutants from in-use trucks and buses and establish, among other things, phased-in PM control requirements from 2014 through 2023 based on truck engine mode year. These and other regulations applicable to heavy-duty diesel trucks (HDDTs) will continue to reduce emissions of diesel PM and NO_X through the RFP and attainment planning years. For instance, model year (MY) 1994 and 1995 HDDT engines must be upgraded to meet the 2010 model year truck engine emissions standards by 2016, and MY 1996–1999 engines must be upgraded by January 1, 2020.[104] The emissions reductions from these rules represent a large portion of the NO_X emissions reductions upon which the Plan's RFP and attainment demonstration rely.

Finally, California has adopted regulations for diesel fuel that further reduce emissions from heavy-duty trucks. The EPA approved these diesel fuel regulations into the California SIP on May 12, 2010.[105]

Off-Road Vehicles and Engines

This category includes off-road compression ignition (diesel) engines and equipment, small spark ignition (gasoline) off-road engines and equipment less than 25 horsepower (hp) (*e.g.,* lawn and garden equipment), off-road large gasoline engines and equipment greater than 25 hp (*e.g.,* forklifts, portable generators), and airport ground service equipment. The emissions from this category total approximately 66 tpd NO_X, 4 tpd direct $PM_{2.5,}$ 51.5 tpd VOC, 0.07 tpd SO_2, and 0.09 tpd ammonia.[106]

As it has done for the on-road categories discussed above, CARB has adopted stringent new emissions standards subject to EPA authorization under CAA section 209(e) and in-use measures or requirements for this source category (*e.g.,* incentives for early introduction of cleaner engines and equipment and requirements to limit vehicle idling). CARB has been regulating off-road equipment since the 1990s, and its new engine standards for off-road vehicles and engines are generally as stringent as the corresponding federal standards. For larger off-road equipment, which can have a slow turnover rate, CARB adopted an in-use off-road regulation in 2007 that requires owners of off-road equipment in the construction and other industries to retrofit or replace older engines/equipment with newer, cleaner models. The off-road regulation imposes idling limitations.[107] CARB's off-road emissions control program also includes comprehensive in-use requirements for legacy fleets.[108]

Title 13, Section 2449 of the California Code of Regulation (CCR), ''Regulation for In-Use Off-Road Diesel-Fueled Fleets (Off-Road Regulation)'' was adopted by CARB in July 2007 and requires off-road diesel vehicle fleets to reduce emissions by meeting NO_X and PM fleet average standards. A provision of the Off-Road Regulation (Title 13, CCR, Section 2449.2) allows air districts to opt-in and requires the largest fleets to apply for funding to meet more stringent NO_X targets. In 2008, SCAQMD developed the Surplus Off-Road Opt-In for NO_X (SOON) Program. The SOON Program is designed to achieve additional NO_X reductions beyond those that would be obtained from the State's In-Use Off-Road Vehicle Regulation. The program provides funding to large fleets for the purchase of commercially-available low-emission heavy-duty engines to achieve near-term reduction of NO_X emissions from in-use off-road diesel vehicles. Fleets that participate in the SOON Program can apply for funding for NO_X exhaust retrofits, repowers or equipment replacements. We approved the SCAQMD SOON program into the SIP on November 21, 2016.[109]

iii. Local Jurisdiction Transportation Control Measures

Transportation control measures (TCMs) are, in general, measures designed to reduce emissions from on-road motor vehicles through reductions in vehicle miles traveled (VMT) or traffic congestion. TCMs can reduce $PM_{2.5}$ emissions in both the on-road motor vehicle exhaust and paved road dust source categories by reducing VMT and vehicle trips. They can also reduce vehicle exhaust emissions by relieving congestion. EPA guidance states that where mobile sources contribute significantly to $PM_{2.5}$ violations, ''the state must, at a minimum, address the transportation control measures listed in CAA section 108(f) to determine whether such measures are achievable in the area considering energy, environmental and economic impacts and other costs.'' [110]

Appendix IV–C, ''Regional Transportation Strategy and Control Measures,'' contains SCAG's BACM analysis for TCMs. Consistent with EPA guidance, SCAG addressed the TCMs listed in CAA section 108(f) following a four-step process. SCAG first reviewed ongoing implementation of TCMs in the South Coast air basin. SCAG also reviewed TCMs implemented in all other Moderate and Serious $PM_{2.5}$ and PM_{10} nonattainment areas throughout the country (*e.g.,* Salt Lake City, Utah; Fairbanks, Alaska; and San Joaquin Valley, California) and compared them to the TCMs being implemented in the South Coast.[111] SCAG then reviewed the TCMs not being implemented in the SCAG region and provided a reasoned justification for any TCMs not implemented in the SCAG region.[112] Finally, SCAG concluded that its TCM program provides a BACM level of control.

TCMs in the South Coast air basin fall into three main categories: (1) Transit, intermodal facilities, and nonmotorized transportation mode facilities (*i.e.,* bike/pedestrian facilities), (2) high occupancy vehicle (HOV) lanes, high occupancy toll (HOT) lanes, and pricing alternatives, and (3) information-based TCM strategies. Between 2012 and 2020, SCAG estimates a 23% increase in HOV, HOT and toll lanes, a 7.4% increase in operation miles of regular transit buses, a 10% increase in operation miles of

[102] *See* 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

[103] 77 FR 20308, April 4, 2012.

[104] Title 13, California Code of Regulations, Section 2025 (''Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles''), paragraphs (e), (f), and (g), effective December 14, 2011. *See also* the EPA's final rule approving CARB's Truck and Bus Rule. 77 FR 20308 at 20309–20310 (April 4, 2012).

[105] *See* 75 FR 26653.

[106] 2016 AQMP, Appendix III, Attachment A.

[107] *Id.*

[108] 2016 AQMP, Appendix VI–A, p. VI–A–104, also Appendix VI–C, pp. VI–C–21 to VI–C–22.

[109] 81 FR 83154.

[110] Addendum at 42013.

[111] *See* 2016 AQMP, Appendix IV–C, pp. IV–C–38 and IV–C–39, Table 8.

[112] *See* 2016 AQMP, Appendix IV–C, pp. IV–C–42 to IV–C–50, Table 9.

rapid transit and express buses, a 38.8% increase in operation miles of transit rail, and a 40% increase in Class 1–4 bikeway miles.[113] TCM funding is guaranteed through the timeframe of the 2016 $PM_{2.5}$ Plan and beyond, with transportation sales tax measures through 2039 and 2040 in the four counties in the South Coast air basin.[114] The county-specific sales tax revenue provides a guaranteed funding source for more than 50% of the TCM projects.[115] In addition, SCAG has a standardized program for selecting cost-effective control measures.

3. The EPA's Evaluation and Conclusion

We have reviewed the District's determination in the 2016 AQMP that its stationary and area source control measures represent BACM for $PM_{2.5}$ and $PM_{2.5}$ precursors. In our review, we also considered our previous evaluations of the District's rules in connection with our approval of the SCAQMD's RACT SIP demonstration for the 2008 ozone NAAQS.[116] Based on this review, we believe the District's rules provide for the implementation of BACM for stationary and area sources of $PM_{2.5}$ and $PM_{2.5}$ precursors.

With respect to mobile sources, we recognize that CARB's current program addresses the full range of mobile sources in the South Coast through regulatory programs for both new and in-use vehicles. With respect to transportation controls, we note that SCAG has adopted a program to fund cost-effective TCMs. Overall, we believe that the programs developed and administered by CARB and SCAG provide for the implementation of BACM for $PM_{2.5}$ and $PM_{2.5}$ precursors in the South Coast nonattainment area.

For these reasons, we propose to find that the 2016 $PM_{2.5}$ Plan provides for the implementation of BACM for all sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors as expeditiously as practicable, for purposes of the 2006 $PM_{2.5}$ NAAQS in the South Coast area, in accordance with the requirements of CAA section 189(b)(1)(B) and 40 CFR 51.1010.

D. Attainment Demonstration and Modeling

Section 189(b)(1)(A) of the CAA requires that each Serious area plan include a demonstration (including air quality modeling) that the plan provides for attainment of the $PM_{2.5}$ NAAQS by the applicable attainment date or, where a state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by that date is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable. We discuss below our evaluation of the modeling approach in the Plan, and the control strategy in the Plan for attaining the 24-hour $PM_{2.5}$ NAAQS by the most expeditious date practicable.

Evaluation of Air Quality Modeling Approach and Results

The EPA's $PM_{2.5}$ modeling guidance[117] (''Modeling Guidance'' and ''Modeling Guidance Update'') recommends that a photochemical model, such as CAMx[118] or CMAQ, be used to simulate a base case, with meteorological and emissions inputs reflecting a base case year, to replicate concentrations monitored in that year. The model application to the base case year undergoes a performance evaluation to ensure that it satisfactorily agrees with concentrations monitored in that year. The model may then be used to simulate emissions occurring in other years required for a plan, namely the base year (which may differ from the base case year) and future year.[119] The modeled response to the emission changes between those years is used to calculate Relative Response Factors (RRFs), which are applied to the design value in the base year to estimate the projected design value in the future year for comparison against the NAAQS. Separate RRFs are estimated for each chemical species component of $PM_{2.5}$, and for each quarter of the year, to reflect their differing responses to seasonal meteorological conditions and emissions. Because each chemical species is handled separately, before applying an RRF, the base year design value must be speciated using available chemical species measurements, that is, each day's measured $PM_{2.5}$ design value must be split into its species components. The Modeling Guidance provides additional detail on the recommended approach.[120]

24-Hour $PM_{2.5}$ Modeling Approach

The CMAQ simulations were conducted for each day in the 2012 base year.[121] A set of species-specific RRFs was generated for the 2019 future year simulation from the top 10% of modeled $PM_{2.5}$ days. RRFs were generated for the ammonium ion, nitrate ion, sulfate ion, organic carbon, elemental carbon, sea salt, and a combined grouping of other primary $PM_{2.5}$ material. Future year concentrations of each of the seven component species were calculated by applying the model-generated quarterly RRFs to the speciated 24-hour $PM_{2.5}$ data for each of the five years used in the design value calculation.[122] The speciation fractions used to generate 24-hour speciated $PM_{2.5}$ values were determined from the ''high'' days.[123] A weighted average of the resulting future year 98th percentile concentrations for each of the five years was used to calculate future design values for the attainment demonstration.[124] Future year $PM_{2.5}$ 24-hour average design values were projected for 2019, the Serious area attainment deadline for the 2006 standard of 35 $\mu g/m^3$.

Future Air Quality

A simulation of 2019 baseline emissions (no additional controls) was conducted to assess future 24-hour $PM_{2.5}$ levels in the South Coast air basin. The simulation used the projected emissions from 2012, which reflect all adopted control measures that will be

[113] *See* 2016 AQMP, Appendix IV–C, p. IV–C–34.

[114] *Id.*

[115] *See* 2016 AQMP, Appendix IV–C, p. IV–C–36.

[116] 82 FR 43850 (September 20, 2017).

[117] ''Draft Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze'' Memorandum from Richard Wayland, Air Quality Assessment Division, OAQPS, EPA to Regional Air Program Managers, EPA, December 3, 2014 (''Modeling Guidance''), ''Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' EPA–454/B–07–002, April 2007 (''Modeling Guidance''); and ''Update to the 24 Hour $PM_{2.5}$ NAAQS Modeled Attainment Test,'' Memorandum from Tyler Fox, Air Quality Modeling Group, OAQPS, EPA to Regional Air Program Managers, EPA, June 28, 2011 (''Modeling Guidance Update'').

[118] CAMx is a multi-scale photochemical modeling system for gas and particulate air pollution.

[119] In this section, we use the terms ''base case,'' ''base year'' or ''baseline,'' and ''future year'' as described in section 2.3 of the EPA's Modeling Guidance. The ''base case'' modeling simulates measured concentrations for a given time period, using emissions and meteorology for that same year. The modeling ''base year'' (which can be the same as the base case year) is the emissions starting point for the plan and for projections to the future year, both of which are modeled for the attainment demonstration. *See* Modeling Guidance at pp. 33–34. Note that CARB sometimes uses ''base year'' synonymously with ''base case'' and ''reference year'' instead of ''base year.''

[120] Modeling Guidance Update at 43 *ff.*

[121] CMAQ Version 5.0.2

[122] The design value is based on a weighted average of data from 2010 to 2014.

[123] Particle bound water was determined using the EPA's regression model approximation of the Aerosol Inorganics Model (AIM) based on simulated concentrations of the ammonium, nitrate and sulfate ions (EPA, 2006). A blank mass of 0.5 $\mu g/m^3$ was added to each base and future year simulation.

[124] The 32 days in each year (8 per quarter) were then reranked based on the sum of all predicted PM species to establish a new 98th percentile concentration. The 98th percentile value was determined based on the FRM sampling frequency. All the SASS sites except Fontana have a daily FRM sampling, which gives the 8th highest day as the 98th percentile. Fontana has every-three-day sampling, thus the 3rd highest day becomes the 98th percentile.

implemented by December 31, 2019. Simulation of the 2019 baseline emissions indicates that the South Coast air basin will attain the federal 24-hour $PM_{2.5}$ standard in 2019 without additional controls. The projected 2019 design value is 32.1 μg/m³ at Mira Loma, the highest site in the South Coast air basin.

Table 2 shows future 24-hour $PM_{2.5}$ air quality projections at the South Coast air basin design site (Mira Loma) and the four other $PM_{2.5}$ monitoring sites equipped with comprehensive particulate species characterization. Shown in the table are the base year design values for 2012 along with projections for 2019. All of the sites are projected to meet the 24-hour $PM_{2.5}$ standard by 2019 without additional reductions beyond already adopted control measures.

TABLE 2—FUTURE 24-HOUR $PM_{2.5}$ AIR QUALITY PROJECTIONS AT SELECTED MONITORING SITES IN THE SOUTH COAST AIR BASIN

Monitoring site location	24-hour $PM_{2.5}$ 98th percentile concentration total mass for base year, 2012 (μg/m³)	24-hour $PM_{2.5}$ 98th percentile concentration total mass projected for 2019 (μg/m³)
Anaheim	25.82	23.46
Fontana	32.74	28.01
Los Angeles	30.52	27.60
Mira Loma	36.52	31.36
Rubidoux	33.16	28.27

The EPA's regulations require that monitoring data for comparison to the NAAQS be collected using specific equipment and procedures to ensure accuracy and reliability.[125] For each NAAQS, the default monitoring equipment and the required procedures for operating it are termed the Federal Reference Method (FRM); an alternative approach, termed a Federal Equivalent Method may also be used if it is demonstrated to give results comparable to an FRM monitor.

Evaluation of Control Strategy

The attainment control strategy in the 2016 $PM_{2.5}$ Plan consists of state and district baseline measures that continue to achieve emission reductions between the Plan's base year of 2012 and the attainment year of 2019. With respect to baseline measures for stationary and area sources, the District identified the District rules and their projected emission levels in Appendix VI, section VI–C of the 2016 AQMP and described each of the District measures that contribute to RFP and attainment.[126] The District control measures listed in this section of the Plan have been approved into the California SIP.[127]

With respect to mobile sources, the State identified the source categories and described the EMFAC2014 emission factor model used to project their future emission levels in Chapter 3 and Appendix III of the 2016 AQMP.[128]

Table 3 below summarizes the emission reductions needed in the South Coast to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the end of 2019.

TABLE 3—SUMMARY OF DIRECT $PM_{2.5}$ AND PRECURSOR EMISSION REDUCTIONS NEEDED FOR THE 2006 $PM_{2.5}$ NAAQS ATTAINMENT DEMONSTRATION

	2006 24-hour standard attainment by 2019 (tpd annual average)				
	$PM_{2.5}$	NO_X	SO_2	VOC	NH_3
A. 2012 emissions inventory	66	540	18	470	81
B. 2019 baseline emissions inventory	64	353	17	376	74
C. 2019 controlled emissions inventory	64	353	17	376	74
D. Total emission reductions needed by attainment year (A − C)	2	187	1	94	7

Source: 2016 $PM_{2.5}$ Plan, Chapter 3, and Appendix VI, Table VI–C–5.

The Plan identifies several district and state measures that will achieve emission reductions and contribute to expeditious attainment of the 2006 $PM_{2.5}$ NAAQS. These are described in the sections of this proposed rulemaking on BACM and RFP.

In sum, the attainment demonstration in the 2016 $PM_{2.5}$ Plan relies on numerous state and district baseline regulations that collectively are projected to achieve emission reductions sufficient for the South Coast area to attain the 2006 24-hour $PM_{2.5}$ standard by the end of 2019.

EPA's Evaluation and Proposed Action

As discussed above, the 2016 $PM_{2.5}$ Plan's air quality modeling demonstrates that the South Coast will attain the 2006 24-hour $PM_{2.5}$ standard of 35 μg/m³ by December 31, 2019. This demonstration is based on expeditious implementation of the state's and district's BACM control strategy for

[125] 40 CFR parts 53 and 58.

[126] *See* 2016 AQMP, Appendix VI, Table VI–C–4, p. VI–C–8.

[127] *See* EPA Region 9's website for information on district control measures that have been approved into the California SIP, available at: *https://www.epa.gov/sips-ca/epa-approved-south-coast-air-district-regulations-california-sip.*

[128] 2016 AQMP, pages III–2–73 and Attachment D–1 to Appendix III.

stationary, area, and mobile sources in the 2016 $PM_{2.5}$ Plan and ongoing reductions from state and local control measures already approved into the SIP. Based on our evaluation, we propose to determine that the 2016 $PM_{2.5}$ Plan provides for attainment of the 2006 24-hour $PM_{2.5}$ standards by the most expeditious date practicable, consistent with the requirements of CAA section 189(b)(1)(A) and 40 CFR 51.1011(b).

E. Reasonable Further Progress and Quantitative Milestones

1. Requirements for Reasonable Further Progress and Quantitative Milestones

Section 172(c)(2) of the Act states that all nonattainment area plans shall require RFP. In addition, CAA section 189(c) requires that all $PM_{2.5}$ nonattainment area SIPs contain quantitative milestones to be achieved every three years until the area is redesignated to attainment and which demonstrate RFP, as defined in CAA section 171(1). Section 171(1) of the Act defines RFP as the annual incremental reductions in emissions of the relevant air pollutant as are required by part D, title I of the Act or as may reasonably be required by the Administrator for the purpose of ensuring attainment of the NAAQS by the applicable date. Neither subpart 1 nor subpart 4 of part D, title I of the Act requires that a set percentage of emissions reductions be achieved in any given year for purposes of satisfying the RFP requirement.

RFP has historically been met by showing annual incremental emissions reductions sufficient generally to maintain at least linear progress toward attainment by the applicable deadline.[129] As discussed in EPA guidance in the Addendum, requiring linear progress in reductions of direct $PM_{2.5}$ and any individual precursor in a $PM_{2.5}$ plan may be appropriate in situations where:

- The pollutant is emitted by a large number and range of sources,
- the relationship between any individual source or source category and overall air quality is not well known,
- a chemical transformation is involved (*e.g.,* secondary particulate significantly contributes to $PM_{2.5}$ levels over the standard), and/or
- the emission reductions necessary to attain the $PM_{2.5}$ standard are inventory-wide.[130]

The Addendum states that requiring linear progress may be less appropriate in other situations, such as:

- Where there are a limited number of sources of direct $PM_{2.5}$ or a precursor,
- where the relationships between individual sources and air quality are relatively well defined, and/or
- where the emission control systems utilized (*e.g.,* at major point sources) will result in swift and dramatic emission reductions.

In nonattainment areas characterized by any of these latter conditions, RFP may be better represented as step-wise progress as controls are implemented and achieve significant reductions soon thereafter. For example, if an area's nonattainment problem can be attributed to a few major sources, EPA guidance states that RFP may be met by ''adherence to an ambitious compliance schedule'' that is likely to periodically yield significant reductions of direct $PM_{2.5}$ or a $PM_{2.5}$ precursor.[131]

Plans for $PM_{2.5}$ nonattainment areas should include detailed schedules for compliance with emission control measures in the area and provide corresponding annual emission reductions to be achieved by each milestone in the schedule.[132] In reviewing an attainment plan under subpart 4, the EPA considers whether the annual incremental emissions reductions to be achieved are reasonable in light of the statutory objective of timely attainment. Although early implementation of the most cost-effective control measures is often appropriate, states should consider both cost-effectiveness and pollution reduction effectiveness when developing implementation schedules for control measures and may implement measures that are more effective at reducing $PM_{2.5}$ earlier to provide greater public health benefits.[133]

The $PM_{2.5}$ SIP Requirements Rule establishes specific regulatory requirements for purposes of satisfying the Act's RFP requirements and provides related guidance in the preamble to the rule. Specifically, under the $PM_{2.5}$ SIP Requirements Rule, each $PM_{2.5}$ attainment plan must contain an RFP plan that includes, at minimum, the following four components: (1) An implementation schedule for control measures; (2) RFP projected emissions for direct $PM_{2.5}$ and all $PM_{2.5}$ plan precursors for each applicable milestone year, based on the anticipated control measure implementation schedule; (3) a demonstration that the control strategy and implementation schedule will achieve reasonable progress toward attainment between the base year and the attainment year; and (4) a demonstration that by the end of the calendar year for each milestone date for the area, pollutant emissions will be at levels that reflect either generally linear progress or stepwise progress in reducing emissions on an annual basis between the base year and the attainment year.[134]

The preamble to the $PM_{2.5}$ SIP Requirements Rule provides that emissions from one or more $PM_{2.5}$ plan precursors may increase over the attainment planning period, provided the state demonstrates that reductions of direct $PM_{2.5}$ combined with the aggregate reductions of $PM_{2.5}$ plan precursors support expeditious attainment of the applicable $PM_{2.5}$ NAAQS. This approach recognizes the fact that different precursors have different impacts on $PM_{2.5}$ concentrations depending upon the atmospheric chemistry specific to each area.[135]

Section 189(c) of the Act requires that $PM_{2.5}$ attainment plans include quantitative milestones that demonstrate RFP. The purpose of the quantitative milestones is to allow periodic evaluation of the area's progress towards attainment of the $PM_{2.5}$ NAAQS consistent with RFP requirements. Because RFP is an annual emission reduction requirement and the quantitative milestones are to be achieved every three years, when a state demonstrates compliance with the quantitative milestone requirement, it should also demonstrate that RFP has been achieved during each of the relevant three years. Quantitative milestones should provide an objective means to evaluate progress toward attainment meaningfully, *e.g.,* through imposition of emissions controls in the attainment plan and the requirement to quantify those required emissions reductions. The CAA also requires states to submit, within 90 days after each milestone date, milestone reports that include technical support sufficient to document completion statistics for appropriate milestones, *e.g.,* calculations and any assumptions made concerning emission reductions to date.[136]

The CAA does not specify the starting point for counting the three-year periods for quantitative milestones under CAA section 189(c). In the General Preamble and Addendum, the EPA interpreted the CAA to require that the starting point for the first three-year period be the due

[129] Addendum at 42015.

[130] *Id.*

[131] *Id.*

[132] *Id.* at 42016.

[133] *Id.*

[134] 40 CFR 51.1012(a).

[135] 81 FR 58010 at 58057 (August 24, 2016).

[136] Addendum at 42016, 42017.

date for the Moderate area plan submission.[137] In keeping with this historical approach, the EPA established December 31, 2014, as the starting point for the first 3-year period under CAA section 189(c) for the 2006 $PM_{2.5}$ standards in the South Coast. This date was the due date established in the EPA's June 2, 2014 Deadline and Classification Rule for the State's submission of any additional attainment-related SIP elements necessary to satisfy the subpart 4 Moderate area requirements for the 2006 $PM_{2.5}$ NAAQS in the South Coast area.[138] Thus, December 31, 2017 and December 31, 2020, are the milestone dates that the Serious area plan must address, at minimum. The EPA believes that establishing December 31, 2017, as the first quantitative milestone date is an appropriate means for implementing the requirements of subpart 4 for the 2006 $PM_{2.5}$ NAAQS.

The $PM_{2.5}$ SIP Requirements Rule also requires that Serious area attainment plans contain one additional quantitative milestone to be met in the three-year period following the Serious area attainment date.[139] If the area fails to attain, this additional milestone provides the EPA with the tools necessary to monitor the area's continued progress toward attainment while the state develops a new attainment plan under CAA section 189(d).

2. RFP Plan and Quantitative Milestones in the 2016 $PM_{2.5}$ Plan

The RFP plan and quantitative milestones are discussed in Appendix VI, section VI–C (pp. VI–C–5 to VI–C–8) of the 2016 AQMP. The Plan estimates that emissions of direct $PM_{2.5}$, NO_X, VOC, SO_2 and ammonia will generally decline from the 2012 base year to 2019 and states that emissions of each of these pollutants will remain below the levels needed to show ''generally linear progress'' from 2012 to 2019, the year that the Plan projects to be the earliest practicable attainment date for the 2006 $PM_{2.5}$ NAAQS.[140] The Plan's emissions inventory shows that direct $PM_{2.5}$, NO_X, VOC, SO_2 and ammonia are emitted by a large number and range of sources in the South Coast and that the emission reductions needed for each of these pollutants are inventory wide.[141] Table VI–C–4 of the 2016 AQMP contains an implementation schedule for District control measures and Table VI–C–3 of the 2016 AQMP (reproduced in Table 4 below) contains RFP projected emissions for each quantitative milestone year and the attainment year. Based on these analyses, the District concludes that its adopted control strategy will achieve, for each pollutant, projected emission levels at or below the RFP, quantitative milestone, and attainment year target emission levels (*see* Table 5 below).[142]

TABLE 4—24-HOUR $PM_{2.5}$ BASELINE EMISSIONS FOR BASE AND MILESTONE YEARS

[Annual average tpd]

Pollutant	2012	2017 (Quantitative milestone)	2019 (Attainment deadline)	2020 (Quantitative milestone)
$PM_{2.5}$	66.4	63.8	63.9	63.9
NO_X	540	398	353	330
SO_2	18.4	17.1	16.6	16.7
VOC	470	392	376	370
NH_3	81.1	75.5	74.0	73.3

Source: 2016 AQMP, Appendix VI–C, Table VI–C–3.

TABLE 5—SUMMARY OF 24-HOUR $PM_{2.5}$ RFP CALCULATIONS

[Annual average tpd]

Row	Calculation step	$PM_{2.5}$	NO_X	SO_2	VOC	NH_3
1	2012 base year emissions	66.4	540	18.4	470	81.1
2	Annual percent change needed to show linear progress (%).	0.55	4.9	1.4	2.9	1.2
3	2017 Target Needed to show linear progress (tpd).	64.6	406	17.1	403	76.0
4	2017 Baseline emissions (tpd)	63.8	398	17.1	392	75.5
5	Projected shortfall (tpd)	0	0	0	0	0
6	Surplus in 2017 (tpd)	0.85	8.6	0.05	10.4	0.48
7	Emissions Equivalent to 1 Year's Worth of RFP	0.36	26.7	0.25	13.5	1.0
8	2019 Baseline Emissions (tpd)	63.9	353	16.6	376	74.0

Source: 2016 AQMP, Appendix VI–C, Table VI–C–3A.

The 2016 $PM_{2.5}$ Plan documents the State's conclusion that all BACM and BACT for these pollutants are being implemented as expeditiously as practicable and identifies projected levels of direct $PM_{2.5}$, NO_X, VOC, ammonia, and SO_2 emissions in 2017 and 2019 that reflect full implementation of the state, district,

[137] General Preamble at 13539, Addendum at 42016.

[138] 79 FR 31566 (June 2, 2014) (final rule establishing subpart 4 moderate area classifications and deadline for related SIP submissions) (''Classification and Deadline Rule''). Although the Classification and Deadline Rule did not affect any action that the EPA had previously taken under CAA section 110(k) on a SIP for a $PM_{2.5}$ nonattainment area, the EPA noted that states may need to submit additional SIP elements to fully comply with the applicable requirements of subpart 4, even for areas with previously approved $PM_{2.5}$ attainment plans, and that the deadline for any such additional plan submissions was December 31, 2014. *Id.* at 31569.

[139] 40 CFR 51.1013(a)(4).

[140] 2016 AQMP, Appendix VI–C, p. VI–C–7, Tables VI–C–3 and VI–C–3A.

[141] 2016 AQMP, Chapter 4 and Appendices IV–A, VI–B and VI–C.

[142] 2016 AQMP, Appendix VI–C, p. VI–C–6.

and SCAG's BACM/BACT control strategy for these pollutants.[143] The BACM control strategy that provides the basis for these emissions projections is described in Chapter 4, Appendix IV, and Appendix VI of the 2016 AQMP.

Direct $PM_{2.5}$

The District has several stationary and area source rules that are projected to contribute to RFP and attainment of the $PM_{2.5}$ standards.[144] For example, Rule 444 (Open Burning) achieved reductions of direct $PM_{2.5}$ from the base year of 2012 to the 2017 RFP year. In addition, Rule 445 (Wood-Burning Devices) was amended in 2013 by lowering the mandatory winter burning curtailment program threshold for residential wood burning and extending the curtailment to the entire South Coast air basin, thereby further limiting emissions from one of the largest combustion sources of direct $PM_{2.5}$ in the South Coast nonattainment area.[145] These rule amendments provide part of the incremental emission reductions of direct $PM_{2.5}$ from the 2012 base year to the 2017 RFP milestone year.[146] Measures to control sources of direct $PM_{2.5}$ are also presented in the Plan's BACM analyses and reflected in the Plan's baseline emission projections.

The Plan highlights on-road and other mobile source control measures as the primary means for achieving direct $PM_{2.5}$ emission reductions. CARB's implementation of the Truck and Bus Regulation (referred to in the Plan as the ''On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation'') achieved $PM_{2.5}$ emissions reductions beginning in 2012.[147] Lighter trucks and buses were required to replace 1995 and older engines with a 2010 MY by 2015. The 2010 MY engines include particulate filters. CARB's LEV II program includes particulate matter emissions limits by MY for 2016, and the LEV III program has stricter emission limits for 2017 and beyond. For off-road vehicles, CARB adopted the In-Use Off Road Diesel-Fueled Fleets Regulation (''Off-Road Regulation'') in 2007. The Off-Road Regulation requires owners to replace older vehicles or engines with newer, cleaner models to either (1) retire older vehicles or reduce their use, or (2) to apply retrofit exhaust controls. Off-road fleets are required to meet increasingly strict fleet average indices over time.[148] These indices reflect a fleet's overall emissions rate of PM and NO_X for model year and horsepower combinations. Fleets were also banned from adding Tier 0 off-road engines as of January 1, 2014.[149] CARB implemented a similar ban on Tier 1 engines between January 1, 2014 (large fleets) and January 1, 2016 (small fleets).

Nitrogen Oxides

The District regulates numerous NO_X emission sources such as residential space and water heating devices, stationary internal combustion engines, and various sizes of boilers, steam generators, and process heaters used in industrial settings. The 2016 AQMP identifies the following South Coast regulations as measures that achieve ongoing NO_X reductions with compliance dates during the RFP and attainment years of the Plan: Rule 1111 (Reductions of NO_X from Natural Gas-Fired, Fan-Type Central Furnaces), Rule 1110.2 (Emissions from Gaseous- and Liquid-Fueled Engines), Rule 1121 (Control of Nitrogen Oxides from Residential-Type, Natural Gas-Fired Water Heaters), Rule 1146 (Emission of Oxides of Nitrogen from Industrial, Institutional, Commercial Boilers, Steam Generators, and Process Heaters), Rule 1146.1 (Emission of Oxides of Nitrogen from Small Industrial, Institutional, Commercial Boilers, Steam Generators, and Process Heaters), Rule 1146.2 (Emission of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters), and Rule 1147 (NO_X Reductions from Miscellaneous Sources).[150] [151]

For on-road and non-road mobile sources, which represent the largest sources of NO_X emissions in the nonattainment area, the 2016 AQMP lists numerous CARB regulations and discusses the key regulations that limit emissions of direct $PM_{2.5}$ as well as NO_X, VOC, SO_2 and ammonia from these sources.[152] For example, the regulations that apply to the three largest sources of NO_X in the South Coast—heavy-duty diesel trucks, light- and medium-duty passenger vehicles, and off-road equipment—are discussed in the 2016 AQMP at Appendix VI–C, Attachment VI–C–1, ''California Existing Mobile Source Control Program,'' and CARB's emission projections for these sources are presented in the Plan's emissions inventory.[153] The Plan also shows that NO_X emission levels in each milestone year and the attainment year are projected to be well below the levels needed to show generally linear progress toward attainment.

The Truck and Bus Regulation and Drayage Truck Regulation became effective in 2011 and have rolling compliance deadlines based on truck engine model year. These and other regulations applicable to heavy-duty diesel trucks will continue to reduce emissions of diesel particulate matter and NO_X through the RFP and attainment planning years.[154] For example, MY 1994 and 1995 heavy-duty diesel truck engines were required to be upgraded to meet the 2010 MY truck engine emission standards by 2016, and MY 1996–1999 engines must be upgraded by January 1, 2020.[155] The emission reductions from these rules represent the largest portion of the NO_X emission reductions upon which the 2016 $PM_{2.5}$ Plan's attainment and RFP demonstrations rely.[156] Emission reductions between 2012 and 2017 were achieved through the requirements for particulate filters and cleaner engine standards.

California also has the authority under the CAA to regulate light- and medium-duty vehicle engines. A key control program for these vehicles is the ACC program.[157] The ACC program implements a variety of regulations including the LEV III program, with criteria pollutant emission limits for non-methane organic gases (NMOG) [158]

[143] 2016 AQMP, Appendix VI–C, pp. VI–C–5 to VI–C–11; *see also* evaluation of BACM/BACT in section V.C of this proposed rule.

[144] 2016 AQMP, Appendix VI–A, p. VI–A–34.

[145] 2016 AQMP, Appendix III; *see also* 78 FR 59249 (September 26, 2013).

[146] 2016 AQMP, Appendix VI–C, p. VI–C–1, Table VI–C–4.

[147] The State's quantitative milestone report for the 2017 milestone indicates that the requirement for heavier trucks to install diesel particulate filters was fully implemented by 2016. *See* SCAQMD, ''2017 Quantitative Milestone Report for 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard,'' March 2018 (''2017 QM Report''), p. 11.

[148] A fleet average index is an indicator of a fleet's overall emissions rate of particulate matter and NOx based on the horsepower and model year of each engine in the fleet.

[149] Tier 0 engines meet 1995 to 1999 emission standards, depending on engine size and horsepower. *See https://www.assocpower.com/eqdata/tech/US-EPA-Tier-Chart_1995-2004.php.*

[150] 2016 AQMP, Appendix VI–C, Table VI–C–4 and p. VI–C–8.

[151] Rule 1111 was mistakenly listed as Rule 1110 in the 2016 AQMP, Appendix VI, Table VI–C–4. See 2017 QM Report at p. 6, footnote 1.

[152] 2016 AQMP, Appendix IV–C, Attachment VI–C–1.

[153] 2016 AQMP, Appendix IV–C, Attachment VI–C–1, pp. VI–C–19–21.

[154] 2016 AQMP, Appendix IV–C, p. VI–C–20.

[155] Title 13, California Code of Regulations, Section 2025 (''Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles''), paragraphs (e), (f), and (g), effective December 14, 2011. *See also* 77 FR 20308 at 20309–20310 (April 4, 2012) (final rule approving CARB's Truck and Bus Rule into California SIP).

[156] 2016 AQMP, Appendix III, Attachment B.

[157] *See* 81 FR 39424, June 16, 2016.

[158] NMOG means the combination of organic gases other than methane as calculated in 40 CFR 1066.635. Note that for this part, the organic gases

and NO_X as well as particulate matter, which phased in starting in 2014 and continues through the RFP year of 2017 and beyond.

CARB's Cleaner In-Use Off-road Equipment regulation was first approved in 2007 to reduce $PM_{2.5}$ and NO_X emissions from in-use off-road heavy-duty diesel vehicles in California such as those used in construction, mining, and industrial operations. The regulation reduces emissions of $PM_{2.5}$ and NO_X by targeting the existing fleet and imposing idling limits, restrictions on use of older vehicles, and requirements to retrofit or replace the oldest engines. For example, Tier 0 engines could not be added to fleets after January 1, 2014, and Tier 1 engines could not be added after January 1, 2016. The regulation is phased in between January 1, 2014 and January 1, 2019.[159]

Volatile Organic Compounds

As with other precursors, the District regulates stationary and area sources of VOC, and CARB is largely responsible for both on-road and off-road mobile sources. The 2016 AQMP highlights three stationary source VOC rules that contribute to RFP: Rule 1114 (Petroleum Refinery Coking Operations), Rule 1177 (Liquified Petroleum Gas Transfer and Dispensing), and Rule 1113 (Architectural Coatings).[160]

As with NO_X, the majority of VOC emissions reductions that occur between the base year of 2012 and the 2017 RFP year come from on-road mobile sources and other mobile sources that are under the State's jurisdiction. CARB highlights its ACC program, which reduces emission from light- and medium-duty vehicles. The ACC program has a combined NMOG plus NOx fleet average requirement that began in 2014.

Ammonia

With respect to ammonia, the Plan states that, while both NO_X and ammonia participate in forming ammonium nitrate (*i.e.,* secondary $PM_{2.5}$), NO_X emission reductions are more effective at reducing ambient $PM_{2.5}$ than ammonia reductions.[161] Control measures for ammonia sources are described in Appendix VI of the Plan. For example, South Coast Rules 223 and 1127, which regulate confined animal facilities and manure waste from these facilities, control ammonia, as do the District's composting measures (*i.e.,* Rules 1133, 1133.1, 1133.2 and 1133.3). These rules and the methods they use to control ammonia emissions are discussed at length in Appendix VI–B of the 2016 AQMP, and their emission projections are presented collectively under farming operations (for confined animal feeding operations and manure) or waste disposal (for composting categories) in the Plan's emissions inventory.[162] We discuss our evaluation of these rules for purposes of satisfying BACM requirements in section V.C of this proposed rule.

The District ascribes the reductions in ammonia during the period from 2012 to 2017 to decreases in farming operations in the South Coast air basin, as well as reductions in emissions from mobile sources largely achieved by state regulations for on-road motor vehicles.

Sulfur Dioxide

Reductions of SO_2 in the South Coast nonattainment area during the period from 2012 to 2017 were mainly from mobile source reductions. The majority of the SO_2 reductions come from non-road mobile sources, primarily reductions from state regulation of ocean-going vessels.

Quantitative Milestones

The 2016 AQMP identifies a milestone date of December 31, 2017, which is the date 3 years after December 31, 2014, and a second milestone date of December 31, 2020, which is the milestone date that falls within 3 years after the applicable attainment date (December 31, 2019). The 2016 AQMP also identifies target RFP emissions levels for direct $PM_{2.5}$, NO_X, VOC, NH_3, and SO_2 for the 2017 milestone year, the 2019 attainment year, and the 2020 post-attainment year milestone, and adopted control measures to be implemented by each of these years in accordance with the control strategy in the Plan.[163]

3. Evaluation and Proposed Actions

The 2016 $PM_{2.5}$ Plan describes the control measures for direct $PM_{2.5}$, NO_X, SO_2, VOC and ammonia implemented during each year of the attainment plan and demonstrates that these measures, which provide the bases for the emissions projections in the RFP plan, are being implemented as expeditiously as practicable. Additionally, the Plan contains projected RFP emission levels for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors for the 2017 and 2020 milestone years and for the 2019 attainment year, based on the anticipated implementation schedule for the attainment control strategy. The Plan also demonstrates that the control strategy will achieve RFP toward attainment between the 2012 base year and the 2019 attainment year. Finally, the 2016 $PM_{2.5}$ Plan demonstrates that, by the end of the calendar year for each milestone date for the area, emissions of direct $PM_{2.5}$ and all $PM_{2.5}$ precursors will be reduced at rates representing generally linear progress toward attainment. We agree with the State and District's conclusion that generally linear progress is an appropriate measure of RFP for the 2006 $PM_{2.5}$ NAAQS in the South Coast area given that $PM_{2.5}$ and its precursors are emitted by a large number and range of sources in the South Coast, the emission reductions needed for these pollutants are inventory wide,[164] and secondary particulates contribute significantly to ambient $PM_{2.5}$ levels in the South Coast area.[165]

Accordingly, we propose to determine that the 2016 $PM_{2.5}$ Plan requires the annual incremental reductions in emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors that are necessary for ensuring attainment of the 2006 24-hour $PM_{2.5}$ NAAQS by December 31, 2019, in accordance with the requirements of CAA sections 171(1) and 172(c)(2) and 40 CFR 51.1012.

Additionally, the 2016 $PM_{2.5}$ Plan identifies milestone dates that are consistent with the requirements of 40 CFR 51.1013(a)(4) and target emissions levels for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors to be achieved by these milestone dates through implementation of the attainment control strategy. These target emission levels and associated control requirements provide for objective evaluation of the area's progress towards attainment of the 2006 $PM_{2.5}$ NAAQS. We propose to determine that these quantitative milestones satisfy the requirements of CAA section 189(c) and 40 CFR 51.1013.

On April 2, 2018, CARB submitted the ''2017 Quantitative Milestone Report for the 2006 24-Hour $PM_{2.5}$ National Ambient Air Quality Standards (March 2018)'' (''2017 QM Report'') to the EPA.[166] The 2017 QM report includes a

are summed on a mass basis without any adjustment for photochemical reactivity.

[159] 2016 AQMP, Appendix VI–C, Attachment VI–C–1, p. VI–C–23 and VI–C–24.

[160] The District projects that revisions to Rule 1113 that it adopted after submitting the 2016 AQMP are projected to result in an additional 0.88 tpd of VOC reductions by 2019. *See* 2017 QM Report, p. 8.

[161] 2016 AQMP, Appendix V, p. V–6–61.

[162] 2016 AQMP, Appendix IV–A, p. IV–A–98–103.

[163] 2016 AQMP, Appendix VI–C, pp. VI–C–6 and VI–C–7.

[164] See generally 2016 AQMP, Appendix IV–A and B and Appendix VI–A.

[165] See 2016 AQMP, Appendix V, p. V–6–61.

[166] Letter from Richard W. Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional

Continued

certification from the Governor's designee that the 2017 quantitative milestones for the South Coast $PM_{2.5}$ nonattainment area have been achieved and a demonstration that the adopted control strategy has been fully implemented. The 2017 QM Report also contains a demonstration of how the emissions reductions achieved to date compare to those required or scheduled to meet RFP. The State and District conclude in the 2017 QM Report that the South Coast area is on track to attain the 2006 p.m.$_{2.5}$ NAAQS by the projected attainment date for the area, which is December 31, 2019. On September 7, 2018, the EPA determined that the South Coast 2017 QM Report was adequate.[167]

F. Contingency Measures

1. Requirements for Contingency Measures

Under CAA section 172(c)(9), each SIP for a nonattainment area must include contingency measures to be implemented if an area fails to meet RFP (''RFP contingency measures'') or fails to attain the NAAQS by the applicable attainment date (''attainment contingency measures''). Under the $PM_{2.5}$ SIP Requirements Rule, $PM_{2.5}$ attainment plans must include contingency measures to be implemented following a determination by the EPA that the state has failed: (1) To meet any RFP requirement in the approved SIP, (2) to meet any quantitative milestone in the approved SIP, (3) to submit a required quantitative milestone report, or (4) to attain the applicable $PM_{2.5}$ NAAQS by the applicable attainment date. Contingency measures must be fully adopted rules or control measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area to meet the relevant NAAQS by the applicable attainment date.

The purpose of contingency measures is to continue progress in reducing emissions while a state revises its SIP to meet the missed RFP requirement or to correct continuing nonattainment. Neither the CAA nor the EPA's implementing regulations establish a specific level of emissions reductions that implementation of contingency measures must achieve, but the EPA has taken the position that contingency measures should provide for emissions reductions equivalent to approximately one year of reductions needed for RFP. In general, we expect all actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the state of a failure to meet RFP or to attain.[168]

To satisfy the requirements of 40 CFR 51.1014, the contingency measures adopted as part of a $PM_{2.5}$ attainment plan must: (1) consist of control measures for the area that are not otherwise included in the control strategy or that achieve emissions reductions not otherwise relied upon in the control strategy for the area (*e.g.,* to meet RACM/RACT, BACM/BACT, or MSM requirements), and (2) specify the timeframe within which their requirements become effective following any of the EPA determinations specified in 40 CFR 51.1014(a).

The Ninth Circuit recently rejected the EPA's interpretation of CAA section 172(c)(9) as allowing for early implementation of contingency measures, in a decision called *Bahr* v. *EPA* (''Bahr'').[169] In Bahr, the Ninth Circuit concluded that contingency measures must take effect at the time the area fails to make RFP or attain by the applicable attainment date, not before. Thus, within the geographic jurisdiction of the Ninth Circuit, states cannot rely on early-implemented measures to comply with the contingency measure requirements under CAA section 172(c)(9).

2. Contingency Measures in the 2016 $PM_{2.5}$ Plan

The 2016 $PM_{2.5}$ Plan addresses the contingency measure requirement in Chapter 4 of the 2016 AQMP and in section H of the CARB Staff Report. Chapter 4 of the 2016 AQMP addresses contingency measures for failure to attain by describing emission reductions to be achieved by an adopted measure, South Coast Rule 445 (Wood-Burning Devices). The 2016 $PM_{2.5}$ Plan does not specifically address contingency measures for failure to meet RFP.

The CARB Staff Report provides a brief statement acknowledging the recent Bahr decision and committing to work with the EPA and the District to provide additional documentation or develop any needed SIP revisions consistent with that decision.

3. EPA's Evaluation and Proposed Action

As explained above in Section V.E, on April 2, 2018, CARB submitted a quantitative milestone report demonstrating that the 2017 quantitative milestones in the 2016 $PM_{2.5}$ Plan have been achieved, and the EPA has determined that this milestone report is adequate. Because the State and District have demonstrated that the South Coast area has met its 2017 quantitative milestones, RFP contingency measures for 2017 are no longer needed. Accordingly, we are proposing to find that the RFP contingency measure requirement for the 2017 RFP milestone year is now moot as applied to the South Coast. The sole purpose of RFP contingency measures is to provide continued progress if an area fails to meet its RFP or quantitative milestone requirements. Failure to meet RFP or quantitative milestones for 2017 would have required California to implement RFP contingency measures and to revise the 2016 $PM_{2.5}$ Plan to assure that it still provided for attainment by the applicable attainment date of December 31, 2019. In this case, however, the 2017 QM Report demonstrates that actual emissions levels in 2017 were consistent with the approved 2017 RFP milestone year targets for direct $PM_{2.5}$ and all precursor pollutants (NO_X, SO_2, VOCs, and ammonia) regulated in the 2016 $PM_{2.5}$ Plan. Accordingly, RFP contingency measures for 2017 no longer have meaning or purpose, and the EPA proposes to find that the requirement for them is now moot.

We are not proposing any action at this time on the attainment contingency measure component of the 2016 $PM_{2.5}$ Plan and will act on that component through a subsequent rulemaking, as appropriate.

G. Major Stationary Source Control Requirements Under CAA Section 189(e)

Section 189(e) of the Act specifically requires that the control requirements applicable to major stationary sources of direct $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the Administrator determines that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standards in the area.[170] The control requirements applicable to major stationary sources of direct $PM_{2.5}$ in a Serious $PM_{2.5}$ nonattainment area include, at minimum, the requirements of a NNSR permit program meeting the requirements of CAA sections 172(c)(5) and 189(b)(3).[171] As part of our January 13, 2016 final action to reclassify the

Administrator, EPA Region IX, with attachment, April 2, 2018.

[167] Letter from Andrew R. Wheeler EPA, Acting Administrator, to Richard W. Corey, Executive Officer, CARB, regarding 2017 Quantitative Milestone Report for 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standards, September 7, 2018.

[168] General Preamble at 13512, 13543–44 and Addendum at 42014–42015.

[169] *Bahr* v. *EPA,* 836 F.3d 1218, at 1235–1237 (9th Cir. 2016).

[170] General Preamble at 13539 and 13541–42.

[171] CAA section 189(b)(1) (requiring that Serious area plans include provisions submitted to meet the requirements for Moderate areas in section 189(a)(1)).

South Coast area as Serious nonattainment for the 2006 $PM_{2.5}$ standards, we established a deadline 18 months from the effective date of our reclassification (or August 14, 2017) for the State to submit NNSR SIP revisions addressing the requirements of CAA sections 189(b)(3) and 189(e) of the Act.[172]

California submitted NNSR SIP revisions to address the subpart 4 requirements for Serious $PM_{2.5}$ nonattainment areas on May 8, 2017.[173] We are not proposing any action on this submission at this time. We will act on this submission through a subsequent rulemaking, as appropriate.

H. Motor Vehicle Emission Budgets

1. Requirements for Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, FHWA, and FTA to demonstrate that an area's regional transportation plans (RTP) and transportation improvement programs (TIP) conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (''budgets'' or ''MVEB'') contained in all control strategy SIPs. An attainment, maintenance, or RFP SIP should include budgets for the attainment year, each required RFP milestone year, or the last year of the maintenance plan, as appropriate, for direct $PM_{2.5}$ and $PM_{2.5}$ precursors subject to transportation conformity analyses. Budgets are generally established for specific years and specific pollutants or precursors and must reflect all of the motor vehicle control measures contained in the attainment and RFP demonstrations.[174] Under the $PM_{2.5}$ SIP Requirements Rule, Serious area $PM_{2.5}$ attainment plans must define appropriate quantitative milestones and include projected RFP emission levels for direct $PM_{2.5}$ and all $PM_{2.5}$ plan precursors in each milestone year.[175]

$PM_{2.5}$ plans should identify budgets for direct $PM_{2.5}$, NO_X and all other $PM_{2.5}$ precursors for which on-road emissions are determined to significantly contribute to $PM_{2.5}$ levels in the area for each RFP milestone year and the attainment year, if the plan demonstrates attainment. All direct $PM_{2.5}$ SIP budgets should include direct $PM_{2.5}$ motor vehicle emissions from tailpipes, brake wear, and tire wear. A state must also consider whether re-entrained paved road dust, unpaved road dust, or highway and transit construction dust are significant contributors and should be included in the direct $PM_{2.5}$ budget.[176]

For an area designated nonattainment for the 2006 $PM_{2.5}$ NAAQS before January 15, 2015, the attainment plan must contain quantitative milestones to be achieved no later than 3 years after December 31, 2014, and every 3 years thereafter until the milestone date that falls within 3 years after the applicable attainment date.[177] As the EPA explained in the preamble to the $PM_{2.5}$ SIP Requirements Rule, it is important to include a post-attainment year quantitative milestone to ensure that, if the area fails to attain by the attainment date, the EPA can continue to monitor the area's progress toward attainment while the state develops a new attainment plan.[178]

Transportation conformity trading mechanisms are allowed under 40 CFR 93.124 where a SIP establishes appropriate mechanisms for such trades. The basis for the trading mechanism is the SIP attainment modeling that established the relative contribution of each $PM_{2.5}$ precursor pollutant. The applicability of emission trading between conformity budgets for conformity purposes is described in 40 CFR 93.124(c).

In general, only budgets in approved SIPs can be used for transportation conformity purposes. However, section 93.118(e) of the transportation conformity rule allows budgets in a SIP submission to apply for conformity purposes before the SIP submission is approved under certain circumstances. First, there must not be any other approved SIP budgets that have been established for the same year, pollutant, and CAA requirement. Second, the EPA must find that the submitted SIP budgets are adequate for transportation conformity purposes. To be found adequate, the submission must meet the conformity adequacy requirements of 40 CFR 93.118(e)(4) and (5).

The transportation conformity rule allows for replacement of previously approved budgets by submitted motor vehicle emissions budgets that the EPA has found adequate, if the EPA has limited the duration of its prior approval to the period before it finds replacement budgets adequate.[179] However, the EPA will consider a state's request to limit the duration of an MVEB approval only if the request includes the following elements:

- An acknowledgement and explanation as to why the budgets under consideration have become outdated or deficient;
- A commitment to update the budgets as part of a comprehensive SIP update; and
- A request that the EPA limit the duration of its approval to the time when new budgets have been found to be adequate for transportation conformity purposes.[180]

2. Motor Vehicle Emissions Budgets in the 2016 $PM_{2.5}$ Plan

Consistent with the requirements of 40 CFR 51.1013(a)(4), the 2016 $PM_{2.5}$ Plan identifies December 31, 2017, as the first quantitative milestone date (*i.e.,* the date 3 years after December 31, 2014). The second quantitative milestone date is December 31, 2020, and is also the last milestone date identified in the Plan because it falls within 3 years after the December 31, 2019 attainment date for the area.[181]

[172] 81 FR 1514, at 1515 (January 13, 2016).

[173] Letter from Richard W. Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, May 8, 2017. California previously submitted NNSR SIP revisions to address the subpart 4 requirements for Moderate $PM_{2.5}$ nonattainment areas, and the EPA approved these SIP revisions on May 1, 2015 (80 FR 24821).

[174] 40 CFR 93.118(e)(4)(v).

[175] *See* 81 FR 58010, 58091–58092.

[176] 40 CFR 93.102(b) and 93.122(f); *see also* conformity rule preamble at 69 FR 40004, 40031–40036 (July 1, 2004).

[177] 40 CFR 51.1013(a)(4), *see also* 81 FR 58010, 58058 and 58063–58064 (August 24, 2016).

[178] *See* 81 FR 58010, 58063–58064 (August 24, 2016).

[179] 40 CFR 93.118(e)(1).

[180] *See, e.g.,* 67 FR 69139 (November 15, 2002), limiting our prior approval of budgets in certain California SIPs.

[181] Under CAA section 188(c)(2), a Serious $PM_{2.5}$ nonattainment area must attain the $PM_{2.5}$ NAAQS as expeditiously as practicable but no later than the end of the tenth calendar year after the area is designated as nonattainment. Because the South Coast area was designated as nonattainment for the 2006 $PM_{2.5}$ NAAQS effective December 14, 2009 (74

Continued

The 2016 $PM_{2.5}$ Plan includes budgets for direct $PM_{2.5}$, NO_X, and VOC for 2017 and 2019 (RFP milestone year and projected attainment year, respectively) and for 2020 (post-attainment year quantitative milestone).[182] The budgets were calculated using EMFAC2014, CARB's latest version of the EMFAC model for estimating emissions from on-road vehicles operating in California, and SCAG's latest modeled VMT and speed distributions from the 2016 Regional Transportation Plan/Sustainable Communities Strategy adopted in April of 2016. The budgets reflect annual average emissions because those emissions are linked with the District's attainment demonstration for the 24-hour $PM_{2.5}$ NAAQS.

The direct $PM_{2.5}$ budgets include tailpipe, brake wear, and tire wear emissions as well as paved road dust, unpaved road dust, and road construction dust emissions.[183] The Plan includes budgets for VOC and NO_X because they are regulated precursors under the Plan. Under 40 CFR 93.102(b)(2)(v), states are not required to include budgets for SO_2 and/or NH_3 unless EPA or the state has made a finding that transportation-related emissions of any of these precursors within the nonattainment area are significant contributors to the $PM_{2.5}$ nonattainment problem. Neither the State nor the EPA has made such a funding. The budgets included in the 2016 $PM_{2.5}$ Plan are shown in Table 6 below.

Table 6. Budgets for the South Coast for the 2006 $PM_{2.5}$ Standard (annual average tpd)

	2017 (RFP year)			2019 (attainment year)			2020 (post attainment RFP year)		
	$PM_{2.5}$	NO_X	VOC	$PM_{2.5}$	NO_X	VOC	$PM_{2.5}$	NO_X	VOC
Baseline Emissions: Exhaust, Brake and Tire wear	11.19	199.09	98.55	10.82	168.13	82.52	10.52	151.64	76.27
Paved road dust	8.02			8.15			8.22		
Unpaved road dust	0.59			0.59			0.59		
Road construction	0.23			0.25			0.26		
Total	20.03			19.81			19.59		
Budgets	21	200	99	20	169	83	20	152	77

Source: 2016 $PM_{2.5}$ Plan, Appendix VI-D, Table VI-D-4. Budgets are rounded to the nearest whole number.
Note: we are not proposing to act on the 2020 post-attainment year RFP budgets at this time.

In the submittal letter for the 2016 $PM_{2.5}$ Plan, CARB requested that we limit the duration of our approval of the budgets to the period before the effective date of the EPA's adequacy finding for any subsequently submitted budgets.[184]

We found the budgets for the 2017 RFP year and the 2019 attainment year adequate in a letter dated December 19, 2017.[185] In today's action, we are proposing to approve these budgets.

Conformity Trading Mechanism

The 2016 $PM_{2.5}$ Plan also includes a proposed trading mechanism for transportation conformity analyses that would allow future decreases in NO_X emissions from on-road mobile sources to offset any on-road increases in $PM_{2.5}$, using the ratios shown in Table 7 below.[186] For the 2006 24-hour $PM_{2.5}$ NAAQS the State is proposing to use the same ratios that were submitted for use with that NAAQS in the 2012 $PM_{2.5}$ Plan.[187]

TABLE 7—TRADING EQUIVALENCIES FOR 2006 24-HOUR $PM_{2.5}$ NAAQS

	NO_X	VOC	$PM_{2.5}$
NO_X	1	3.151	0.067
VOC	0.317	1	0.021
$PM_{2.5}$	14.833	46.792	1

Source: 2016 $PM_{2.5}$ Plan, Appendix VI–D, Table VI–D–5, and letter from Phil Fine, Deputy Executive Officer, SCAQMD, to Amy Zimpfer, Associate Director, Air Division, EPA Region 9, March 14, 2018.

To ensure that the trading mechanism does not affect the ability of the South Coast to meet the NO_X budget, the NO_X emission reductions available to supplement the $PM_{2.5}$ budget would only be those remaining after the NO_X budget has been met.[188] SCAG must clearly document the calculations used in the trading when demonstrating conformity, along with any additional reductions of NO_X, $PM_{2.5}$ or VOC emissions in the conformity analysis. It should be noted that the trading calculations are performed prior to the final rounding to demonstrate conformity with the budgets.

The District provided a clarification as to how the trading mechanism would be implemented in a March 14, 2018 letter.[189] In that letter, the District clarified that the trading mechanism identified in the 2012 AQMP for the 2006 $PM_{2.5}$ 24-hour NAAQS, which the EPA did not previously act on, is

FR 58688, November 13, 2009), the latest permissible attainment date for the area is December 31, 2019.

[182] 2016 $PM_{2.5}$ Plan, Appendix VI–D and Table VI–D–4 (for 2017, 2019, and 2020 budgets).

[183] 2016 $PM_{2.5}$ Plan, Appendix VI–D, Table VI–D–3, p. VI–D–4.

[184] Letter from Richard W. Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, page 3, April 27, 2017.

[185] *Id.*

[186] 2016 $PM_{2.5}$ Plan, Appendix VI–D, Table VI–D–5.

[187] 82 FR 22025 (April 14, 2016).

[188] 2016 $PM_{2.5}$ Plan, Appendix VI–D, page VI–D–5.

[189] Letter from Philip Fine, Deputy Executive Officer, Planning, Rule Development, and Area Sources, SCAQMD, to Amy Zimpfer, Associate Director, Air Division, EPA Region IX, regarding trading ratios among $PM_{2.5}$ precursors, March 14, 2018.

included in the 2016 AQMP for approval by the EPA for use by SCAG in conformity determinations for the 2006 $PM_{2.5}$ NAAQS for analysis years after the attainment year of 2019. The letter also explained why these trading ratios are still appropriate for use in conformity determinations even though they are derived from modeling conducted for the 2012 AQMP.

The 2016 $PM_{2.5}$ Plan also provides that SCAG, the MPO responsible for demonstrating transportation conformity, shall clearly document the calculations used in the trading, along with any additional reductions of NO_X, $PM_{2.5}$ or VOC emissions in the conformity analysis.

3. EPA's Evaluation and Proposed Actions

The EPA generally first conducts a preliminary review of budgets submitted with an attainment, RFP, or maintenance plan for adequacy, prior to acting on the plan itself, and did so with respect to the replacement $PM_{2.5}$ budgets in the 2016 $PM_{2.5}$ Plan. On October 18, 2017, the EPA announced the availability of the 2016 $PM_{2.5}$ Plan with budgets and a 30-day public comment period. This announcement was posted on EPA's Adequacy website at: *https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa.* The comment period for this notification ended on November 17, 2017. We did not receive any comments during this comment period. We found the budgets adequate on December 19, 2017.[190] A notice of the adequacy finding was published in the **Federal Register** on January 5, 2018.[191]

Based on the information about SO_2 and ammonia emissions in the Plan and in accordance with 40 CFR 93.102(b)(2)(v), we propose to find that it is not necessary to establish motor vehicle emissions budgets for transportation-related emissions of SO_2 and ammonia to attain the 2006 $PM_{2.5}$ standards in the South Coast.

For the reasons discussed in sections V.D. and V.E. of this proposed rule, we are proposing to approve the RFP and attainment demonstrations in the 2016 $PM_{2.5}$ Plan. The 2017 RFP and 2019 attainment budgets, as given in Table 6 of this proposed rule, are consistent with these demonstrations, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 93.118(e)(4) and (5). For these reasons, the EPA proposes to approve the budgets listed in Table 6 above. We provided a more detailed discussion in our adequacy letter, which can be found in the docket for today's action.

We are not taking action on the 2020 budgets at this time. Although the post-attainment year quantitative milestone is a required element of the Serious area plan, it is not necessary to demonstrate transportation conformity for 2020 or to use the 2020 budgets in transportation conformity determinations until such time as the area fails to attain the 2006 $PM_{2.5}$ NAAQS. Additionally, the EPA has not yet started the adequacy process for the 2020 budgets. Therefore, the EPA is not taking action on the submitted budgets for 2020 in the 2016 $PM_{2.5}$ Plan at this time.

If the EPA were to either find adequate or approve the post-attainment milestone year budgets now, those budgets would have to be used in transportation conformity determinations that are made after the effective date of the adequacy finding or approval even if the South Coast area ultimately attains the $PM_{2.5}$ NAAQS by the Serious area attainment date. This would mean that SCAG would be required to demonstrate conformity for the post-attainment date milestone year and all later years addressed in the conformity determination (*e.g.,* the last year of the metropolitan transportation plan) to the post-attainment date RFP budgets rather than the budgets associated with the attainment year for the area (*i.e.,* the budgets for 2019). The EPA does not believe that it is necessary to demonstrate conformity using these post-attainment year budgets in areas that either the EPA anticipates will attain by the attainment date or in areas that attain by the attainment date. The EPA has found adequate the budgets for the first milestone year (2017) and the attainment year (2019) for the South Coast $PM_{2.5}$ nonattainment area.[192]

If the EPA determines that the South Coast area has failed to attain the 2006 $PM_{2.5}$ NAAQS by the applicable attainment date, the EPA will begin the budget adequacy and approval processes for the post-attainment year (2020) budgets. If the EPA finds the 2020 budgets adequate or approves them, those budgets will have to be used in subsequent transportation conformity determinations. The EPA believes that initiating the process to act on the submitted post-attainment year MVEBs following a determination that the area has failed to attain by the Serious area attainment date ensures that transportation activities will not cause or contribute to new violations, increase the frequency or severity of any existing violations, or delay timely attainment or any required interim emission reductions or milestones in the South Coast nonattainment area, consistent with the requirements of CAA section 176(c)(1)(B).

We have previously approved motor vehicle emissions budgets for the 1997 annual and 24-hour $PM_{2.5}$ NAAQS.[193] These budgets will continue to apply for the 1997 $PM_{2.5}$ NAAQS in the South Coast area.

The EPA has reviewed the trading mechanism described on pages VI–D–5 and VI–D–6 in Appendix VI–D of the 2016 AQMP and, given the clarification letter submitted to the EPA on March 14, 2018, finds this trading mechanism appropriate for use in transportation conformity analyses in the South Coast for the 2006 $PM_{2.5}$ NAAQS. We agree with the District that these trading ratios are still appropriate for use in transportation conformity determinations even though they are derived from modeling conducted for the 2012 AQMP. We therefore propose to approve the trading mechanism as an enforceable component of the transportation conformity program for the South Coast for the 2006 $PM_{2.5}$ NAAQS.

In the submittal letter for the 2016 $PM_{2.5}$ Plan, CARB requested that we limit the duration of our approval of the budgets to the period before the effective date of the EPA's adequacy finding for any subsequently submitted budgets.[194] The transportation conformity rule allows us to limit the approval of budgets.[195] CARB's request does not, however, contain an acknowledgement and explanation as to why the budgets under consideration will become outdated or a commitment to update the budgets as part of a comprehensive SIP update. Therefore, we are not proposing at this time to limit the duration of our approval of the submitted budgets. In order to limit the duration of our approval, we would need the information described above to determine whether such limitation is reasonable and appropriate in this case. Once CARB has provided the necessary information, we intend to review it and

[190] Letter from Matthew J. Lakin, Acting Director, Air Division, EPA Region IX, to Richard W. Corey, Executive Officer, CARB, December 19, 2017.

[191] *See* 83 FR 679, January 5, 2018.

[192] Letter from Matthew J. Lakin, Acting Director, Air Division, EPA Region IX, to Richard W. Corey, Executive Officer, CARB, December 19, 2017, and 83 FR 679 (January 5, 2018).

[193] 76 FR 69928, at 69951 (November 9, 2011).

[194] *See* letter dated April 27, 2017, from Richard W. Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, page 3.

[195] 40 CFR 93.118(e)(1).

take appropriate action. If we propose to limit the duration of our approval of the budgets in the 2016 $PM_{2.5}$ Plan, we will provide the public an opportunity to comment. The duration of our approval of the submitted budgets will not be limited until we complete such a rulemaking.

VI. Summary of Proposed Actions and Request for Public Comment

Under CAA section 110(k)(3), the EPA is proposing to approve SIP revisions submitted by California to address the Act's Serious area planning requirements for the 2006 $PM_{2.5}$ NAAQS in the South Coast nonattainment area. Specifically, the EPA is proposing to approve the following elements of the 2016 $PM_{2.5}$ Plan:

1. A comprehensive, accurate, current inventory of actual emissions from all sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the area (CAA section 172(c)(3));
2. Provisions to assure that BACM, including BACT, for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));
3. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019 (CAA sections 188(c)(2) and 189(b)(1)(A));
4. Plan provisions that require RFP (CAA section 172(c)(2));
5. Quantitative milestones that are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP toward attainment by the applicable date (CAA section 189(c)); and
6. 2017 and 2019 motor vehicle emissions budgets, as shown in Table 6 of this proposed rule, because they are derived from an approvable RFP plan and attainment demonstration and meet the requirements of CAA section 176(c) and 40 CFR part 93, subpart A.

The EPA is also proposing to approve the interpollutant trading mechanism provided in the 2016 $PM_{2.5}$ Plan and clarified in a March 14, 2018 letter from the District for use in transportation conformity analyses for the 2006 $PM_{2.5}$ NAAQS, in accordance with 40 CFR 93.124. We are not proposing any action at this time on the attainment contingency measure component of the 2016 $PM_{2.5}$ Plan. Finally, the EPA is proposing to find that the requirement for contingency measures to be undertaken if the area fails to make reasonable further progress under CAA section 172(c)(9) is moot as applied to the 2017 milestone year, because the State and District have demonstrated to the EPA's satisfaction that the 2017 milestones have been met.

We will accept comments from the public on these proposals for the next 30 days. The deadline and instructions for submission of comments are provided in the **DATES** and **ADDRESSES** sections at the beginning of this preamble.

VII. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 24, 2018.

Deborah Jordan,

Acting Regional Administrator, Region 9.

[FR Doc. 2018–21560 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2008–0408; FRL–9984–28—Region 6]

Approval and Promulgation of Implementation Plans; Texas; Interstate Transport Requirements for the 1997 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve portions of two Texas State Implementation Plan (SIP) submittals that pertain to the good neighbor and interstate transport requirements of the CAA with respect to the 1997 ozone National Ambient Air Quality Standards (NAAQS). The good neighbor provision requires each state, in its SIP, to prohibit emissions that will significantly contribute to nonattainment, or interfere with maintenance, of a NAAQS in other states. In this action, EPA is proposing

to approve the Texas SIP submittals as having met the requirements of the good neighbor provision for the 1997 ozone NAAQS in accordance with section 110 of the CAA.

DATES: Written comments must be received on or before November 2, 2018.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2008–0408, at *http://www.regulations.gov* or via email to *young.carl@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Carl Young, 214–665–6645, *young.carl@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Carl Young, 214–665–6645, *young.carl@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Young or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

A. The 1997 8-Hour Ozone NAAQS and Interstate Transport of Air Pollution

Under section 109 of the CAA, we establish NAAQS to protect human health and public welfare. In 1997, we established new 8-hour primary and secondary ozone NAAQS of 0.08 parts per million (62 FR 38856, July 18, 1997).[1] Ground level ozone is formed when nitrogen oxides (NO_X) and volatile organic compounds (VOCs) react in the presence of sunlight.

Section 110(a)(1) of the CAA requires states to submit, within three years after promulgation of a new or revised standard, SIPs meeting the applicable ''infrastructure'' elements set forth in Section 110(a)(2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain ''good neighbor'' provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. There are four sub-elements within CAA section 110(a)(2)(D)(i). This action reviews how the first two sub-elements of the good neighbor provisions at CAA section 110(a)(2)(D)(i)(I) were addressed in the infrastructure SIP submittals from Texas for the 1997 8-hour ozone NAAQS. These sub-elements require that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' or ''interfere with maintenance'' of the applicable air quality standard in any other state.

The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 8-hour ozone NAAQS in several past regulatory actions. Most relevant to this action, we promulgated the Clean Air Interstate Rule (CAIR) in 2005 to address the requirements of the good neighbor provision for the 1997 fine particulate $PM_{2.5}$ and 1997 ozone NAAQS (May 12, 2005, 70 FR 25172). While Texas was included in CAIR with respect to the 1997 $PM_{2.5}$ NAAQS, we determined that Texas would not significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in other states. However, CAIR was remanded by the D.C. Circuit in *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), *modified on reh'g,* 550 F.3d 1176. The court determined that CAIR was ''fundamentally flawed'' and ordered EPA to ''redo its analysis from the ground up.'' 531 F.3d at 929.

In 2011 we promulgated the Cross-State Air Pollution Rule (CSAPR) to address the remand of CAIR.[2] CSAPR addressed the state and federal obligations under CAA section 110(a)(2)(D)(i)(I) to prohibit air pollution contributing significantly to nonattainment in, or interfering with maintenance by, any other state with regard to the 1997 8-hour ozone NAAQS and the 1997 annual $PM_{2.5}$ NAAQS, as well as the 2006 24-hour $PM_{2.5}$ NAAQS. To address Texas' transport obligation under CAA section 110(a)(2)(D)(i)(I) with regard to the 1997 8-hour ozone NAAQS, CSAPR established Federal Implementation Plan (FIP) requirements for affected electric generating units (EGUs) in Texas, including an emissions budget that applied to the EGUs' collective ozone-season emissions of NO_X. The CSAPR budgets were to be implemented in two phases, with phase 1 to be implemented beginning with the 2012 ozone season and phase 2 to be implemented beginning with the 2014 ozone season.[3] Due to litigation, phase 1 of CSAPR was not implemented until 2015 and phase 2 was set to be implemented beginning in 2017. (81 FR 13275, March 14, 2016).

In subsequent litigation (*See generally EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. Ct. App. 2015) (''*EME Homer City II*'' herein)), the court reviewed our ability to regulate interstate air pollution pursuant to the good neighbor provision. The court in *EME Homer City II* declared the CSAPR phase 2 ozone season emission budgets of 11 states invalid, including Texas, holding that those budgets over-control with respect to the downwind air quality problems to which those states were linked for the 1997 ozone NAAQS.[4]

In our response to *Homer City II,* we addressed Texas's ozone-season emissions budget in the regulation,

[1] In 2008, we revised the 8-hour ozone NAAQS to 0.075 ppm (73 FR 16436, March 27, 2008) and in 2015 we revised the 8-hour ozone NAAQS to 0.070 ppm (80 FR 65292, October 26, 2015). This proposal pertains to the 1997 8-hour ozone NAAQS only.

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

[3] However, the implementation of the emissions budgets was stayed by the D.C. Circuit in December 2011 pending further litigation. The D.C. Circuit initially issued a decision in *EME Homer City Generation, L.P.* v. *EPA*, 696 F.3d 7 (D.C. Cir. 2012) (EME Homer City I), vacating CSAPR, but in April 2014, the Supreme Court issued a opinion reversing the D.C. Circuit and remanding the case for further proceedings. *EPA* v. *EME Homer City Generation, L.P.*, 134 S. Ct. 1584, 1600–01 (2014). After the Supreme Court issued its decision, the D.C. Circuit granted a motion from EPA to lift the stay and toll the compliance timeframes by three years. *See* Respondents' Motion to Lift the Stay Entered on December 30, 2011, Document #1499505, *EME Homer City Generation, L.P.* v. *EPA*, No. 11–1302 (D.C. Cir. filed June 26, 2014); Order, Document #1518738, *EME Homer City Generation, L.P.* v. *EPA*, No. 11–1302 (D.C. Cir. issued Oct. 23, 2014).

[4] *EME Homer City II,* 795 F.3d at 129–30, 138 (D.C. Cir. Ct. App. 2015).

CSAPR Update, which was promulgated in 2016 to address the requirements of the good neighbor provision for the 2008 ozone NAAQS.[5] In the original 2011 CSAPR, EPA noted that the reductions for 11 states, including Texas, may not be sufficient to fully eliminate all significant contribution to nonattainment or interference with maintenance for certain downwind areas with respect to the 1997 ozone NAAQS because EPA's analysis projected continued nonattainment and maintenance problems at downwind receptors to which these upwind states were linked after implementation of the CSAPR trading programs. Specifically, exceedances were expected in Baton Rouge, Louisiana; Houston, Texas; and Allegan, Michigan according to the remedy case modeling conducted for the original CSAPR rule. The CSAPR Update used 2017 as the analytic year for the air quality modeling to determine nonattainment and maintenance receptors and states linked to those receptors. We evaluated this 2017 modeling to determine whether additional emission reductions would be needed in these 11 states, including Texas, to address the states' full good neighbor obligation for the 1997 ozone NAAQS.

Despite our conclusion in the 2011 CSAPR that the 1997 ozone transport problems to which Texas was linked were not fully resolved, the court concluded in *EME Homer City II* that the ozone season emission budget finalized for Texas may result in over-control as to the ozone air quality problems to which the state was linked. 795 F.3d *at* 129–30. In response to this determination, we removed Texas's phase 2 ozone season budget as a constraint in the 2017 air quality modeling conducted for the CSAPR Update. EPA concluded that, even in the absence of this constraint, the 2017 air quality modeling shows that the predicted average design values (DVs) [6] used to identify nonattainment receptors and the maximum DVs used to identify maintenance receptors would both be below the level of the 1997 ozone NAAQS for the downwind receptors of concern to which Texas was linked in the original CSAPR rulemaking with respect the 1997 ozone NAAQS. Accordingly, we found that Texas emissions would no longer contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the 1997 ozone NAAQS. (*See generally,* 81 FR 74504). Consistent with this finding, we removed the FIP requirements associated with the 1997 ozone NAAQS, and sources in Texas were no longer subject to the phase 2 ozone season budget calculated to address that standard. *See* 40 CFR 52.38(b)(2)(ii) (relieving sources in Texas of the obligation to comply with the remanded phase 2 ozone season emission budgets after 2016).[7]

B. Texas SIP Submittals Pertaining to the 1997 8-Hour Ozone NAAQS and Interstate Transport of Air Pollution

Texas made the following SIP submittals to address CAA requirements to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in other states: (1) An April 4, 2008 submittal stating that the state had addressed any potential CAA section 110(a)(2) infrastructure issues associated with the 1997 ozone NAAQS, including the first two sub-elements for interstate transport in (CAA section 110(a)(2)(D)(i)(I)) and (2) a separate, but similar May 1, 2008 submittal which discussed how the first two sub-elements of the good neighbor provision were addressed with respect to the 1997 ozone standards. For the reasons described below, this action proposes to approve the state's two SIP submittals with respect to the state's conclusions regarding the first two sub-elements of the good neighbor provisions at CAA section 110(a)(2)(D)(i)(I) for the 1997 ozone NAAQS. *See* Docket No. EPA–R06–OAR–2008–0408 in *www.regulations.gov.*

II. The EPA's Evaluation

Each of the above-referenced Texas SIP submittals relied on (1) EPA's CAIR modeling document, ''Technical Support Document for the Final Clean Air Interstate Rule—Air Quality Modeling, March 2005'' [8] and (2) emission controls found in the Texas SIP to support a conclusion that the Texas SIP had adequate provisions to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in any other state. The SIP submittals rely on the conclusion in the CAIR rulemaking that Texas would not significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in downwind states. While CAIR was still in place at the time the state submitted its SIPs, as discussed above, the rule was remanded by the D.C. Circuit in 2008 because the court found it was ''fundamentally flawed'' and must be replaced ''from the ground up.'' *North Carolina,* 531 F.3d at 929–30. Accordingly, we cannot approve the state's SIP submittals based on the CAIR analysis. However, more recent information provides support for our proposed approval of the conclusions in the SIP submittals that the state will not significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in any other state.

The updated air quality modeling conducted for the original CSAPR rulemaking projected the effect of emissions on ambient air quality monitors (receptors). The modeling projected that in 2012: (1) A receptor located in East Baton Rouge Parish, Louisiana (monitor ID 220330003) would have difficulty attaining and maintaining the 1997 8-hour ozone NAAQS; and, (2) A receptor located in Allegan County, Michigan (monitor ID 260050003) would have difficulty maintaining the 1997 8-hour ozone NAAQS (76 FR 48208, 48236, August 8, 2011). The modeling also showed that Texas emissions were projected to contribute more than the threshold amount of ozone pollution necessary to be considered ''linked'' to these receptors for the 1997 8-hour ozone NAAQS (76 FR 48208, 48246, August 8, 2011). These were the only ozone receptors with projected air quality problems to which Texas was found to be linked.

In CSAPR we used air quality projections for the year 2012, which was also the intended start year for implementation of the CSAPR Phase 1 EGU emission budgets, to identify receptors projected to have air quality problems. The CSAPR final rule record also contained air quality projections for 2014, which was the intended start year for implementation of the CSAPR Phase 2 EGU emission budgets. The 2014 modeling results projected that before considering the emissions reductions anticipated from implementation of CSAPR: (1) The East Baton Parish receptor would have an average 8-hour ozone DV of 84.1 parts per billion (ppb) and a maximum DV of 87.7 ppb; and, (2) The Allegan County, Michigan

[5] CSAPR Update Rule for the 2008 ozone NAAQS, 81 FR 74504, October 26, 2016.

[6] DVs are used to determine whether a NAAQS is being met.

[7] EPA notes that, because Texas was linked to downwind air quality problems with respect to the 2008 ozone NAAQS in its analysis, the EPA promulgated a new ozone season NO_X emission budget to address that standard at 40 CFR 97.810(a).

[8] Document EPA–HQ–OAR–2003–0053–2151 in *regulations.gov.*

would have maximum DV of 83.6 ppb.[9] We used a value of 85 ppb to determine whether a particular ozone receptor should be identified as having air quality problems that may trigger transport obligations in upwind states with regard to the 1997 8-hour ozone NAAQS (76 FR 48208, 48236).

The 2014 modeling results show that the Allegan County, Michigan monitor which Texas was linked to in the 2012 modeling was no longer projected to have air quality problems sufficient to trigger transport obligations with regard to the 1997 8-hour ozone NAAQS. Thus, Texas was no longer projected to interfere with maintenance of the 1997 ozone NAAQS at the Allegan County receptor in 2014. However, the 2014 modeling results continued to project that the East Baton Parish receptor would have problems maintaining the 1997 ozone NAAQS.

As discussed above, in response to the remand of Texas's CSAPR phase 2 ozone season budget by the D.C. Circuit in *EME Homer City II,* EPA reviewed the 2017 air quality modeling conducted for the CSAPR Update. EPA concluded that, even in the absence of Texas's CSAPR budget, both the Baton Rouge and Allegan receptors would have average and maximum DVs below the level of the 1997 ozone NAAQS for the downwind receptors of concern to which Texas was linked in the original CSAPR rulemaking with respect the 1997 ozone NAAQS. Accordingly, EPA found that Texas emissions would no longer contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the 1997 ozone NAAQS at either receptor or in any other state. (81 FR 74525–26). This conclusion is based on EPA's most recent modeling analysis and is supported by the fact that the Baton Rouge area has monitored attainment of the 1997 ozone standard since 2008.

III. Proposed Action

We are proposing to approve the portions of the April 4, 2008 and May 1, 2008 Texas SIP submittals as they pertain to the requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS. We propose to find that the conclusion in the state's SIP submittals is consistent with EPA's conclusion regarding the Texas's good neighbor obligation, that emissions from Texas will not significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in any other state.

IV. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone.

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

Dated: September 26, 2018.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2018–21448 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

[9] *See* projected 2014 base case average and maximum DVs for these monitors at pages B–14 and B–16 of the June 2011 Air Quality Modeling Final Rule Technical Support Document for CSAPR, Document ID No. EPA–HQ–OAR–2009–0491–4140, available in *regulations.gov*.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R05–OAR–2018–0600; FRL–9984–56—Region 5]

Air Plan Approval; Indiana; Negative Declarations for Commercial and Industrial Solid Waste Incineration and Sewage Sludge Incineration Units for Designated Facilities and Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is notifying the public that we have received from Indiana requests for withdrawals of the previously approved state plans and notification of negative declarations for Commercial and Industrial Solid Waste Incineration (CISWI) units and Sewage Sludge Incineration (SSI) units. The Indiana Department of Environmental Management (IDEM) submitted its CISWI withdrawal and negative declaration by letter dated July 31, 2017 and its SSI withdrawal and negative declaration by letter dated July 31, 2017. IDEM notified EPA in its negative declaration letters that there are no CISWI or SSI units subject to the requirements of the Clean Air Act (Act) currently operating in Indiana.

DATES: Comments must be received on or before November 2, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0600, at *https://www.regulations.gov* or via email to cain.alexis@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 *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Margaret Sieffert, Environmental Engineer, Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AT–18J), Chicago, Illinois 60604, (312) 353–1151, *sieffert.margaret@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
A. Sections 111 and 129 of the Act
B. Commercial and Industrial Solid Waste Incineration Units
C. Sewage Sludge Incineration Units
II. Negative Declarations and EPA Analysis
A. Commercial and Industrial Solid Waste Incineration Units
B. Sewage Sludge Incineration Units
III. Proposed EPA Action
IV. Statutory and Executive Order Reviews

I. Background

A. Sections 111 and 129 of the Act

Sections 111 and 129 of the Act set forth EPA's statutory authority for regulating, among other types of emission sources, new and existing solid waste incineration units. Section 111(b) directs EPA to publish and periodically revise a list of categories of stationary sources which cause or significantly contribute to air pollution, and to establish new source performance standards (NSPS) within these categories. Section 111(d) grants EPA statutory authority to require states to submit implementation plans for establishing performance standards applicable to existing sources belonging to those categories established in section 111(b).

Under Section 111(d), the state submits plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) which have been established under section 111(b). EPA has promulgated emission guidelines (EGs) for designated facilities, which are used by states to formulate their state plan. 40 CFR 60.21(a) and (b). Section 129(b) of the Act is specific to solid waste combustion, and requires EPA to establish performance standards pursuant to section 111 of the Act for each category of solid waste incineration units, which includes the categories addressed in today's action.

The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans for the control of designated pollutants from designated facilities under section 111(d) of the Act, including those pollutants and facilities designated pursuant to section 129 of the Act. Further, 40 CFR part 62, subpart A, provides the procedural framework in which EPA will approve or disapprove such plans submitted by a state. If a state fails to submit a satisfactory plan, the Act provides EPA with the authority to prescribe a plan for regulating the designated pollutants at the designated facilities. The EPA prescribed plan, also known as a Federal plan, is used to regulate designated facilities when there is no EPA approved state-specific plan. Further, if there are no designated facilities within a state's jurisdiction, the state may submit to EPA a letter of certification to that effect (referred to as a ''negative declaration'') in lieu of a state plan to satisfy the state's obligation. 40 CFR 60.23(b) and 62.06. The negative declaration exempts the state from the requirement to submit a state plan for the designated pollutants and facilities. Therefore, if a state submits a negative declaration for a category of solid waste incineration units, the state is not required to submit a state plan for that source category.

B. Commercial and Industrial Solid Waste Incineration Units

On December 1, 2000, EPA promulgated a NSPS for new CISWI units, 40 CFR part 60, subpart CCCC, and EGs for existing CISWI units, 40 CFR part 60, subpart DDDD. 65 FR 75338. On March 21, 2011 (76 FR 15704), EPA, after a ''voluntarily remand'' of the 2000 CISWI standards and EGs, promulgated a final CISWI NSPS and EGs.[1] Correspondingly, on the same date, EPA promulgated a final rule under the Resource Conservation and Recovery Act (RCRA) to identify which non-hazardous secondary materials, when used as fuels or ingredients in combustion units, are ''solid wastes.'' 76 FR 15456; see 40 CFR part 241, Solid Wastes Used as Fuels or Ingredients in Combustion Units (also known as the ''Non-Hazardous Secondary Material Rule''). The identification of solid waste in the Non-Hazardous Secondary Material Rule is used to determine whether a combustion unit is required to meet the emissions standards for solid waste incineration units issued under sections 111 and 129 of the Act, or meet the emissions standards for commercial, industrial, and institutional boilers issued under section 112 of the Act. EPA subsequently promulgated amendments to both rules on February 7, 2013: Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Final Amendments; Non-Hazardous Secondary Materials That Are Solid Waste; Final Rule. 78 FR 9112. Reconsideration of certain aspects of the final CISWI rule resulted in minor amendments. 81 FR 40956 (June 23, 2016). Pursuant to sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B, states were required to revise their state plans for existing CISWI units to comply with the amended regulations.

A CISWI unit is defined in 40 CFR 60.2875 as any distinct operating unit of any commercial or industrial facility that combusts, or has combusted in the preceding 6 months, any solid waste, as that term is defined in the Non-Hazardous Secondary Material Rule. A state plan must address all existing CISWI units that commenced construction on or before June 4, 2010, or for which modification or reconstruction was commenced on or before August 7, 2013, with limited exceptions as provided in section 40 CFR 60.2555. 40 CFR 60.2550.

However, as discussed above, if there are no existing designated facilities in a state, the state may submit a negative declaration in lieu of a state plan. EPA will provide public notice of receipt of a state's negative declaration with respect to that solid waste incineration unit category. 40 CFR 60.2530. If any

[1] For more information on the history to this rule, including the remand, see 67 FR 70640 (November 25, 2002).

unit of a solid waste incineration category is subsequently identified in a state for which a negative declaration had been submitted, the Federal plan implementing the EGs for that source category would apply to that unit. In the case of a CISWI unit, subpart DDDD would automatically apply to that CISWI unit until a state plan is approved. 40 CFR 60.2530.

C. Sewage Sludge Incineration Units

EPA promulgated an NSPS and EGs for SSIs on March 21, 2011. 76 FR 15404. The NSPS and EGs are codified at 40 CFR part 60, subparts LLLL and MMMM, respectively. Thus, states were required to submit plans for existing SSIs, pursuant to sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B.

A SSI unit is defined in 40 CFR 60.5250 as any device that combusts sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter. The designated facilities to which the EGs applied to are existing SSI units that commenced construction on or before October 14, 2010 or for which a modification was commenced on or before September 21, 2011 primarily to comply with this rule. 76 FR 15371.

II. Negative Declarations and EPA Analysis

A. Commercial and Industrial Solid Waste Incineration Units

IDEM submitted a CISWI state plan on December 20, 2002. EPA approved the state plan and it became effective on August 11, 2003. 68 FR 35181. On July 31, 2017, IDEM submitted its CISWI negative declaration, in which it certified that there are no longer any CISWI units currently operating in Indiana.[2]

B. Sewage Sludge Incineration Units

IDEM submitted a SSI state plan on February 27, 2013. EPA approved the state plan and it became effective on August 12, 2013. 78 FR 34918. On July 31, 2017, IDEM submitted its SSI withdrawal and negative declaration, in which it certified that there are no longer any existing SSI units currently operating in Indiana. Previously, IDEM listed Belmont Advanced Wastewater Treatment Facility as having an existing SSI. After modifications at the Belmont facility, however, the SSI unit became subject to the NSPS under 40 CFR part 60 subpart LLLL. Because there are no existing sources subject to the 2013 state plan, IDEM is requesting to withdraw the 2013 state plan and replace it with a negative declaration.

III. Proposed EPA Action

EPA is proposing to amend 40 CFR part 62 to reflect IDEM's withdrawals and negative declarations for both CISWI and SSI facilities. EPA received the CISWI and SSI negative declarations and withdrawal requests by letters dated July 31, 2017.

IV. Statutory and Executive Order Reviews

A. General Requirements

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and therefore is not subject to review by the Office of Management and Budget under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under E.O. 12866. This action merely approves state law as meeting Federal requirements and merely notifies the public of EPA's receipt of negative declarations from an air pollution control agency without any existing CISWI or SSI units in its state. This action imposes no requirements beyond those imposed by the state. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule pertains to pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule 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). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely provides notice of receipt of negative declarations, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it just notifying the public regarding receipt of the negative declarations.

In reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. With regard to negative declarations for designated facilities received by EPA from states, EPA's role is to notify the public of the receipt of such negative declarations and revise 40 CFR part 62 accordingly. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state plan submission or negative declaration for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan or negative declaration submission, to use VCS in place of a state plan or negative declaration submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Commercial and industrial solid waste incinerators, Intergovernmental relations, Sewage sludge incineration units, Reporting and recordkeeping requirements.

Dated: September 13, 2018.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2018–21468 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

[2] Previously, an incinerator located at Covance Laboratories, Inc. was listed by Indiana as subject to the CISWI. In a letter dated June 18, 2018, however, EPA determined that Covance's incinerator was not a ''CISWI unit'' under the regulations.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2017–0324; FRL–9984–40—Region 6]

Oklahoma: Proposed Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Oklahoma Department of Environmental Quality (ODEQ) has applied to the Environmental Protection Agency (EPA) for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed Oklahoma's application, and has determined that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's changes. The EPA is seeking public comment prior to taking final action.

DATES: Comments on this proposed rule must be received by November 2, 2018.

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

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

Instructions: EPA must receive your comments by November 2, 2018. Direct your comments to Docket ID Number EPA–R06–RCRA–2017–0324. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or email. The Federal *http://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.regulations.gov).*

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

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

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

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

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

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

On March 31, 2017, the ODEQ submitted a final program revision application, excluding the Definition of Solid Waste (DSW), rule seeking authorization of changes to its hazardous waste program that correspond to Federal rules promulgated between July 2014 and June 2015 (RCRA Cluster XXIV). The EPA has reviewed Oklahoma's application to revise its authorized program and has made a tentative decision that it meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant ODEQ final authorization to operate its hazardous waste program with the changes described in the authorization application. ODEQ will continue to have responsibility for permitting treatment, storage, and disposal facilities within its borders, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Oklahoma, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this proposed authorization decision?

If Oklahoma is authorized for these changes, a facility in Oklahoma subject

to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Additionally, such facilities will have to comply with any applicable Federal requirements such as, for example, HSWA regulations issued by the EPA for which the State has not received authorization. ODEQ continues to have enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

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

The action to approve these provisions would not impose additional requirements on the regulated community because the regulations for which ODEQ is requesting authorization are already effective under State law, and are not changed by the act of authorization.

D. What happens if the EPA receives comments on this action?

If the EPA receives comments on this proposed action, we will address those comments in our final action. You may not have another opportunity to comment. If you want to comment on this proposed authorization, you must do so at this time.

E. For what has Oklahoma previously been authorized?

ODEQ initially received final authorization on January 10, 1985 (49 FR 50362–50363), published December 27, 1984, to implement its base hazardous waste management program. We authorized the following revisions: ODEQ received authorization for revisions to its program with publication dates: April 17, 1990 (55 FR 14280–14282), effective June 18, 1990; September 26, 1990 (55 FR 39274), effective November 27, 1990; April 2, 1991 (56 FR 13411–13413), effective June 3, 1991; September 20, 1991 (56 FR 47675–47677), effective November 19, 1991; September 29, 1993 (58 FR 50854–50856), effective November 29, 1993; October 12, 1993 (58 FR 52679–52682), effective December 13, 1993; October 7, 1994 (59 FR 51116–51122), effective December 21, 1994; January 11, 1995 (60 FR 2699–2702), effective April 27, 1995; October 9, 1996 (61 FR 52884–52886), effective December 23, 1996; Technical Correction March 14, 1997 (62 FR 12100–12101), effective March 14, 1997; September 22, 1998 (63 FR 50528–50531), effective November 23, 1998; March 29, 2000 (65 FR 16528–16532), effective May 30, 2000; May 10, 2000 (65 FR 29981–29985), effective June 10, 2000; January 2, 2001 (66 FR 28–33), effective March 5, 2001; April 9, 2003 (68 FR 17308–17311), effective June 9, 2003; February 4, 2009 (74 FR 5994–6001), effective April 6, 2009; April 6, 2011 (76 FR 18927–18930), effective June 6, 2011; March 15, 2012 (77 FR 15273–15276), effective May 14, 2012; May 29, 2013 (78 FR 32161–32165), effective July 29, 2013; and August 29, 2014 (79 FR 51497–51500), effective October 28, 2014. The authorized Oklahoma RCRA program was incorporated by reference into the CFR published on October 12, 1993 (58 FR 52679–52682), effective December 13, 1993; April 30, 1998 (63 FR 23673–23678), effective July 14, 1998; August 26, 1999 (64 FR 46567–46571), effective October 25, 1999; August 27, 2003 (68 FR 51488–51492), effective October 27, 2003; June 28, 2010 (75 FR 36546–36550), effective August 27, 2010; May 17, 2012 (77 FR 29231–29235), effective July 16, 2012; August 7, 2012, (77 FR 46964–46968), effective October 9, 2012; and July 1, 2014 (79 FR 37226–37230), effective September 2, 2014 and July 13, (82 FR 32249–32252) effective September 11, 2017. On March 31, 2017, ODEQ submitted a final program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21.

The Oklahoma Hazardous Waste Management Act (OHWMA) provides the ODEQ with the authority to administer the State Program, including the statutory and regulatory provisions necessary to administer portions of the provisions of RCRA Cluster XXIV, and designates the ODEQ as the State agency to cooperate and share information with EPA for purpose of hazardous waste regulation. The Oklahoma Environmental Quality Code (''Code''), at 27A O.S. Section 2–7–101 *et seq.* establishes the statutory authority to administer the hazardous waste management program under RCRA Subtitle C. The State regulations to manage the hazardous waste management program is at Oklahoma Administrative Code (OAC) Title 252:205–3–2.

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

The ODEQ adopted applicable federal hazardous waste regulations as amended July 1, 2014 through June 30, 2015. The regulatory amendment implementing this adoption by reference has an effective date of September 15, 2016. The provisions for which the State of Oklahoma is seeking authorization, as documented in the *Regulatory Documentation For Federal Provisions For Which The State Of Oklahoma Is Seeking Authorization, Federal Final Rules Published Between July 1, 2014 Through June 30, 2015 RCRA CLUSTER XXIV,* excluding the DSW rule; prepared on Feburary 21, 2017.

The ODEQ incorporates the Federal Regulations by reference, and there have been no changes in State or Federal laws or regulations that have diminished the ODEQ's ability to adopt the Federal regulations by reference. The Federal hazardous waste regulations are adopted by reference by the ODEQ at OAC 252:205–3–2, Subchapter 3. The ODEQ does not adopt Federal regulations prospectively.

The State hazardous waste management program (''State Program'') has in place, the statutory authority and regulations for all required components of federal regulations adopted in Checklists 234 and 235 in RCRA Cluster XXIV. These statutory and regulatory provisions were developed to ensure the State program is equivalent to, consistent with, and no less stringent than the Federal hazardous waste management program.

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

The ODEQ has adopted portions of RCRA Cluster XXIV applicable federal hazardous waste regulations as amended July 1, 2014 through June 30, 2015, and became effective on September 15, 2016. The rules were also codified at OAC 252 Chapter 205.

Pursuant to OAC 252:205–3–2, the State's incorporation of Federal regulations does not incorporate, prospectively, future changes to the incorporated sections of the 40 CFR, and no other Oklahoma law or regulation reduces the scope of coverage or otherwise affects the authority provided by these incorporated-by-reference provisions. Further, Oklahoma interprets these incorporated provisions to provide identical authority to the Federal provisions. Thus, OAC Title 252, Chapter 205 provides equivalent and no less stringent authority than the Federal Subtitle C program in effect July 1, 2015. The State of Oklahoma incorporates by reference the provisions of 40 CFR part 124 that are required by 40 CFR 271.14 (with the addition of 40 CFR 124.19(a) through (c), 124.19(e), 124.31, 124.32, 124.33 and Subpart G); 40 CFR parts 260 through 268 [with the exception of 260.21, 262 Subparts E and H, 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(1), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), 264.1080(g), 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f) 265.1080(e), 265.1080(f), 265.1080(g), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g)]; 40 CFR part 270 [with the exception of 270.1(c)(2)(ix) and 270.14(b)(18)]; 40 CFR part 273; and 40 CFR part 279.

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

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

F. What changes are we proposing to authorize with this action?

On March 31, 2017, the ODEQ submitted a final complete program application seeking authorization of their changes in accordance with 40 CFR 271.21. We have determined that the ODEQ's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. We are now proposing to authorize, subject to receipt of written comments that oppose this action, Oklahoma's hazardous waste program revision. The ODEQ revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated between July 1, 2014 through June 30, 2015 (RCRA Cluster XXIV), excluding the Defintion of Solid Waste rule. We propose to grant Oklahoma final authorization for the ODEQ requirements included in the Table within this document. Requirement 2 in the Table below concerns changes based on Coal Combustion Residuals Rulemaking (CCR) . In that rulemaking, the Agency amended 40 CFR 261.4(b)(4) under RCRA Subtitle C to clarify that ''*wastes produced in conjunction with the combustion of fossil fuels, which are necessarily associated with the production of energy, and which traditionally have been, and which actually are, mixed with and co-disposed or co-treated with fly ash, bottom ash, boiler slag, or flue gas emission control wastes from coal combustion are not hazardous wastes*.'' The Requirement 2 in the Table below only addresses this change to Subtitle C. CCR also amended 40 CFR part 257 to regulate the disposal of (CCR) as solid waste under Subtitle D. This is not part of this Proposal. In a separate action, EPA has proposed approval of a CCR permitting program for Oklahoma. See, 83 FR 2100, January 16, 2018.

Description of federal requirement (include checklist number, if relevant)	**Federal Register** date and page and/or RCRA statutory authority	Analogous state authority
1. Vacatur of the Comparable Fuels Rule and the Gasification Rule. (Checklist 234).	80 FR 18777–18780 April 8, 2015, effective April 8, 2015.	Oklahoma Statutes Title 27A Section 2–7–101 *et seq*., Oklahoma Hazardous Waste Management Act, as amended September 15, 2015, Oklahoma Administrative Code, Title 252, Chapter 205, Section 252:205–3–2, effective September 15, 2016.
2. Disposal of Coal Combustion Residuals from Electric Utilities. (Checklist 235).	80 FR 21302–21501 April 17, 2015; effective October 19, 2015 [40 CFR 261.4(b)(4)(i)–(ii)(H) only].	Oklahoma Statutes Title 27A Section 2–7–101 *et seq*., Oklahoma Hazardous Waste Management Act, as amended September 15, 2015, Oklahoma Administrative Code, Title 252, Chapter 205, Section 252:205–3–2, effective September 15, 2016.

G. Why are the revised State rules different from the Federal rules?

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

H. Who handles permits after the final authorization takes effect?

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

I. How does this action affect Indian Country (18 U.S.C. 1151) in Oklahoma?

Section 18 U.S.C. 1151 does not affect the State of Oklahoma because under section 10211(a) of the SAFETEA, Public Law 109–59, 119 Statute 1144 (August 10, 2005) provides the State of Oklahoma opportunity to request approval from EPA to administer RCRA Subtitle C in Indian Country and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA.

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

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

codify the rules documented in this **Federal Register** document.

I. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action proposes to authorize State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82FR 9339, February 3, 2017) regulatory action because actions such as today's proposed authorization of the State of Oklahoma's revised hazardous waste program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action proposes to authorize preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this proposed action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to authorize State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA.

This proposed action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization, as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This proposed rule does not impose information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, the disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule proposes to authorize pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

List of Subjects in 40 CFR Part 271

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

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

Dated: September 26, 2018.

Anne L. Idsal,

Regional Administrator, Region 6.

[FR Doc. 2018–21449 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2018–0627; FRL–9983–81]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 26 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to sections 5(e) and 5(f) of TSCA. This action would require persons who intend to manufacture (defined by statute to include import) or process any of these 26 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination. In addition to this Notice of Proposed Rulemaking, EPA is issuing the action as a direct final rule elsewhere in this issue of the **Federal Register**.

DATES: Comments must be received on or before November 2, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0627, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: In addition to this Notice of Proposed Rulemaking, EPA is issuing the action as a direct final rule elsewhere in this issue of the **Federal Register**. For further information about the proposed significant new use rules, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 14, 2018.

Jeffery T. Morris,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2018–21191 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 83, No. 192
Wednesday, October 3, 2018

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Request for an Extension of a Currently Approved Information Collection

AGENCY: Office of Partnerships and Public Engagement, USDA/1890 National Scholars Programs.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the Office of Partnerships and Public Engagement intention to request an extension for a currently approved information collection for the United States Department of Agriculture (USDA)/1890 National Scholars Program.

DATES: Comments on this notice must be received by December 3, 2018 to be assured of consideration.

ADDRESSES: Office of Partnerships and Public Engagement invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the online instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Michael Dukes, U.S. Department of Agriculture, Office of Partnerships and Public Engagement, 1400 Independence Avenue SW, Mailstop 0601, Room 520–A, Whitten Building, Washington, DC 20250–3700.
- *Hand or courier-delivered submittals:* 1400 Independence Avenue SW, Room 520–A, Whitten Building, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Office of Partnerships and Public Engagement. Comments received in response to this notice will be made available to the public for inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

For access to background documents or comments received, go to the Office of Partnerships and Public Engagement at 1400 Independence Avenue SW, Room 520–A, Whitten Building, Washington, DC 20250–3700, between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Michael Dukes, USDA/1890 National Student Program Coordinator, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250; or call (202) 720–6350 or fax (202) 720–7704.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the intention of the Office of Partnerships and Public Engagement to request an extension for a currently approved information collection for the USDA/1890 National Scholars Program.

Title: USDA/1890 National Student Program Coordinator.

OMB Number: 0503–0015.

Expiration Date of Approval: November 30, 2018.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The USDA/1890 National Scholars Program is a joint human capital initiative between the U.S. Department of Agriculture (USDA) and the 1890 Historically Black Land-Grant Universities. Through the 1890 National Program, USDA offers scholarships to high school and college students who are seeking a bachelor's degree in the fields of agriculture, food, science, or natural resource sciences and related disciplines at one of the established 1890 Land-Grant Universities. A completed application is required for graduating high school students, and college freshman and sophomores to be considered for the scholarship. The first section of the high school application requests the applicant to include biographical information (*i.e.* name, address, age, etc.); educational background information (*i.e.* grade point average, test scores, name of university(ies), interested in attending, and desired major); and extracurricular activities. The second section of the application is completed by the student's guidance counselor and requests information pertaining to the student's academic status, grade point average, and test scores. The last section of the application, which is to be completed by a teacher, provides information assessing the applicant's interests, habits, and potential. Two letters of recommendation must be submitted on behalf of the applicant. The letters may be from the Principal, Assistant Principal, Career Counselor, Guidance Counselor, or a Teacher for high school applicants; and the Department Head, Dean of a College, or one of the University Vice Presidents or a College Professor for college-level applicants. There are no sections included in the application that the letter writing officials will need to complete.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: High School Students, College Freshman and Sophomore Students, High School Teachers and Guidance Counselors, College Department Head, Dean of a College, University Vice Presidents, or a College Professor.

Estimated Number of Respondents: 2,400 (698 applications).

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 7,200 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Michael Dukes, USDA/1890 National Scholars

Program. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Signed on September 13, 2018.

Christian Obineme,

Deputy Director, Office of Partnerships and Public Engagement.

[FR Doc. 2018–21481 Filed 10–2–18; 8:45 am]

BILLING CODE 3412–89–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Uniform Grant Application Package for Discretionary Grant Programs

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection.

The purpose of the Uniform Grant Application Package for Discretionary Grant Programs is to provide a standardized format for the development of all Requests for Applications for discretionary grant programs released by the Food and Nutrition Service (FNS) Agency and to allow for a more expeditious OMB clearance process.

DATES: Written comments must be received on or before December 3, 2018.

ADDRESSES: Comments may be sent to: Mark Porter, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 733, Alexandria, VA 22302. Comments may also be submitted via email to *Mark.Porter@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Mark Porter at 703–305–2048.

SUPPLEMENTARY INFORMATION:

Title: Uniform Grant Application Package for Discretionary Grant Programs.

Form Number: FNS 908 and FNS 887.

OMB Number: 0584–0512.

Expiration Date: March 31, 2019.

Type of Request: Revision of a currently approved collection.

Abstract: FNS has a number of discretionary grant programs. (Consistent with the definition in 2 CFR part 200, the term ''grant'' as used in this notice includes cooperative agreements.) The authorities for these grants vary and will be cited as part of each grant application solicitation. The purpose of the revision to the currently approved collection for the Uniform Grant Application Package for Discretionary Grant Programs is to continue the authority for the established uniform grant application package and to update the number of collection burden hours. The uniform collection package is useable for all of FNS' discretionary grant programs to collect information from grant applicants that are needed to evaluate and rank applicants and protect the integrity of the grantee selection process. All FNS discretionary grant programs will be eligible but not required, to use the uniform grant application package. Before soliciting applications for a discretionary grant program, FNS will decide whether the uniform grant application package will meet the needs of that grant program. If FNS decides to use the uniform grant application package, FNS will note in the grant solicitation that applicants must use the uniform grant application package and that the information collection has already been approved by OMB. If FNS decides not to use the uniform grant application package or determines that it needs grant applicants to provide additional information not contained in the uniform package, then FNS will publish a notice soliciting comments on its proposal to collect different or additional information before making the grant solicitation.

The uniform grant application package will include: General information and instructions; a checklist; a requirement for the program narrative statement describing how the grant goals and objectives will be reached; the Standard Form (SF) 424 series forms that request basic grant project information, budget information, and a disclosure of lobbying activities certification; the Grant Program Accounting System and Financial Capability Questionnaire, used to evaluate potential grantee risk; and the Standardized Performance Progress Report. The proposed information collection covered by this notice is related to the requirements for the program narrative statement. The requirements for the program narrative statement described in 2 CFR part 200, Appendix I and will apply to all types of grantees—State and Local governments, Indian Tribal organizations, Non-Profit organizations, Institutions of Higher Education, and For-Profit organizations. The information collection burden related to the SF–424 series, and the lobbying certification forms have been separately approved by OMB.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Affected Public: State and local governments, Indian Tribal organizations, Non-Profit organizations, Institutions of Higher Education, and For-Profit organizations. The estimates include the total annual estimates with a final seeking three-year burden upfront for this generic request. This includes the time for the proposal (pre-award) and for the reporting and recordkeeping burdens (post-award) after awarding these grant opportunities.

Pre-Award Reporting Burden Estimates

Estimated Number of Respondents: 950.

Estimated Number of Responses per respondent: 1.

Estimated Total Annual Responses: 950.

Estimated Hours per Response: 60.00.

Estimated Annual Burden Hours: 57,000.

Post-Award Reporting Burden Estimates

Estimated Number of Respondents: 644.

Estimated Number of Responses per respondent: 9.80745342.

Estimated Total Annual Responses: 6,316.

Estimated Hours per Response: 2.26 Average.

Estimated Annual Burden Hours: 14,274.16.

Post-Award Recordkeeping Burden Estimates

Estimated Total Number of Recordkeepers: 332.

Estimated Total Annual Response per Recordkeeper: 10.

Estimated Total Annual Responses: 3,320.

Estimated annual hours per record keepers: 0.25.

Estimated Total Annual Burden Hours: 830.

Grand Total Annual Pre, Post Reporting Burden Estimates & Recordkeeping Hours: 72,107 and Estimated Total Annual Responses: 10,586.

See the table below for estimated total annual and the three year burden for each type of respondent.

ANNUAL GRANT OPPORTUNITIES FY 2019–2022

	Number of respondents	Frequency of responses	Total annual responses	Estimated time per response	Estimated total annual burden hours
Pre-Award Annual Total Reporting Burden (Request for Applications)	950	1	950	60	57,000
Annual Post Award Reporting Burden Totals					
Post-Award Total Reporting Burden	644	9.80745342	6,316	2.26	14,274
Grand Total Annual Reporting Burden	950	7.64842105	7,266	9.8092485549	71,274
	Number recordkeepers	Annual number records per respondent	Estimated total annual records	Hours per recordkeeper	Total burden
State Agencies, Local and Tribal (SLT)					
Post Award Recordkeeping Total Burden Estimates	332	10	3,320	0.25	830
Pre and Post Total Annual Reporting + Recordkeeping Burden Estimates			10,586		72,104
Pre and Post Total Annual Reporting + Recordkeeping Burden Estimates for 3 year approval period	2,850		31,758		216,312.48

* Note: Out of the 950 respondents who will submit proposal, 644 will be awarded and those unique respondents will go on to report Post Reporting burden and only 332 will maintain Recordkeeping burden hours and therefore, those respondents are not double counted.

** Note: This collection uses Common Forms and the burdens cleared by OMB under other agencies. Common Standard Forms; SF 424 Family Series, SF 425, SF LLL and AD–1047, AD–1048, AD–1049, AD–1052, AD–3020.

Dated: September 26, 2018.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2018–21550 Filed 10–2–18; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Sites

AGENCY: Kootenai National Forest, Forest Service, USDA.

ACTION: Notice of proposed new fee sites.

SUMMARY: The Kootenai National Forest is proposing to implement new fees at four recreation rental facilities and two campgrounds listed in **SUPPLEMENTARY INFORMATION** of this notice.

All sites have had recent upgrades and new or improved amenities added to improve services and recreation experiences. The two lookouts are being converted over to recreation rentals from being active fire lookouts. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance, market assessment, and public comment. Funds from fees will be used for continued operation, maintenance and capital improvements to these recreation sites.

DATES: Send any comments about these fee proposals by November 2, 2018 so comments can be compiled, analyzed, and shared with the Western Montana Bureau of Land Management (BLM) Recreation Resource Advisory Committee. The proposed effective date of implementation of proposed new fees will be no earlier than six months after publication of this notice.

ADDRESSES: Kootenai National Forest, Attn: Recreation Fee Proposals, 31374 U.S. Highway 2, Libby, Montana 59923.

FOR FURTHER INFORMATION CONTACT: Mary Laws, Forest Recreation Program Manager, Kootenai National Forest at 406–293–6211, or by email at *r1recfee@fs.fed.us.* Information about proposed fee changes can also be found on the Kootenai National Forest Fee proposal website at *www.fs.usda.gov/goto/r1recfee.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VIII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. The Forest is proposing to charge at the following sites:

- Black Butte Lookout; Proposed fee of $55 per night.
- Ziegler Mountain Lookout; Proposed fee of $55 per night.
- Raven Ranger Station; Proposed fee of $100 for rental of the 3-bedroom Ranger House (sleeps 10–12). Visitors will also have the option to rent the Ranger House and all ancillary facilities; which includes a classroom, bunkhouse, cookhouse and a residence for: $250 for under 75 people, and $500 for 75 to 150 people, for larger group gatherings;
- Whitetail Yurt; Proposed fee of $25 per night; This site has previously been available as part of the Whitetail Campground, however this proposal

will make this site a stand-alone overnight rental opportunity.

- Kilbrennan Lake Campground; Proposed fee of $10 per night, with an additional $5 extra vehicle fee per night for more than two vehicles; and
- Yaak Falls Campground; Proposed fee of $10 per night; with an additional $5 extra vehicle fee per night for more than two vehicles.

Proposed fees at these recreation sites will be invested in site improvements that address sanitation and visitor safety, improve visitor comfort and convenience, reduce deferred maintenance, and improve the overall recreation experiences of the public. These new fees are part of a larger fee proposal available for review at *www.fs.usda.gov/goto/r1recfee.* Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Reasonable fees, paid by users of these sites and services, will help ensure that the Forest can continue maintaining and improving the sites for future generations. A market analysis of surrounding recreation sites with similar amenities indicates that the proposed fees are comparable and reasonable.

Advance reservations for the Black Butte Lookout, Zeigler Mountain Lookout, Raven Ranger Station, and Whitetail Yurt rentals will be available through *www.recreation.gov* or by calling 1–877–444–6777. The reservation service currently charges a $10 fee for reservations.

Dated: September 18, 2018.

Gregory Smith,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2018–21355 Filed 10–2–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Economic Development Administration

National Telecommunications and Information Administration

Bureau of Industry and Security

Minority Business Development Agency

Membership of the Performance Review Board for EDA, NTIA, BIS and MBDA

AGENCY: EDA, NTIA, BIS, and MBDA Department of Commerce.

ACTION: Notice of Membership on the EDA, NTIA, BIS and MBDA's Performance Review Board.

SUMMARY: The EDA, NTIA, BIS and MBDA, Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of the Performance Review Board.

DATES: The period of appointment for those individuals selected for EDA, NTIA, BIS and MBDA's Performance Review Board begins on October 3, 2018.

FOR FURTHER INFORMATION CONTACT: Joan Nagielski, U.S. Department of Commerce, Office of Human Resources Management, Department of Commerce Human Resources Operations Center, Office of Employment and Compensation, 14th and Constitution Avenue NW, Room 50013, Washington, DC 20230, at (202) 482–6342.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314 (c) (4), the EDA, NTIA, BIS and MBDA, Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of EDA, NTIA, BIS and MBDA's Performance Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and ratings of Senior Executive Service (SES) and Senior Level (SL) members and (2) making recommendations to the appointing authority on other Performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES and SL members. The Appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

The name, position title, and type of appointment of each member of the Performance Review Board are set forth below:

1. *Department of Commerce, Bureau of Industry and Security (BIS)*
   John Sonderman, Deputy Director for Office of Export Enforcement, Career SES
2. *Department of Commerce, National Telecommunications and Information Administration (NTIA)*
   John Morris, Associate Administrator for Policy Analysis and Development, Career SES
3. *Department of Commerce, Economic Development Agency (EDA)*
   Phillip Paradice, Jr., Regional Director for Atlanta Office, Career SES
4. *Department of Commerce, National Telecommunications and Information Administration (NTIA)*
   Frank Freeman, Chief Administrative Officer, First Responder Network Authority, Career SES
5. *Department of Commerce, National Telecommunications and Information Administration (NTIA)*
   Kim Farington, Chief Financial Officer, First Responder Network Authority, Career SES
6. *Department of Commerce, Office of the General Counsel, Office of the Secretary (OGC/OS)*
   Brian DiGiacomo, Assistant General Counsel for Employment, Litigation, and Information Law, Career SES
7. *Department of Commerce, Minority Business Development Agency (MBDA)*
   Edith McCloud, Associate Director for Management, Career SES
8. *Department of Commerce, National Telecommunications and Information Administration (NTIA)*
   Douglas Kinkoph, Associate Administrator for Office of Telecommunications and Information Applications, Career SES

Dated: September 28, 2018.

Joan M. Nagielski,

Human Resources Specialist, Office of Employment and Compensation, Department of Commerce Human Resources Operations Center, Office of Human Resources Management, Office of the Secretary, Department of Commerce.

[FR Doc. 2018–21526 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meetings will be held on October 17, 2018, from 12 p.m. to 3 p.m., and October 18, 2018, 2018, from 9 a.m. to 4 p.m., Eastern Standard Time (EST).

ADDRESSES: The meetings on October 17 and 18 will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Research Library (Room 1894), Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services (OSCPBS), International Trade Administration. (Phone: (202) 482–1135 or email: *richard.boll@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness and on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *http://trade.gov/td/services/oscpb/supplychain/acscc/.*

Matters To Be Considered: Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; trade innovation; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agendas on its website, *http://trade.gov/td/services/oscpb/supplychain/acscc/,* at least one week prior to the meeting.

The meetings will be open to the public and press on a first-come, first-serve basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov,* five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave. NW, Room 11014, Washington, DC 20230, or email to *richard.boll@trade.gov.*

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5 p.m. EST on October 10, 2018. Comments received after October 10, 2018, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee website within 60 days of the meeting.

Maureen Smith,

Director, Office of Supply Chain.

[FR Doc. 2018–21553 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 2, 2018, the Department of Commerce (Commerce) initiated, and published the preliminary results of, the changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. For these final results, Commerce continues to find that Coastal Aqua Private Limited (CAPL) is the successor-in-interest to Coastal Aqua.

DATES: Applicable October 3, 2018.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 2018, CAPL requested that Commerce conduct an expedited changed circumstances review, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b), and 19 CFR 351.221(c)(3), to confirm that CAPL is the successor-in-interest to Coastal Aqua for purposes of determining antidumping duty cash deposits and liabilities. In its submission, CAPL explained that Coastal Aqua undertook a business reorganization and transferred its shrimp business to CAPL.[1]

On August 2, 2018, Commerce initiated this changed circumstances review and published the notice of preliminary results, determining that CAPL is the successor-in-interest to Coastal Aqua.[2] In the *Initiation and Preliminary Results,* we provided all interested parties with an opportunity to comment and request a public hearing regarding our preliminary finding that CAPL is the successor-in-interest to Coastal Aqua.[3] We received no comments or requests for a public hearing from interested parties within the time period set forth in the *Initiation and Preliminary Results.*[4]

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.[5] The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Final Results of Changed Circumstances Review

For the reasons stated in the *Initiation and Preliminary Results,* and because we received no comments from interested parties to the contrary, Commerce continues to find that CAPL is the successor-in-interest to Coastal Aqua. As a result of this determination and consistent with established practice, we find that CAPL should receive the cash deposit rate previously assigned to Coastal Aqua in the most recently-completed review of the antidumping duty order on shrimp from India.[6] Consequently, Commerce will instruct U.S. Customs and Border

[1] *See* CAPL's Letter re: Certain Frozen Warmwater Shrimp from India: Request to Initiate a Successor-in-Interest Changed Circumstances Review for Coastal Aqua Private Limited, dated June 13, 2018 (CAPL CCR Request).

[2] *See Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 83 FR 37784 (August 2, 2018) (*Initiation and Preliminary Results*).

[3] *Id.,* 83 FR at 37785.

[4] *Id.*

[5] For a complete description of the Scope of the Order, *see Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 32835 (July 16, 2018) (*12th AR*), and accompanying Issues and Decision Memorandum at ''Scope of the Order'' section.

[6] *See, e.g., Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 81 FR 90774, 90775 (December 15, 2016).

Protection to suspend liquidation of all shipments of subject merchandise produced or exported by CAPL and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at 1.35 percent, which is the current antidumping duty cash-deposit rate for Coastal Aqua.[7] This cash deposit requirement shall remain in effect until further notice.

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act, as amended, and 19 CFR 351.216 and 351.221(c)(3).

Dated: September 27, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive duties and functions of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–21535 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–825, A–533–810, A–588–833, A–469–805]

Stainless Steel Bar From Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Order (India) and Revocation of Antidumping Duty Orders (Brazil, Japan, and Spain)

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty order on stainless steel bar (SSB) from India would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the antidumping duty order. In addition, as a result of the ITC's determinations that revocation of the antidumping duty orders on SSB from Brazil, Japan, and Spain is not likely to lead to continuation or recurrence of material injury to an industry in the United States, Commerce is revoking the antidumping duty orders on SSB from Brazil, Japan, and Spain.

DATES: Antidumping Revocation (Brazil, Japan, and Spain): Effective August 9, 2017; Antidumping Continuation (India): Applicable October 3, 2018.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4798.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, Commerce published the antidumping duty orders on SSB from Brazil, India, and Japan.[1] On March 2, 1995, Commerce published the antidumping duty order on SSB from Spain.[2] On July 3, 2017, Commerce published the notice of initiation of the fourth five-year (sunset) reviews of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[3]

Commerce conducted these sunset reviews on an expedited basis, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), because it received complete, timely, and adequate responses from a domestic interested party but no substantive responses from respondent interested parties. As a result of its reviews, Commerce determined that revocation of the antidumping duty orders would likely lead to a continuation or recurrence of dumping.[4] Commerce, therefore, notified the ITC of the magnitude of the margins likely to prevail should the antidumping duty orders be revoked.

On September 21, 2018, the ITC published its determinations, pursuant to section 751(c) and 752(a) of the Act, that revocation of the antidumping duty order on SSB from India would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, but that revocation of the antidumping duty orders on SSB from Brazil, Japan, and Spain would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[5]

Scope of the Orders

The merchandise subject to the orders is SSB. For a complete description of the scope of these orders, *see* Appendices I and II of this notice.

Continuation of the Order on SSB From India

As a result of the determinations by Commerce and the ITC that revocation of the antidumping duty order on SSB from India would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the antidumping duty order on SSB from India. U.S. Customs and Border Protection (CBP) will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next sunset review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Revocation of the Antidumping Duty Orders on SSB From Brazil, Japan, and Spain

As a result of the determinations by the ITC that revocation of the antidumping duty orders on SSB from Brazil, Japan, and Spain would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce is revoking the antidumping duty orders on SSB from Brazil, Japan, and Spain. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is August 9, 2017 (*i.e.,* the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation of the antidumping duty *Continuation of Orders*).[6]

[7] Coastal Aqua was assigned a 1.35 percent dumping margin in the 2016–2017 administrative review of the AD order on shrimp from India. *See 12th AR.*

[1] *See Antidumping Duty Orders: Stainless Steel Bar from Brazil, India, and Japan,* 60 FR 9661 (February 21, 1995).

[2] *See Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar from Spain,* 60 FR 11656 (March 2, 1995).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 82 FR 30844 (July 3, 2017).

[4] *See Stainless Steel Bar from Brazil, India, Japan, and Spain: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 82 FR 51393 (November 6, 2017) (*Final Results*) and accompanying Issues and Decision Memorandum.

[5] *See Stainless Steel Bar from Brazil, India, Japan, and Spain: Investigation Nos. 731–TA–678, 679, 681, and 682 (Fourth Review),* USITC Publication 4820 (September 2018); *see also Stainless Steel Bar from Brazil, India, Japan, and Spain; Determination,* 83 FR 47938 (September 21, 2018).

[6] *See Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Orders,* 77 FR 47595 (August 9, 2012) (*Continuation of Orders*).

Cash Deposits and Assessment of Duties on SSB From Brazil, Japan, and Spain

Commerce intends to issue instructions to CBP, 15 days after publication of this notice, to terminate the suspension of liquidation and to discontinue the collection of cash deposits on entries of SSB from Brazil, Japan, and Spain entered, or withdrawn from warehouse, on or after August 9, 2017. Commerce intends to further instruct CBP to refund, with interest, all cash deposits on unliquidated entries made on or after August 9, 2017. Entries of subject merchandise made prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping deposit requirements and assessments.

These sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: September 27, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order: Brazil, India, and Spain

The merchandise subject to the order is SSB. The term SSB with respect to the orders means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.,* cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the orders is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Appendix II

Scope of the Order: Japan

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Furthermore, effective for entries entered, or withdrawn for warehouse, for consumption on or after February 1, 2010, the term does not include one SSB product under Grade 304 and two types of SSB products under Grade 440C. (1) The Grade 304 product meets the following descriptions: round cross-section, cold finished, chrome plated (plating thickness 10 microns or greater), hardness of plating a minimum 750 HV on the Vickers Scale, maximum roundness deviation of 0.020 mm (based on circularity tolerance described in JIS B 0021 (1984)), in actual (measured) lengths from 2000 mm to 3005 mm, in nominal outside diameters ranging from 6 mm to 30 mm (diameter tolerance for any size from minus 0.010 mm to minus 0.053 mm). Tolerance can be defined as the specified permissible deviation from a specified nominal dimension; for example if the nominal outside diameter of the product entering is 6 mm, then the actual measured sizes should fall within 5.947 mm to 5.990 mm; (2) The first Grade 440C product meets the following descriptions: round cross-section, cold finished, heat treated through induction hardening, minimum Rockwell hardness of 56 Hardness of 56 HRC, maximum roundness deviation of 0.007 mm (based on circularity tolerance described in JIS B 0021 (1984)), in actual (measured) lengths from 500 mm to 3005 mm, in nominal outside diameters ranging from 3 mm to 38.10 mm (diameter tolerance for any size from 0.00 mm to minus 0.150 mm). Tolerance can be defined as the specified permissible deviation from a specified nominal dimension; for example if the nominal outside diameter of the product entering is 3 mm, then the actual measured sizes should fall within 2.850 mm to 3.000 mm; (3) The second Grade 440C product meets the following descriptions: round cross-section, cold finished, chrome plated (plating thickness 5 microns or greater), heat treated through induction hardening, minimum Rockwell Hardness of 56 HRC, maximum roundness deviation of 0.007 mm (based on circularity tolerance described in JIS B 0021 (1984)), in actual (measured) lengths from 2000 mm to minus 3005 mm, (diameter tolerance for any size from minus 0.004 mm to minus 0.020 mm). Tolerance can be defined as the specified permissible deviation from a specified nominal dimension; for example if the nominal outside diameter of the product entering is 6 mm, then the actual measured sizes should fall within 5.980 mm to 5.996 mm.

Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.,* cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

[FR Doc. 2018–21536 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Vessel Monitoring System Requirements Under the Western and Central Pacific Fisheries Convention

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 3, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be

directed to Rini Ghosh, (808–725–5033) or *Rini.Ghosh@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection. National Marine Fisheries Service (NMFS) has issued regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA; 16 U.S.C. 6901 *et seq.*) to carry out the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), including implementing the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission). The regulations include a requirement for the owners and operators of U.S. vessels that fish for highly migratory species on the high seas in the Convention Area to carry and operate near real-time satellite-based position-fixing transmitters (''VMS units'') at all times except when the vessel is in port. As part of this requirement, vessel owners and operators must transmit: (1) ''on/off reports'' to NMFS whenever the VMS unit is turned off while the vessel is in port, (2) ''activation reports'' to NMFS prior to the first use of a VMS unit, and (3) automatic ''position reports'' from the VMS unit to NOAA and the Commission as part of a vessel monitoring system (VMS) operated by the Commission (50 CFR 300.219). Under this information collection, it is expected that vessel owners and operators would also need to purchase, install, and occasionally maintain the VMS units.

The information collected from the vessel position reports is used by NOAA and the Commission to help ensure compliance with domestic laws and the Commission's conservation and management measures, and are necessary in order to the United States to satisfy its obligations under the Convention.

II. Method of Collection

Respondents may submit on/off reports by facsimile or email, and they may submit activation reports by mail, facsimile or email. Position reports are transmitted electronically and automatically from the VMS unit.

III. Data

OMB Control Number: 0648–0596.
Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 23.

Estimated Time per Response: VMS unit purchase and installation, 1 hr; Activation Reports, 5 min; on/off reports, 5 min; VMS unit maintenance, 1 hr.

Estimated Total Annual Burden Hours: 57 hours.

Estimated Total Annual Cost to Public: $40,083 ($23,000 for VMS purchase and installation; $5,750 for VMS unit maintenance; $11,333 for position reports).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 28, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–21523 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF105

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of one enhancement of survival permit.

SUMMARY: Notice is hereby given that NMFS has issued Permit 21008 to Forrest Blair Hart, Susan S. Hart; Forrest Blair Hart, Susan S. Hart as Co-Trustees of The Hart Family 2003 Trust; Hart Cattle, LLC; Hart Cattle Inc; Rabbit Hill, LLC; and Soda Springs, LLC.

ADDRESSES: The application, issued permit, and supporting documents are available upon written request or by appointment: California Coastal Office, NMFS WCR, 1655 Heindon Road, Arcata, CA 95521, ph: 707–825–5171, fax: 707–825–4840.

FOR FURTHER INFORMATION CONTACT: Jim Simondet, Arcata, CA (ph.: 707–825–5171, email: *jim.simondet@noaa.gov*).

SUPPLEMENTARY INFORMATION: The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the ESA-listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

The following listed species is covered in this notice:

Threatened Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch;* Covered Species).

Permits Issued

Permit 21008

A notice of receipt of an application for an enhancement of survival permit (21008) was published in the **Federal Register** on May 17, 2017 (82 FR 22650). Permit 21008 was issued to the Permit Holders, Forest Blair Hart and Susan S. Hart and additional business entities (listed above), on February 21, 2018, and expires on February 22, 2028.

Permit 21008 facilitates the implementation of the ''Safe Harbor Agreement For Voluntary Habitat Enhancement Activities Benefitting Southern Oregon and Northern California Coast Coho Salmon (*Oncorhynchus kisutch*) on Private Lands in the Shasta Valley, Siskiyou County, California'' (Agreement) that is expected to promote the recovery of the covered species within the Little Shasta

River on the Agreement's enrolled property, which is commonly known as the Hart Ranch. The Little Shasta River is a tributary to the Shasta River, which is a tributary to the Klamath River, California. The duration of the agreement and Permit 21008 is 10 years.

Permit 21008 authorizes the incidental taking of the covered species associated with routine agricultural activities, implementation of restoration/enhancement activities, and the potential future return of the enrolled property to the agreement's Baseline and Elevated Baseline Conditions. Under the Agreement, the permit holder specifies the restoration and/or enhancement, and management activities to be carried out on the enrolled property and a timetable for implementing those activities. NMFS reviewed the agreement and determined that the agreement will result in a net conservation benefit for the covered species and meets all required standards of NMFS' Safe Harbor Policy (64 FR 32717). The agreement adopts Baseline and Elevated Baseline Conditions (Section 3 of the agreement) and includes restoration/enhancement activities that will be completed by the permit holder to achieve the Elevated Baseline Condition. The agreement also contains a monitoring component that requires the permit holder to ensure compliance with the terms and conditions of the agreement, and to ensure the Baseline and Elevated Baseline levels of habitat for the covered species occur on the enrolled property. Results of the monitoring efforts will be provided to NMFS by the permit holder in annual reports for the duration of the 10-year permit term.

Near the end of the permit term and agreement, Permit 21008 authorizes the permit holder incidental take associated with a return to Baseline and Elevated Baseline Conditions if desired and in compliance with the terms and conditions of the Permit.

Dated: September 28, 2018.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–21542 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Visitor Center and Exhibit Surveys at the Office of National Marine Sanctuaries and Partner Outreach Facilities.

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 8,400.

Average Hours per Response: 4 minutes.

Burden Hours: 560.

Needs and Uses: This request is for a new collection of information. NOAA's Office of National Marine Sanctuaries (ONMS) is conducting research to measure the public's opinions about sanctuary visitor centers, exhibits, and kiosks. Exhibits and kiosks covered under the survey can be permanent or traveling/temporary. The survey will be administered annually both within ONMS visitor centers as well as at partner venues that host an exhibit or kiosk on a national marine sanctuary or marine national monument. The survey will cover visitor centers, exhibits, and kiosks system-wide across all the national marine sanctuaries and marine national monuments managed or co-managed by NOAA's ONMS.

The visitor survey will be conducted to obtain an objective analysis of visitor experiences within a sanctuary visitor center or at a partner venue that includes an exhibit or kiosk with information on a national marine sanctuary or marine national monument. Information will be obtained on visitor satisfaction with the overall exhibits or kiosks, graphics, multi-media products, interactives, along with the overall feelings about the facilities and services offered at the centers/venues. The survey will acquire data on the effectiveness of sanctuary/monument messaging, awareness about and use of sanctuary/monument resources, as well as additional recreational and/or educational opportunities available to the public. Lastly, the survey will include questions about visitor demographics.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 28, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–21525 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Tournament Registration and Reporting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 3, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Nicolas Alvarado, by phone at (727) 209–5955 or email *Nicolas.Alvarado@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information

collection. Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA's National Marine Fisheries Service (NMFS) is responsible for management of the nation's marine fisheries. Existing regulations require operators of tournaments involving Atlantic highly migratory species (HMS; Atlantic swordfish, sharks, billfish, and tunas) to register four weeks in advance of the tournament. Operators must provide contact information and the tournament's date(s), location(s), and target species. If selected by NMFS, operators are required to submit an HMS tournament summary report within seven days after tournament fishing has ended. Most of the catch data in the summary report is routinely collected in the course of regular tournament operations. NMFS uses the data to estimate the total annual catch of HMS and the impact of tournament operations in relation to other types of fishing activities. In addition, HMS tournament registration provides a method for tournament operators to request educational and regulatory outreach materials from NMFS.

II. Method of Collection

Operators have the choice of registering and reporting online or by electronic or paper forms. Methods of submittal include online submission (registering/reporting), email of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0323.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 600.

Estimated Time per Response: Tournament registration, 2 minutes; tournament summary reporting, 20 minutes.

Estimated Total Annual Burden Hours: 110.

Estimated Total Annual Cost to Public: $108 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 28, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–21524 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG452

South Atlantic Fishery Management Council (Council); Public Meetings

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

ACTION: Notice of revised schedule for scoping meetings.

SUMMARY: Due to Hurricane Florence, the schedule for a series of public scoping meetings to be held by the South Atlantic Fishery Management Council (Council) has been revised. The Council will hold a series of scoping meetings pertaining to Amendment 47 to the Snapper Grouper Fishery Management Plan of the South Atlantic Region addressing modifications to the South Atlantic Charter/Headboat for Snapper-Grouper permit.

DATES: The series of scoping meetings will be held from October 9 through November 8, 2018 according to the revised schedule. All meetings will begin at 6 p.m. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on August 31, 2018 (83 FR 44575). This notice revises the dates and locations of the scoping meetings.

Public scoping comments are being solicited for measures proposed in draft Amendment 47 to the Snapper Grouper Fishery Management Plan of the South Atlantic Region addressing modifications to the federal South Atlantic Charter/Headboat for Snapper-Grouper permit (for-hire permit). Public scoping occurs early in the amendment development process and the Council is soliciting input on proposed options that include a moratorium on for-hire permits, options for the start date of a moratorium, exceptions for eligibility, transferability of for-hire permits, options to allow new entrants, establishing a for-hire permits pool, creating multiple for-hire permit types, and implementing a time limit or sunset provision for a moratorium on for-hire permits. Options are also being considered for modifying the current permit condition that specifies a harvest prohibition on snapper grouper species in state water when the species is closed to harvest in federal waters, issuing a for-hire permit for an individual rather than a vessel, and attaching a consistent identifying number to the federal for-hire permit in a similar manner as is applied to limited entry permits.

Council staff will provide an overview of options being considered for draft Snapper Grouper Amendment 47 and answer questions during each scoping meeting. Public comments will be accepted at each scoping meeting location on the specified date.

In-Person Scoping Meetings

1. October 9, 2018—Coastal Electric Cooperative, 1265 South Coastal Highway, Midway, GA 31320; Phone: (912) 884–3311
2. October 9, 2018—Jennette's Pier, 7223 South Virginia Dare Trail, Nags Head, NC 27959; Phone: (252) 255–1501
3. October 10, 2018—North Carolina Division of Marine Fisheries Central District Office, 5285 Highway 70W, Morehead City, NC 28557; Phone: (252) 808–8011
4. October 29, 2018—Murrells Inlet Community Center, 4462 Murrells Inlet Road, Murrells Inlet, SC 29576; Phone: (843) 545–3651
5. October 30, 2018—Haddrells Point Fin to Feather, 887 Ben Sawyer Boulevard, Mt. Pleasant, SC 29464; Phone: (843) 881–3644

6. November 1, 2018—Hilton Head Boat House, 405 Squire Pope Road, Hilton Head, SC 29926; Phone: (843) 681–2628
7. November 5, 2018—Safe Harbor Seafood, 4371 Ocean Street, Jacksonville, FL 32233; Phone: (904) 247–0255
8. November 6, 2018—Eau Gallie Civic Center, 1551 Highland Avenue, Melbourne, FL 32935; Phone: (321) 608–7400
9. November 7, 2018—Loxahatchee River Center, 805 North U.S. Highway One Jupiter, FL 33477; Phone: (561) 743–7123
10. November 8, 2018—Harvey Government Center, 1200 Truman Avenue, Key West, FL 33040; Phone: (305) 295–4385

Submitting Written Comments

The Council requests that written comments be submitted using the online public comment form available from the Council's website. All comments submitted using the online form will be automatically posted to the website and accessible for Council members and the public to view. The direct link to the Public Hearing and Scoping meeting page and the public comment form is: *http://safmc.net/safmc-meetings/public-hearings-scoping-meetings.* Written comments may also be submitted by mail or FAX.

All written comments are due by 5 p.m. on November 9, 2018.

Comments may be submitted by mail to: Gregg Waugh, Executive Director, SAFMC, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405. Fax comments to (843) 769–4520.

The Snapper Grouper Amendment 47 scoping document, public comment form, and other relevant materials will be posted on the Council's website as they become available.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 27, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–21479 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG261

U.S. Purse Seine Fishery in the Western and Central Pacific Ocean; Extension of Public Scoping Period

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

ACTION: Notice; extension of public comment period.

SUMMARY: On August 23, 2018, NMFS published a notice of intent (NOI) in the **Federal Register** to prepare an environmental impact statement (EIS) for the U.S. western and central Pacific Ocean purse seine fishery. The public scoping period on the NOI was originally scheduled to end on October 8, 2018. NMFS is extending the public scoping period and will accept comments until October 31, 2018.

DATES: Written comments on the scope and alternatives to be considered in an EIS, as described in the notice of intent (83 FR 42640; August 23, 2018), must be submitted no later than October 31, 2018.

ADDRESSES: You may submit comments on the scope of this EIS by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0062,*
2. Click the ''Comment Now!'' icon, complete the required fields, and
3. Enter or attach your comments.

—OR—

- *Mail:* Submit written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period might not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name and address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of this document can be obtained from Michael D. Tosatto, Regional Administrator, NMFS PIRO (see address above) and are available at *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0062.*

FOR FURTHER INFORMATION CONTACT: David O'Brien, NMFS PIRO, at *David.S.OBrien@noaa.gov,* or at (808)725–5038.

SUPPLEMENTARY INFORMATION: On August 23, 2018, NMFS published a NOI to prepare an EIS for the U.S. western and central Pacific Ocean purse seine fishery in the **Federal Register** (83 FR 42640). The public scoping period on the NOI was originally scheduled to end on October 8, 2018. NMFS has received several requests for additional time to provide comments. In an effort to balance the need to move forward on the EIS process in an efficient manner and the need to encourage thorough public participation in this scoping process, NMFS will extend the public comment period to October 31, 2018. This brings the public scoping period to a total of 68 days. All other information contained in the document published August 23, 2018 has not been changed.

Authority: 42 U.S.C. 4321 *et seq.*

Dated: September 28, 2018.

Margo Schulze-Haugen,

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

[FR Doc. 2018–21547 Filed 10–2–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability of the Final Integrated City of Norfolk Coastal Storm Risk Management Feasibility Study Report/ Environmental Impact Statement, Norfolk, VA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE) Norfolk District, in cooperation with our non-federal sponsor, the City of Norfolk, announce the availability of a Final Integrated Feasibility Report and Environmental Impact Statement (Final IFR/EIS) and Draft Record of Decision (ROD) for the

City of Norfolk Coastal Storm Risk Management Feasibility Study, for review and comment. The study evaluates identified flood risks and develops and evaluates coastal storm risk management measures for the City of Norfolk. These measures were formulated to reduce flood risk to residents, industries and businesses which are critical to the Nation's economy in ways that support the long-term resilience due to sea level rise, local subsidence and storms, within the City of Norfolk. Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the USACE determined that the project has the potential to have significant environmental impacts, and developed the Final EIS and Draft ROD to examine and assess the impacts of all proposed action.

DATES: The Final IFR/EIS and Draft ROD are available for a 30-day review period, pursuant to the NEPA. Written comments pursuant will be accepted until the close of public review on the close of business on November 2, 2018.

ADDRESSES: Questions or comments concerning the Final IFR/EIS and Draft ROD may be directed to: Ms. Kathy Perdue; U.S. Army Corps of Engineers, Norfolk District; 803 Front Street, Norfolk, VA 23510 or *NorfolkCSRM@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Perdue, U.S. Army Corps of Engineers, Norfolk District, phone number (757) 201–7218, or *NorfolkCSRM@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The document is available for review at the Norfolk Coastal Storm Risk Management Study website: *http://www.nao.usace.army.mil/NCSRM.*

Proposed Action. The Study Area is the City of Norfolk. The Proposed Action will include construction of the following measures within the City: Storm surge barriers with gate openings near the mouths of four waterways: The Lafayette River, Pretty Lake, The Hague, and Broad Creek; floodwalls flanking the barriers and near waterways at locations from Lamberts Point to Broad Creek; berms; tide gates at various points to prevent storm surge; generator buildings and pumps; nonstructural measures to protect existing structures; and Natural and Nature-Based features. Implementation of the Proposed Action would impact floodplains, wetlands, mudflats, federally listed threatened and endangered species, and marine mammals, and other resources. The Proposed Action must be located in a floodplain in order to reduce flood risk behind the flood protection system. The Proposed Action will adhere to the 8-step process as outlined under Executive Order 11988, Floodplain Management, including consideration of sea level rise.

Alternatives. The Final IFR/EIS considered a full range of nonstructural and structural flood risk management alternatives that meet the Proposed Action's purpose and need and incorporate measures to avoid and minimize impacts to the maximum extent practicable. Alternatives included: (1) The No Build/Future Without Project Alternative, (2) a Structural Only Project Alternative, (3) a Nonstructural Only Project Alternative, and (4) a dual Structural and Nonstructural Project Alternative, which is the Proposed Action.

Public Involvement. A Notice of Intent to prepare an EIS was published on April 29, 2016, in the **Federal Register** (81 FR 25656). A public scoping meeting was held on May 25, 2016, and a follow-up public meeting was held on June 8, 2017, both in the City of Norfolk. A Notice of Availability of the Draft EIS was published on November 3, 2017, in the **Federal Register** (82 FR 51225), for a 45-day public comment period. A third public meeting was held on November 16, 2017, in the City of Norfolk. All comments received have been considered and addressed. The U.S. Environmental Protection Agency serves as a cooperating agency for this project.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–21537 Filed 10–2–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0101]

Agency Information Collection Activities; Comment Request; State Survey on Activities Supported on Student Support and Academic Enrichment Grants (Title IV, Part A)

AGENCY: Office of Planning, Evaluation and Policy Development (OPEPD), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before December 3, 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–0101. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Leticia Braga, 202–401–7767.

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: State Survey on Activities Supported on Student Support and Academic Enrichment Grants (Title IV, Part A).

OMB Control Number: 1875—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 17.

Total Estimated Number of Annual Burden Hours: 17.

Abstract: The study will examine the early implementation of Student Support and Academic Enrichment (SSAE) grants, a new state-administered grant program created through the 2016 Every Student Succeeds Act (ESSA). This program has the goal of improving student academic achievement by increasing the capacity of states, school districts, schools, and local communities to: (1) Provide all students with access to a well-rounded education (Section 4109); (2) improve school conditions for student learning (Section 4108); and (3) improve the use of technology in order to improve the academic achievement and digital literacy of all student (Section 4109).

Within these three broad areas, the statute outlines a large number of potential activities that states and school districts can support, and the Department of Education has little information about the extent to which state and school districts are using SSAE funds for the wide range permissible activities. To provide an early look at how SSAE funds are being used, this study will conduct a survey of all states in Spring 2019 to obtain information about the types of activities stat states and school districts are supporting with SSAE Fiscal Year (FY) 18 funds during the 2018–19 school year.

Dated: September 28, 2018.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–21552 Filed 10–2–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–8553–000]

Notice of Filing: Kendall K. Helm

Take notice that on September 26, 2018, Kendall K. Helm filed an application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (2012), and Part 45 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 45 (2018).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is 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.

Comment Date: 5:00 p.m. Eastern Time on October 17, 2018.

Dated: September 27, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–21497 Filed 10–2–18; 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: PR18–83–000.

Applicants: Hope Gas, Inc.

Description: Tariff filing per 284.123(b),(e)+(g): HGI—2017 Tax Cuts and Jobs Act to be effective 9/1/2018.

Filed Date: 9/24/18.

Accession Number: 201809245080.

Comments Due: 5 p.m. ET 10/15/18.

284.123(g) Protests Due: 5 p.m. ET 11/23/18.

Docket Numbers: RP18–1219–000.

Applicants: Northern Natural Gas Company.

Description: Petition for a Limited Waiver of Northern Natural Gas Company.

Filed Date: 9/26/18.

Accession Number: 20180926–5083.

Comments Due: 5 p.m. ET 10/9/18.

Docket Numbers: RP18–1220–000.

Applicants: Viking Gas Transmission Company.

Description: § 4(d) Rate Filing: Update Non-Conforming Agreement AF0059 to be effective 11/1/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5101.

Comments Due: 5 p.m. ET 10/9/18.

Docket Numbers: RP18–1221–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing Annual Cash-Out Report Period Ending July 31, 2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5122.

Comments Due: 5 p.m. ET 10/9/18.

Docket Numbers: RP18–1222–000.

Applicants: Southwest Gas Storage Company.

Description: § 4(d) Rate Filing: Negotiated Rate Filing to be effective 10/1/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5132.

Comments Due: 5 p.m. ET 10/9/18.

Docket Numbers: RP18–1223–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Pipeline Safety and Greenhouse Gas Cost Adjustment Mechanism—2018 to be effective 11/1/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5142.

Comments Due: 5 p.m. ET 10/9/18.

Docket Numbers: RP18–1224–000.

Applicants: LA Storage, LLC.

Description: Annual Penalty Disbursement Report of LA Storage, LLC.

Filed Date: 9/26/18.

Accession Number: 20180926–5193.

Comments Due: 5 p.m. ET 10/9/18.

Docket Numbers: RP18–1225–000.

Applicants: Mississippi Hub, LLC.

Description: Annual Penalty Disbursement Report of Mississippi Hub, LLC.

Filed Date: 9/26/18.

Accession Number: 20180926–5194.

Comments Due: 5 p.m. ET 10/9/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 27, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–21494 Filed 10–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1858–021]

Beaver City Corp; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 1858–021.

c. *Dated Filed:* July 31, 2018.

d. *Submitted By:* Beaver City Corp.

e. *Name of Project:* Beaver City Canyon Plant No. 2 Hydroelectric Project.

f. *Location:* On the Beaver River, in Beaver County, Utah, about 5 miles east of the city of Beaver. The project occupies 10.18 acres of United States lands administered by the Fishlake National Forest, and 1.87 acres of lands managed by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Jason Brown, Beaver City Manager, 30 West 300 North, Beaver, UT 84713; (435) 438–2451.

i. *FERC Contact:* Evan Williams at (202) 502–8462 or *evan.williams@ferc.gov.*

j. Beaver City Corp (BCC) filed its request to use the Traditional Licensing Process on July 31, 2018. BCC provided public notice of its request on July 31, 2018. In a letter dated September 27, 2018, the Director of the Division of Hydropower Licensing approved BCC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402, (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Utah State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. BCC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

n. The licensee states its unequivocal intent to submit an application for a new license for Project No.1858–021. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 31, 2021.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: September 27, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–21493 Filed 10–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–164–000.

Applicants: Wabash Valley Power Association, Inc.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Wabash Valley Power Association, Inc.

Filed Date: 9/27/18.

Accession Number: 20180927–5037.

Comments Due: 5 p.m. ET 10/18/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–129–000.

Applicants: Blue Summit II Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Blue Summit II Wind, LLC.

Filed Date: 9/27/18.

Accession Number: 20180927–5042.

Comments Due: 5 p.m. ET 10/18/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1899–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2018–09–26_Deficiency Response re Pro Forma Pseudo-Tie Agreement to be effective 8/29/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5148.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: ER18–2483–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–09–26_SA 3166 Ameren Illinois-Cardinal Point GIA (J456) to be effective 9/12/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5140.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: ER18–2484–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–09–26_SA 2928 ITCTransmission-Pegaus Wind 2nd Amended GIA (J301 J701) to be effective 9/11/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5155.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: ER18–2485–000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: MAIT submits four ECSAs, Service Agreement Nos. 5024, 5025, 5027, and 5031 to be effective 11/26/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5157.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: ER18–2486–000.

Applicants: San Diego Gas & Electric Company.

Description: § 205(d) Rate Filing: SDGE IV SOLAR AGMT 57 V 11 LGIA AMENDMENT to be effective 9/27/2018.

Filed Date: 9/26/18.

Accession Number: 20180926–5159.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: ER18–2487–000.

Applicants: Rail Splitter Wind Farm, LLC.

Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 11/26/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5035.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2488–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Urban Grid Solar Projects (Chase Solar) LGIA Filing to be effective 9/13/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5055.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2489–000.

Applicants: ISO New England Inc.

Description: § 205(d) Rate Filing: Ministerial Filing to Conform Sections III.2, III.12, III.13.7 and III.13.8 to be effective 6/1/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5056.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2490–000.

Applicants: Arizona Public Service Company.

Description: Tariff Cancellation: Cancellation of Service Agreement No. 366 to be effective 11/27/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5061.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2491–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 368—LCWCD to be effective 9/1/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5063.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2492–000.

Applicants: FTS Master Tenant 2, LLC.

Description: Baseline eTariff Filing: FTS Master Tenant 2 MBR Tariff to be effective 10/1/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5074.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2493–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–09–27_SA 3084 St. Joseph Phase II–NIPSCO GIA 1st Rev (J351) to be effective 6/27/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5079.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2494–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2881R6 City of Chanute, KS NITSA NOA to be effective 9/1/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5082.

Comments Due: 5 p.m. ET 10/18/18.

Docket Numbers: ER18–2495–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Orion Wind E&P Agmt to be effective 9/19/2018.

Filed Date: 9/27/18.

Accession Number: 20180927–5090.

Comments Due: 5 p.m. ET 10/18/18.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR18–11–000.

Applicants: North American Electric Reliability Corporation, ReliabilityFirst Corporation, Midwest Reliability Organization.

Description: Joint Petition of the North American Electric Reliability Corporation, et al. for Approval of Registration Transfer Request of Wisconsin Public Service Corporation and Upper Michigan Energy Resources.

Filed Date: 9/26/18.

Accession Number: 20180926–5184.

Comments Due: 5 p.m. ET 10/16/18.

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: September 27, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–21495 Filed 10–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2808–017]

Notice of Availability of Draft Environmental Assessment: KEI (Maine) Power Management (III) LLC

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the subsequent license application for the Barker's Mill Hydroelectric Project, located on the Little Androscoggin River in Androscoggin County, Maine, and has prepared a draft Environmental Assessment (EA) for the project. The project does not occupy lands of the United States.

The draft EA contains staff's analysis of the potential effects of continued operation and maintenance of the project and concludes that licensing the project, with appropriate environmental protection measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the draft EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov/* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/ferconline.asp* to be notified via email of new filings and issuances related to these or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters,

without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number 2808–017.

For further information, please contact Karen Sughrue at (202) 502–8556 or by email at *karen.sughrue@ferc.gov.*

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–21496 Filed 10–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–548–000]

Notice of Application: Eastern Shore Natural Gas Company

Take notice that on September 14, 2018, Eastern Shore Natural Gas Company (Eastern Shore), 500 Energy Lane, Suite 200, Dover, Delaware, 19901, filed in Docket No. CP18–548–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for authorization to construct, own and operate: (i) About 4.9 miles of 16-inch-diameter loop line and appurtenant facilities in Kent County, Delaware; (ii) about 7.39 miles of 8-inch-diameter mainline extension and appurtenant facilities in Sussex County, Delaware; (iii) about 6.83 miles of 10-inch-diameter mainline extension in Wicomico and Somerset Counties, Maryland; (iv) upgrades to an existing pressure control facility, including 0.35 miles of 10-inch-diameter mainline extension in Sussex County, Delaware; and (v) delivery point measurement and regulating facilities in Sussex County, Delaware and Somerset County, Maryland (Del-Mar Energy Pathway Project). Eastern Shore states that the proposed facilities will result in an increase of 11,800 dekatherms per day of additional firm transportation service and 2,500 dekatherms per day of off-peak transportation service, or 14,300 dekatherms per day total. Eastern Shore estimates the cost of the Del-Mar Energy Pathway Project to be $37,100,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Mark C. Parker, P.E., Engineering Manager, Eastern Shore Natural Gas Company; 500 Energy Lane, Suite 200, Dover, DE, 19901 at 1 (844) 366–3764, or by email at *maparker@esng.com.*

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made with the Commission and must provide a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to ''show good cause why the time limitation should be waived,'' and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

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 3 copies of the protest or intervention to the Federal Energy

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC ¶61,167 at ¶50 (2018).

[2] 18 CFR 385.214(d)(1).

Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: October 18, 2018.

Dated: September 27, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–21498 Filed 10–2–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9984–84—Region 6]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption Reissuance—Class I Hazardous Waste Injection; Phillips 66 Company, Borger, Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a final decision on a UIC no migration petition reissuance.

SUMMARY: Notice is hereby given that a reissuance of an exemption to the Land Disposal Restrictions, under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, has been granted to Phillips 66 Company for a Class I hazardous waste injection well located at their Borger, Texas refinery. The company has adequately demonstrated to the satisfaction of the EPA by the petition reissuance application and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Phillips 66 Company of the specific restricted hazardous wastes identified in this exemption reissuance request, into Class I hazardous waste injection well WDW–325 until April 1, 2026, unless the EPA moves to terminate this exemption. Additional conditions included in this final decision may be reviewed by contacting the EPA Region 6 Ground Water/UIC Section. A public notice was issued July 13, 2018, and the public comment period closed on August 30, 2018, and no comments were received. This decision constitutes final Agency action and there is no Administrative appeal. This decision may be reviewed/appealed in compliance with the Administrative Procedure Act.

DATES: This action is applicable as of September 17, 2018.

ADDRESSES: Copies of the petition reissuance and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Division, Safe Drinking Water Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–8324.

Dated: September 17, 2018.

Charles W. Maguire,

Director, Water Division.

[FR Doc. 2018–21461 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2015–0836; FRL–9984–87—Region 3]

Proposed Information Collection Request; Comment Request; Collection of Information on Anaerobic Digestion Facilities Processing Wasted Food To Support EPA's Sustainable Food Management Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Collection of Information on Anaerobic Digestion Facilities Processing Wasted Food to support EPA's Sustainable Food Management Programs'' (EPA ICR No. 2533.02, OMB Control No. 2050–0217) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a renewal of an existing ICR. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 3, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2015–0836 online using *www.regulations.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 228221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Melissa Pennington, U.S. Environmental Protection Agency, Region 3, Mail Code 3LC33, 1650 Arch Street, Philadelphia, PA 19103; telephone number: 215–814–3372; fax number: 215–814–3114; email address: *pennington.melissa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA's Sustainable Food Management (SFM) Program promotes the sustainable management of food which is a systematic approach that seeks to reduce wasted food and its associated impacts over its' entire lifecycle. The lifecycle of food includes use of natural resources, manufacturing, sales, and consumption and ends with decisions on recovery or final disposal.

Diversion of food waste from landfills is a critical component of this effort. In order to effectively divert food waste from landfills, sufficient capacity to process the diverted materials is required. Knowledge of organics recycling capacity is needed to facilitate food waste diversion and anaerobic digestion facilities provide a significant amount of the needed capacity.

EPA's food recovery hierarchy prioritizes potential actions to prevent and divert wasted food. According to the hierarchy, processing wasted food via anaerobic digestion is a more desirable option than landfilling or incineration because it creates more benefits for the environment, society and the economy. Anaerobic digestion of food waste and other organic materials generates renewable energy, reduces methane emissions to the atmosphere, and provides opportunities to improve soil health through the production of soil amendments. The SFM program supports these efforts by educating state and local governments and communities about the benefits of wasted food diversion. The SFM program also builds partnerships with state agencies and other strategic partners interested in developing organics recycling capacity and provides tools to assist organizations in developing anaerobic digestion (AD) projects.

The nationwide collection of data about AD facilities processing food waste began in 2017 with a survey of all known AD facilities under the initial Information Collection Request (ICR No. 2533.01). EPA published the first annual report of findings based on this data in July 2018. This information collection consists of a request to renew ICR No. 2533.02 in order to continue to monitor growth and evaluate trends in the capacity for processing of food waste and the amount of food waste being processed via AD in the United States.

Data will be collected using electronic surveys that will be distributed to respondents by email and will be available on EPA's AD website.

Form numbers: EPA Form 6700–03, EPA Form 6700–04, EPA Form 6700–05.

Respondents/affected entities: Project Developers, Project Owners or Plant Operators, and Livestock Farmers.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 382 (total).

Frequency of response: Annually.

Total estimated burden: 254 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $7,594 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in estimates: The overall burden has slightly decreased from the original ICR. For this renewal, some questions have been revised for clarity, numerous questions have been eliminated and a series of questions have been streamlined. The time to complete the survey will decrease for operating years 2017, 2018, 2019 and 2020 for Respondents that previously provided data.

Dated: September 24, 2018.

John A. Armstead,

Director, Land and Chemicals Division, EPA Region III.

[FR Doc. 2018–21556 Filed 10–2–18; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2018–3016]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

EXIM's borrowers, financial institution policy holders and guaranteed lenders provide this form to U.S. exporters, who certify to the eligibility of their exports for EXIM support. For direct loans and loan guarantees, the completed form is required to be submitted at time of disbursement and held by either the guaranteed lender or EXIM. For MT insurance, the completed forms are held by the financial institution, only to be submitted to EXIM in the event of a claim filing.

EXIM uses the referenced form to obtain exporter certifications regarding the export transaction, content sourcing, and their eligibility to participate in USG programs. These details are necessary to determine the value and legitimacy of EXIM financing support and claims submitted. It also provides the financial institutions a check on the export transaction's eligibility at the time it is fulfilling a financing request.

The information collection tool can be reviewed at: *https://www.exim.gov/sites/default/files/pub/pending/eib11-05.pdf.*

DATES: Comments must be received on or before November 2, 2018 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 11–05) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038 Attn: OMB 3048.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 11–05 Exporter's Certificate for Loan Guarantee & MT Insurance Programs.

OMB Number: 3048–0043.

Type of Review: Regular.

Need and Use: The information collected will allow EXIM to determine compliance and content for transaction requests submitted to EXIM under its insurance, guarantee, and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 4,000.

Estimated Time per Respondent: 30 minutes.

Annual Burden Hours: 2,000 hours.

Frequency of Reporting of Use: As required.

Government Expenses:

Reviewing Time per Year: 67 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $2,847.5 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $3,417.

Bassam Doughman,

IT Specialist.

[FR Doc. 2018–21517 Filed 10–2–18; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice 2018–3015]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

EXIM's financial institution policy holders provide this form to U.S.

exporters, who certify to the eligibility of their exports for EXIM support. The completed forms are held by the financial institution policy holders, only to be submitted to EXIM in the event of a claim filing. A requirement of EXIM's policies is that the insured financial institution policy holder obtains a completed Exporter's Certificate at the time it provides financing for an export. This form will enable EXIM to identify the specific details of the export transaction. These details are necessary for determining the eligibility of claims for approval. EXIM staff and contractors review this information to assist in determining that an export transaction, on which a claim for non-payment has been submitted, meets all of the terms and conditions of the insurance coverage.

The form can be viewed at *https://www.exim.gov/sites/default/files/pub/pending/eib-94-07.pdf.*

DATES: Comments must be received on or before November 2, 2018 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 94–07) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038, Attn: OMB 3048.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 94–07 Exporters Certificate for Use with a Short Term Export Credit Insurance Policy.

OMB Number: 3048–0041.

Type of Review: Regular.

Need and Use: EXIM uses the referenced form to obtain exporter certification regarding the export transaction, U.S. content, non-military use, non-nuclear use, compliance with EXIM's country cover policy, and their eligibility to participate in USG programs. These details are necessary to determine the legitimacy of claims submitted. It also provides the financial institution policy holder a check on the export transaction's eligibility, at the time it is fulfilling a financing request.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 240.

Estimated Time per Respondent: 15 minutes.

Annual Burden Hours: 60 hours.

Frequency of Reporting of Use: As required.

Government Expenses:

Reviewing Time per Year: 12 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $510 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $612.

Bassam Doughman,

IT Specialist.

[FR Doc. 2018–21513 Filed 10–2–18; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0419]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 3, 2018. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0419.

Title: Sections 76.94, Notification; 76.95, Exceptions; 76.105, Notification; 76.106, Exceptions; 76.107, Exclusivity Contracts and 76.1609, Non-Duplication and Syndicated Exclusivity.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 5,977 respondents and 249,577 responses.

Estimated Time per Response: 0.5–2.0 hours.

Frequency of Response: On occasion reporting requirement; One-time reporting requirement; Third Party Disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Section 4(i) of the Communications Act of 1034, as amended.

Total Annual Burden: 233,153 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The Commission rules that are covered under this collection require broadcast television stations and program distributors to notify cable television system operators of network non-duplication protection and syndicated exclusivity rights being sought within prescribed limitations and terms of contractual agreements. These various notification and disclosure requirements are to protect broadcasters who purchase the exclusive rights to transmit network and syndicated programming in their recognized markets.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–21475 Filed 10–2–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0207]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 3, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0207.

Title: Part 11—Emergency Alert System (EAS), Orders, FCC 18–94.

Form No.: N/A.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents and Responses: 63,084 respondents; 3,588,830 responses.

Estimated Time per Response: 0.017 hours—100 hours.

Frequency of Response: On occasion reporting requirement, annual reporting requirement, one-time reporting requirement, recordkeeping requirement and third-party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 154(i) and 606 of the Communications Act of 1934, as amended.

Total Annual Burden: 140,751 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: For false alert information filed with the Commission via email to the FCC Ops Center at *FCCOPS@fcc.gov,* the Commission will share individual and aggregated data on a confidential basis with other federal agencies and state governmental emergency management agencies that have confidentiality protection at least equal to that provided by the Freedom of Information Act. State EAS Plan data and any aggregation of such data will have the same level of confidentiality as data filed in the ETRS, *i.e.,* the Commission will share individual and aggregated data on a confidential basis with other federal agencies and state governmental emergency management agencies that have confidentiality protection at least equal to that provided by the Freedom of Information Act.

Needs and Uses: Part 11 contains rules and regulations addressing the nation's Emergency Alert System (EAS). The EAS provides the President with the capability to provide immediate communications and information to the general public during periods of national emergency over broadcast television and radio, cable, direct broadcast radio and other EAS Participants, as defined in Section 11.11(a) of the Commission's rules. The EAS also provides state and local governments and the National Weather Service with the capability to provide immediate communications and information to the public concerning emergency situations posing a threat to life and property. The manner in which the EAS delivers alerts to the public is set forth in State EAS Plans, which are drafted by State Emergency Communications Committees (SECCs), the entities required to submit State EAS Plans to the Commission's Public Safety and Homeland Security Bureau (PSHSB) under Section 11.21 of the Commission's rules.

In the Order, PS Dockets 15–94, 15–91, FCC 18–94, the Commission amended Section 11.45 of its rules to require that no later than twenty-four (24) hours of an EAS Participant's discovery that it has transmitted or otherwise sent a false alert to the public, the EAS Participant send an email to the FCC Ops Center (at *FCCOPS@fcc.gov*), informing the Commission of the event and of any details that the EAS Participant may have concerning the event. In addition, the Commission amended Section 11.61 of the rules to include ''Live Code Tests'' as a separate category of alerting exercise that EAS Participants may undertake voluntarily, provided such live code tests are conducted in accordance with specific parameters, including: (1) Notifying the public before the test that live event codes will be used, but that no emergency is, in fact, occurring; (2) to the extent technically feasible, stating in the test message that the event is only a test; and (3) consistent with the Commission's rules, providing in widely accessible formats the required notification to the public that the test is not, in fact, a warning about an actual emergency.

The Commission seeks Office of Management and Budget (OMB) approval of these rule amendments as a modification of a previously approved information collection. The false alert reporting obligation is essential to provide the Commission, FEMA and other affected stakeholders with the information necessary to identify and mitigate problems with the EAS, and benefits ongoing EAS reliability. The false alert reporting rules also will provide a significant public safety benefit by allowing the Commission to detect whether there are trends and patterns in false alerts that may indicate weaknesses that require further Commission study and action to strengthen the alerting system. The ''Live Code Testing'' provisions remove regulatory obstacles and reduce time and cost burdens on EAS Participants by eliminating the need to obtain a waiver to conduct such tests. These testing rules will promote greater proficiency in the use of EAS, both by EAS alert initiators and EAS Participants, which will help address potential gaps in alert originator training.

In the Order, PS Docket No. 15–94, FCC 18–39, the Commission adopted a

rule obligating SECCs to file State EAS Plans electronically through the new Alert Reporting System (ARS), rather than in paper-based filings, the method currently approved by OMB for this collection. For the required electronic filing, the Commission has developed a proposed reporting template, attached as Appendix D to the Order, and seeks OMB approval of the proposed template as a modification of a previously approved information collection. The proposed template will decrease the paperwork burden associated with this collection over time, and there is no change to any other reporting obligation in this collection. The information sought in this collection is necessary and vital to the effective electronic filing of State EAS Plans in the ARS, which will replace paper-based filing requirements, minimize the burdens on SECCs, and allow the Commission, the Federal Emergency Management Agency (FEMA), and other authorized entities to better access and use up-to-date information about the EAS, thus increasing its value as a tool to protect life and property for all Americans.

The following information collections contained in Part 11 may be impacted by the rule amendments described herein. With respect to the establishment of a false alert reporting obligation, the Commission found such obligation to be minimally burdensome, affecting approximately 290 EAS Participants annually, with each successive year likely involving a different group of EAS Participants, and requiring no more than 15 minutes to email the required information to the FCC Ops Center. With respect to the establishment of ''Live Code Test'' rules, which codified requirements that were previously imposed on waivers granted by the Commission, the Commission found that such action reduced time and cost burdens on EAS Participants by eliminating the need to obtain a waiver.

With respect to the establishment of a mandatory electronic test reporting system that EAS participants must utilize to file identifying and test result data, the Commission noted that this electronic submission system would impose a lesser burden on EAS test participants because they could input electronically (via a web-based interface) the same information into a confidential database that the Commission would use to monitor and assess the test. This information would include identifying information such as station call letters, license identification number, geographic coordinates, EAS designation (Local Primary, National Primary, *etc.*), EAS monitoring assignment, as well as a 24/7 emergency contact for the EAS Participant. The only difference, other than the electronic nature of the filing, would be the timing of the collections. Test participants would submit the identifying data. These rules may impact currently existing paperwork collection requirements as discussed below.

Section 11.15 requires a copy of the EAS operating handbook to be located at normal duty positions or EAS equipment locations when an operator is required to be on duty. The handbook must be immediately available to staff responsible for authenticating messages and initiating actions. Copies of the handbook are posted on the Commission's website and can be obtained at *https://www.fcc.gov/general/emergency-alert-system-eas.*

Section 11.21 requires that state and local EAS plans be reviewed and approved by the Chief, Public Safety and Homeland Security, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

Section 11.34 requires manufacturers to include instructions and information on how to install, operate and program an EAS Encoder, EAS Decoder, or combined unit and a list of all U.S., State, Territory and Offshore (Marine Area) ANSI number codes with each unit sold or marketed in the U.S. This requirement would be done in the normal course of doing business.

Section 11.35 requires that all EAS Participants are responsible for ensuring that EAS Encoders/Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations/systems are in operation. EAS Participants must determine the cause of any failure to receive the required tests or activations. When the EAS is not operating properly, section 11.35 requires appropriate entries be made in the station/system logs indicating why any tests were not received for all broadcast streams and cable systems. All other EAS Participants must also keep record indicating reasons why any tests were not received and these records must be retained for two years, maintained at the EAS Participant's headquarters, and made available for public inspection upon reasonable request.

Section 11.35 also requires that entries be made in the station/system logs, and records of other EAS Participants, when the EAS Encoder/Decoder becomes defective showing the date and time the equipment was removed and restored to service. If replacement of defective equipment is not completed within 60 days, an informal request shall be submitted to the District Director of the FCC field office. For DBS and SDARS providers, this informal request shall be submitted to the District Director of the FCC field office serving the area where their headquarters is located. This request must explain what steps have been taken to repair or replace the defective equipment, the alternative procedures being used while the defective equipment is out of service and when the defective equipment will be repaired or replaced.

Section 11.41 allows all EAS Participants to submit a written request to the FCC asking to be a Non-Participating National source. In addition, a Non-Participating National source that wants to become a Participating National source must submit a written request to the FCC.

Section 11.42 allows a communications common carrier to participate in the national level EAS, without charge. A communications common carrier rendering free service is required to file with the FCC, on or before July 31st and January 31st of each year, reports covering the six months ending on June 30th and December 31st respectively. These reports shall state what free service was rendered under this rule and the charges in dollars which would have accrued to the carrier for this service if charges had been collected at the published tariff rates if such carriers are required to file tariffs.

Section 11.43 allows entities to voluntarily participate in the national level EAS after submission of a written request to the Chief, Public Safety and Homeland Security Bureau.

Section 11.51 requires that EAS equipment be operational, ready to monitor, transmit and receive EAS electronic signals. Cable and wireless cable systems, both analog and digital, can elect not to interrupt EAS messages from broadcast stations based upon a written agreement between all concerned. Furthermore, cable and wireless cable systems, both analog and digital, can elect not to interrupt the programming of a broadcast station carrying news or weather-related emergency information with state and local EAS messages based upon a written agreement between all concerned. These written agreements are contained in state and local franchise agreements.

Section 11.51 also requires all actions to be logged when manual interruption of programming and transmission of EAS messages is used. Estimates for

testing are included in the estimate for section 11.61.

Section 11.52 requires all EAS Participants to monitor two EAS sources. If the required EAS sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the FCC's EAS office. In an emergency, a waiver may be issued over the telephone with a follow-up letter to confirm temporary or permanent reassignment. In addition, EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the event codes for emergency action notification, emergency action termination and required monthly test for their state or state/county location.

Section 11.54 requires EAS Participants to enter into their logs/records the time of receipt of an emergency alert notice and an emergency action termination messages during a national level emergency.

Section 11.55 requires EAS participants to monitor their emergency alert system upon receipt of a state or local area EAS message. Stations/systems must also enter into their logs/records the time of receipt of an emergency alert message. If an SDARS licensee or DBS provider is unable to receive and transmit state and local EAS messages, it must inform its subscribers, on its website, and in writing on an annual basis of which channels are and are not capable of supplying state and local EAS messages.

Section 11.61 requires EAS Participants to conduct periodic EAS tests. Tests of the EAS header codes, attention signal, test script and EOM code are required to be performed monthly. Tests of the EAS header codes and end of message codes are made at least once a week. National primary sources shall participate in tests as appropriate. DBS providers, Class D non-commercial educational FM stations and low power TV stations are not required to transmit this test but must log receipt of the test. The FCC may request a report of the tests of the national primary sources. In addition, entries must be made in stations/systems logs/records as previously stated.

This information is used by FCC staff as part of routine inspections of EAS Participants. Accurate recordkeeping of this data is vital in determining the location and nature of possible equipment failure on the part of the transmitting or receiving entity. Furthermore, since the national level EAS is solely for the President's use, its proper operation must be assured.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–21476 Filed 10–2–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0806]

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 November 2, 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: 3060–0806.

Title: Universal Service-Schools and Libraries Universal Service Program, FCC Forms 470 and 471.

Form Number(s): FCC Forms 470 and 471.

Type of Review: Revision of a currently approved collection.

Respondents: State, local or tribal government institutions, and other not-for-profit institutions.

Number of Respondents and Responses: 43,000 respondents; 67,100 responses.

Estimated Time per Response: 3.5 hours for FCC Form 470 (3 hours for response; 0.5 hours for recordkeeping; 4.5 hours for FCC Form 471 (4 hours for response; 0.5 hours for recordkeeping).

Frequency of Response: On occasion and annual reporting requirements, and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403, and 405.

Total Annual Burden: 273,950 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no assurance of confidentiality provided to respondents concerning this information collection. However, respondents may request materials or information submitted to the Commission or to the Administrator be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

Needs and Uses: The Commission seeks approval to revise the existing collection 3060–0806 (FCC Forms 470 and 471). Collection of the information on FCC Forms 470 and 471 is necessary so that the Commission and USAC have sufficient information to determine if entities are eligible for funding pursuant to the schools and libraries support mechanism, to determine if entities are complying with the Commission's rules, and to prevent waste, fraud, and abuse. In addition, the information is necessary for the Commission to evaluate the extent to which the E-Rate program is meeting the statutory objectives specified in section 254(h) of the 1996 Act, and the Commission's performance goals established in the 2014 First *E-Rate Order* and *2014 Second E-Rate Order.*

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–21477 Filed 10–2–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Wednesday, September 26, 2018

September 19, 2018.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, September 26, 2018 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW, Washington, DC

Item No.	Bureau	Subject
1	PUBLIC SAFETY & HOMELAND SECURITY.	*Title:* Implementing Kari's Law and Section 506 of Ray BAUM'S Act (PS Docket No. 18–261); Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems (PS Docket No. 17–239). *Summary:* The Commission will consider a Notice of Proposed Rulemaking addressing calls to 911 made from multi-line telephone systems, pursuant to Kari's Law, the conveyance of dispatchable location with 911 calls, as directed by RAY BAUM'S Act, and the consolidation of the Commission's 911 rules.
2	RURAL BROADBAND AUCTIONS TASK FORCE.	*Title:* Presentation on Results of the Connect America Fund Phase II Auction. Summary: The Commission will hear a presentation on the recent results of the Connect America Fund Phase II auction (Auction 903).
3	WIRELESS TELE–COMMUNICATIONS	*Title:* Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment (WT Docket No. 17–79); Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment (WC Docket No. 17–84). *Summary:* The Commission will consider a Declaratory Ruling and Report and Order that will clarify the scope and meaning of Sections 253 and 332(c)(7) of the Communications Act, establish shot clocks for state and local approvals for the deployment of small wireless facilities, and provide guidance on streamlining state and local requirements on wireless infrastructure deployment.
4	ENFORCEMENT	*Title:* Enforcement Bureau Action. Summary: The Commission will consider an enforcement action.
5	ENFORCEMENT	*Title:* Enforcement Bureau Action. Summary: The Commission will consider an enforcement action.
6	MEDIA	*Title:* Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05–311). *Summary:* The Commission will consider a Second Further Notice of Proposed Rulemaking addressing two issues raised by a remand from the U.S. Court of Appeals for the Sixth Circuit concerning how local franchising authorities may regulate incumbent cable operators and cable television services.
7	MEDIA	*Title:* FCC Form 325 Collection (MB Docket No. 17–290); Modernization of Media Regulation Initiative (MB Docket No. 17–105). *Summary:* The Commission will consider a Report and Order that eliminates the Form 325, Annual Report of Cable Television Systems, filing requirement.
8	WIRELINE COMPETITION	*Title:* Toll Free Assignment Modernization (WC Docket No. 17–192); Toll Free Service Access Codes (CC Docket No. 95–155). *Summary:* The Commission will consider a Report and Order that will amend the Commission's rules to allow for use of auctions to assign certain toll free numbers and takes other actions to modernize the administration and assignment of toll free numbers.
9	INTERNATIONAL	*Title:* Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Services (IB Docket No. 17–95).

Item No.	Bureau	Subject
		Summary: The Commission will consider action to facilitate the deployment of and harmonize the rules concerning three types of Fixed-Satellite Service earth stations authorized to transmit while in motion: Earth Stations on Vessels, Vehicle-Mounted Earth Stations, and Earth Stations Aboard Aircraft.

* * * * *

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–21478 Filed 10–2–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2018–N–10]

Notice of Availability of the Federal Housing Finance Agency Information Quality Guidelines

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Housing Finance Agency (FHFA) has made available its Information Quality Guidelines pursuant to the requirements of Office of Management and Budget (OMB) Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies, dated February 22, 2002. The purpose of this notice is to publish the location of the Guidelines on the FHFA website at *https://www.fhfa.gov/AboutUs/InformationQuality.*

FOR FURTHER INFORMATION CONTACT: Kevin Winkler, Chief Information Officer, (202) 649–3600, *Kevin.Winkler@fhfa.gov;* or Susan L. Sallaway, Records Officer, (202) 649–3674, *Susan.Sallaway@fhfa.gov,* (these are not toll-free numbers), Federal Housing Finance Agency, Constitution Center, 400 Seventh Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Section 515 of the Treasury and General Government Appropriations Act for FY 2001, Public Law 106–554. This law directed the Office of Management and Budget (OMB) to issue government-wide guidelines for the establishment of information quality programs, and for Federal agencies to issue their own guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated to the public. The OMB guidelines were published in the **Federal Register** on February 22, 2002 (67 FR 8459).

The OMB guidelines instructed Federal agencies that are subject to the Paperwork Reduction Act to publish a notice of the availability of their Information Quality Guidelines in the **Federal Register** and to post their Information Quality Guidelines on their websites.

FHFA's Information Quality Guidelines were issued in December 2017, upon approval by OMB, and are posted on FHFA's website at *https://www.fhfa.gov/AboutUs/InformationQuality.*

Dated: September 27, 2018.

Kevin Winkler,

Chief Information Officer, Federal Housing Finance Agency.

[FR Doc. 2018–21533 Filed 10–2–18; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 29, 2018.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *Grasshopper Bancorp, Inc., New York, New York*; to become a bank holding company through the formation of its subsidiary bank, Grasshopper Bank, N.A., New York, New York.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *BOU Bancorp, Inc., Ogden, Utah*; to merge with AmBancorp, and thereby

indirectly acquire American Bank of Commerce, both of Provo, Utah.

Board of Governors of the Federal Reserve System, September 28, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–21544 Filed 10–2–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 15, 2018.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Breck C. Collingsworth, Lincoln, Nebraska, individually and as part of a group acting in concert with Susan Chrastil, Crete, Nebraska;* to acquire voting shares of TCM Company, Crete, Nebraska, and thereby indirectly acquire shares of City Bank & Trust Co., Lincoln, Nebraska.

Board of Governors of the Federal Reserve System, September 28, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–21543 Filed 10–2–18; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2018–0091]

Proposed Revised Vaccine Information Materials for Meningococcal ACWY and DTaP (Diphtheria, Tetanus, Pertussis) Vaccines

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA), the Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) develops vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. HHS/CDC seeks written comment on the proposed updated vaccine information statements for meningococcal ACWY and DTaP (diphtheria, tetanus, acellular pertussis) vaccines.

DATES: Written comments must be received on or before December 3, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0091, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Written comments should be addressed to Suzanne Johnson-DeLeon (*VISComments@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and docket number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Skip Wolfe, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE, Atlanta, Georgia 30329; *VISComments@cdc.gov.*

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the patient's parent or legal representative in the case the patient is a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring provision of vaccine information materials before vaccine administration for them as well: hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC website at: *https://www.cdc.gov/vaccines/hcp/vis/index.html.*

CDC is proposing updated versions of the meningococcal ACWY and DTaP

(diphtheria, tetanus, acellular pertussis) vaccine information statements.

Changes to the meningococcal ACWY VIS are minimal. Reference to the MPSV4 vaccine, no longer available in the United States, is removed. HIV infection is added as an indication for vaccination, and wording related to meningococcal ACWY vaccination during pregnancy is updated.

Proposed revisions to the DTaP VIS reflect new recommendations of the Advisory Committee on Immunization Practices (ACIP), including updated information about contraindications and precautions. Minor changes are proposed to simplify and streamline the sections about what to do if there is a reaction and finding additional information about the vaccine and the Vaccine Injury Compensation Program. The most recent previous final version of the DTaP VIS was published in 2007; proposed revisions to this document will help to bring it in line with the structure and general approach of more recently-published VISs for other vaccines.

The vaccine information materials referenced in this notice are being developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and health care provider groups.

We invite written comment on the proposed vaccine information materials entitled ''Meningococcal ACWY Vaccine: What You Need to Know'' and ''DTaP (Diphtheria, Tetanus, Pertussis) Vaccine: What You Need to Know.'' Copies of the proposed vaccine information materials are available at *http://www.regulations.gov* (see Docket Number CDC–2018–0091). Comments submitted will be considered in finalizing these materials. When the final materials are published in the **Federal Register**, the notice will include an effective date for their mandatory use.

Dated: September 27, 2018.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2018–21491 Filed 10–2–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Matching Program

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with subsection (e)(12) of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is providing notice of a new matching program between CMS and the Department of Veterans Affairs (VA), Veterans Health Administration (VHA), ''Verification of Eligibility for Minimum Essential Coverage Under the Patient Protection and Affordable Care Act Through a Veterans Health Administration Plan.''

DATES: The deadline for comments on this notice is November 2, 2018. The re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. The matching program will be conducted for an initial term of 18 months (from approximately October 2018 to April 2020) and within 3 months of expiration may be renewed for one additional year if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: Interested parties may submit written comments to: CMS Privacy Act Officer, Division of Security, Privacy Policy & Governance, Information Security & Privacy Group, Office of Information Technology, CMS, 7500 Security Blvd., Baltimore, MD 21244–1870, Mailstop: N3–15–25, or by email to: *walter.stone@cms.hhs.gov.* Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about the matching program, you may contact Jack Lavelle, Senior Advisor, Marketplace Eligibility and Enrollment Group, Center for Consumer Information and Insurance Oversight, CMS, 7501 Wisconsin Ave., Bethesda, MD 20814, (410) 786–0639, or by email at *Jack.Lavelle1@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a) provides certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records (meaning, federal agency records about individuals retrieved by name or other personal identifier) are matched with records of other federal or non-federal agencies. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each source and recipient federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).

2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).

3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

4. Report the matching program to Congress and the OMB, in advance and annually, as required by 5 U.S.C. 552a(o) (2)(A)(i), (r), and (u)(3)(D).

5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

Barbara Demopulos,

CMS Privacy Advisor, Division of Security, Privacy Policy and Governance, Information Security and Privacy Group, Office of Information Technology, Centers for Medicare & Medicaid Services.

Participating Agencies

The Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is the recipient agency, and the Department of Veterans Affairs (VA), Veterans Health Administration (VHA) is the source agency.

Authority for Conducting the Matching Program

The statutory authority for the matching program is 42 U.S.C. 18001.

Purpose(s)

The purpose of the matching program is to assist CMS in determining individuals' eligibility for financial assistance in paying for private health

insurance coverage. In this matching program, VHA provides CMS with data when a state administering entity (AE) requests it and VHA is authorized to release it, verifying whether an individual who is applying for or is enrolled in private health insurance coverage under a qualified health plan through a federally-facilitated health insurance exchange is eligible for coverage under a VHA health plan. CMS makes the data provided by VHA available to the requesting AE through a data services hub to use in determining the applicant's or enrollee's eligibility for financial assistance (including an advance tax credit and cost-sharing reduction, which are types of insurance affordability programs) in paying for private health insurance coverage. VHA health plans provide minimum essential coverage, and eligibility for such plans usually precludes eligibility for financial assistance in paying for private coverage. The data provided by VHA under this matching program will be used by CMS and AEs to authenticate identity, determine eligibility for financial assistance, and determine the amount of the financial assistance.

Categories of Individuals

The categories of individuals whose information is involved in the matching program are:

- Veterans whose records at VHA match data provided to VHA by CMS (submitted by AEs) about individuals who are applying for or are enrolled in private insurance coverage under a qualified health plan through a federally-facilitated health insurance exchange.

Categories of Records

The categories of records used in this matching program are identity records and minimum essential coverage period records, consisting of the following data elements:

Data provided by CMS to VHA:

a. First name (required)
b. middle name/initial (if provided by applicant)
c. surname (applicant's last name) (required)
d. date of birth (required)
e. gender (optional)
f. SSN (required)
g. requested qualified health plan (QHP) coverage effective date (required)
h. requested QHP coverage end date (required)
i. transaction ID (required)

Data provided by VHA to CMS:

a. SSN (required)
b. start/end date(s) of enrollment period(s) (when match occurs)
c. a blank date response when a non-match occurs
d. if CMS transmits request and a match is made, but VA's record contains a date of death, VA will respond in the same manner as a non-match response, with a blank date
e. enrollment period(s) is/are defined as the timeframe during which the individual was enrolled in a VHA health care program

Systems(s) of Records

The records used in this matching program will be disclosed from the following systems of records, as authorized by routine uses published in the system of records notices (SORNs) cited below:

A. System of Records Maintained by CMS

- CMS Health Insurance Exchanges System (HIX), CMS System No. 09–70–0560, last published in full at 78 FR 63211 (Oct. 23, 2013), as amended at 83 FR. 6591 (Feb. 14, 2018). Routine use 3 authorizes CMS' disclosures to VHA.

B. Systems of Records Maintained by VHA

- 147VA10NF1 Enrollment and Eligibility Records—VA, published at 81 FR 45597 (July 14, 2016). Routine use 14 authorizes VHA's disclosures to CMS.
- 54VA10NB3 Veterans and Beneficiaries Purchased Care Community Health Care Claims, Correspondence, Eligibility, Inquiry and Payment Files—VA, published at 80 FR 11527 (March 3, 2015). Routine use 25 authorizes VHA's disclosures to CMS.

[FR Doc. 2018–21506 Filed 10–2–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of Intent To Issue an OPDIV-Initiated Supplement to BCFS Health and Human Services Under the Standing Funding Opportunity Announcement Number HHS–2017–ACF–ORR–ZU–1132, Residential (Shelter) Services for Unaccompanied Children

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 an OPDIV-Initiated Supplement.

SUMMARY: Administration for Children and Families, Office of Refugee Resettlement, announces the intent to issue an OPDIV-Initiated Supplement to BCFS Health and Human Services, San Antonio, TX, in the amount of up to $6,500,000. 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 the continuation of services to ORR with 222 variance licensed beds.

DATES: Supplemental award funds will support activities until January 31, 2019.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Deputy Director for Children's Programs, Office of Refugee Resettlement, 330 C Street SW, Washington, DC 20201. 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 continuation of services of the existing program and its services through this supplemental award is a key strategy for ORR to continue 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. The award to BCFS will be made as two OPDIV-initiated supplements.

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.

Karen Shields,

Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2018–21454 Filed 9–28–18; 11:15 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1175]

Atopic Dermatitis: Timing of Pediatric Studies During Development of Systemic Drugs; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Atopic Dermatitis: Timing of Pediatric Studies During Development of Systemic Drugs.'' This guidance addresses FDA's current thinking about the relevant age groups to study and how early in drug development applicants should incorporate pediatric patients for development of systemic drugs for atopic dermatitis (AD). This guidance finalizes the draft guidance of the same name issued on April 9, 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on October 3, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–1175 for ''Atopic Dermatitis: Timing of Pediatric Studies During Development of Systemic Drugs.'' 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 this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Dawn Williams, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5168, Silver Spring, MD 20993–0002, 301–796–5376; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Atopic Dermatitis: Timing of Pediatric Studies During Development of Systemic Drugs.'' This guidance addresses FDA's current thinking about the relevant age groups to study and how early in drug

development applicants should incorporate pediatric patients for development of systemic drugs for AD. This guidance has only minor editorial changes and finalizes the draft guidance of the same name issued on April 9, 2018 (83 FR 15157) to which no comments were received.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Atopic Dermatitis: Timing of Pediatric Studies During Development of Systemic Drugs.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information related to the burden on the submission of new drug applications in 21 CFR 314.50(d)(7), including pediatric use information, have been approved under OMB control number 0910–0001. The collections of information related to the burden on the submission of investigational new drug applications in § 312.47(b)(1)(iv) (21 CFR 312.47(b)(1)(iv)), including plans for pediatric studies, have been approved under OMB control number 0910–0014. The collections of information related to the burden for requesting meetings with FDA about drug development programs in §§ 312.47 and 312.82 have been approved under OMB control number 0910–0429. The collections of information related to the burden on the submission of information about expedited review programs for serious conditions and the guidance for industry entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' (available at *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm358301.pdf*) have been approved under OMB control number 0910–0765. The collections of information referenced in this guidance that are related to the burden on the submission of biologics license applications covered under 21 CFR part 601, including pediatric use information, have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: September 27, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21519 Filed 10–2–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3438]

Selection of the Appropriate Package Type Terms and Recommendations for Labeling Injectable Medical Products Packaged in Multiple-Dose, Single-Dose, and Single-Patient-Use Containers for Human Use; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Selection of the Appropriate Package Type Terms and Recommendations for Labeling Injectable Medical Products Packaged in Multiple-Dose, Single-Dose, and Single-Patient-Use Containers for Human Use.'' This guidance finalizes the draft guidance issued October 22, 2015, which provides recommendations on the selection of appropriate package type terms and selection of appropriate discard statements for injectable medical products for human use, packaged in multiple-dose, single-dose, and single-patient-use containers.

DATES: The announcement of the guidance is published in the **Federal Register** on October 3, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–3438 for ''Selection of the Appropriate Package Type Terms and Recommendations for Labeling Injectable Medical Products Packaged in Multiple-Dose, Single-Dose, and Single-Patient-Use Containers for Human Use.'' 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 this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Yana Mille, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4166, Silver Spring, MD 20993, 301–796–1577; or Stephen Ripley, Center for Biologics Evaluation and Research, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Selection of the Appropriate Package Type Terms and Recommendations for Labeling Injectable Medical Products Packaged in Multiple-Dose, Single-Dose, and Single-Patient-Use Containers for Human Use.'' Unsafe injection practices, including the use of needles or syringes for more than one patient or the improper use of medication vials for more than one patient, threaten patient safety and have resulted in multiple blood borne bacterial and viral infection outbreaks. Bacterial and viral infections have been transmitted to patients when single-dose containers were used improperly, the contents became contaminated, and these contents were then administered to multiple patients. Failure to follow standard precautions and aseptic techniques has also been associated with several outbreaks of infections involving multiple-dose vials.

As part of its review of medical products, FDA clears or approves package type terms and discard statements as part of the labeling of injectable medical products. FDA believes that consistent use of correct package type terms and discard statements for injectable medical products for human use will promote their proper use and provide a foundation for educational efforts to reduce the transmission of blood borne pathogens. All the stakeholder comments on the draft guidance were carefully reviewed and, where appropriate, clarifying edits were made in the final guidance. The major change made in response to stakeholder comments on the draft guidance was the addition of a subsection titled ''Addition of a discard statement or changes to an existing discard statement'' to the ''Labeling Requirements and Recommendations'' section of the final guidance.

Specifically, this guidance provides FDA's revised definitions for single-dose and multiple-dose containers as well as the definition for the new package type term single-patient-use container. These containers may be part of a drug, a biological product, or a combination product assigned to FDA's Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research, or certain combination products assigned to FDA's Center for Devices and Radiological Health. Marketing applications for such products include new drug applications (NDAs), abbreviated new drug applications (ANDAs), biologics license applications (BLAs), premarket approval applications (PMAs), premarket notifications under the Federal Food, Drug, and Cosmetic Act (FD&C Act), and requests for classification submitted under the FD&C Act De Novo request.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on the selection of the appropriate package type terms and recommendations for labeling injectable medical products packaged in multiple-dose, single-dose, and single-patient-use containers for human use. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information discussed in this guidance have been approved under the following OMB control numbers: OMB control number 0910–0001 for NDAs, ANDAs, supplements to NDAs and ANDAs, and annual reports; OMB control number 0910–0572 for prescription drug product labeling; OMB control number 0910–0338 for BLA, BLA supplements, and annual reports; OMB control number 0910–0120 for premarket notifications (510(k)s); OMB control number 0910–0231 for PMAs; OMB control number 0910–0485 for medical device labeling; and OMB control number 0910–0577 for prominent and conspicuous mark of manufactures on single-use devices.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *https://www.regulations.gov.*

Dated: September 27, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21531 Filed 10–2–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0008]

Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act.'' This draft guidance revises the guidance for industry entitled ''Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act'' issued in November 2014. This draft guidance updates the November 2014 guidance to account for recent regulatory changes and describes a change in FDA's current thinking on what constitutes a 505(q) petition. In addition, FDA is revising this guidance to describe some of the considerations FDA will take into account in determining whether a petition is submitted with the primary purpose of delaying the approval of an application.

DATES: Submit either electronic or written comments on the draft guidance by December 3, 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–2009–D–0008 for ''Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. 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: Kim Thomas, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6220, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act.'' This draft guidance provides information regarding FDA's current thinking on implementing section 505(q) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(q)). Section 505(q) of the FD&C Act governs certain citizen petitions and petitions for stay of Agency action that request that FDA take any form of action related to a pending application submitted under: (1) Section 505(b)(2) of the FD&C Act (referred to in this document as a 505(b)(2) application), (2) 505(j) of the FD&C Act (referred to in this document as an abbreviated new drug application or ANDA), or (3) a pending application for licensure of a biological product as biosimilar or interchangeable that is submitted under section 351(k) of the Public Health

Service Act (42 U.S.C. 262(k), referred to in this document as a 351(k) application).

This draft guidance describes how the Agency determines if: (1) The provisions of section 505(q) of the FD&C Act addressing the treatment of citizen petitions and petitions for stay of Agency action (collectively, petitions) apply to a particular petition and (2) a petition would delay approval of a pending ANDA, 505(b)(2) application, or 351(k) application. This draft guidance also describes how FDA implements the provisions of section 505(q) requiring that: (1) A petition include a certification and (2) supplemental information or comments to a petition include a verification. It also addresses the relationship between the review of petitions and pending ANDAs, 505(b)(2) applications, and 351(k) applications for which the Agency has not yet made a decision on approvability.

This draft guidance revises the guidance for industry entitled ''Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act'' issued in November 2014. This draft guidance updates the November 2014 guidance to account for recent regulatory changes to add § 10.31 (21 CFR 10.31) to FDA's regulations and modify 21 CFR 10.30 and 10.35. The revision also describes a change in FDA's current thinking on what constitutes a 505(q) petition. In addition, FDA is revising this guidance to describe some of the considerations FDA will take into account in determining whether a petition is submitted with the primary purpose of delaying the approval of an application under section 505(q)(1)(E) of the FD&C Act.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on citizen petitions and petitions for stay of action subject to section 505(q) of the FD&C Act. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR 10.20, 10.30, and 10.35 have been approved under OMB control number 0910–0191; the collections of information in § 10.31 have been approved under OMB control number 0910–0679; and the collections of information in 21 CFR 314.54, 314.94, and 314.102 have been approved under OMB control number 0910–0001. The certification and verification statements required under § 10.31(c) and (d) are ''public disclosure[s] of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public . . .'' (5 CFR 1320.3(c)(2)) and therefore not subject to OMB review under the PRA.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: September 28, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21532 Filed 10–2–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–New]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before December 3, 2018.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–New–60D and project title for reference, to *Sherrette.funn@hhs.gov,* or call 202–795–7714, the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Fertility Knowledge Survey.

Type of Collection: OMB No. 0990–NEW—Office of the Assistant Secretary for Health (OASH).

Abstract: The Office of the Assistant Secretary for Health/Office of Population Affairs (OPA) is seeking an approval by the Office of Management and Budget on a new information collection. We seek to collect information to increase understanding of (1) adolescent and young adult knowledge of human (female and male) fertility and (2) how this knowledge is related to behaviors and intentions involving childbearing. We propose to collect this information through a 20-minute web survey (Fertility Knowledge Survey) of 2,100 females and 1,900 males, aged 15 to 29 years, using an online panel that is based on a probability-based sample of the U.S. population. The survey will produce evidence and findings that are expected to be generalizable to the population of English-speaking females and males aged 15 to 29 years in the United States.

Possessing accurate knowledge about human fertility is important information that enables reproductive-aged women and men to make informed decisions and plans about reproduction and empowers them to seek appropriate and timely health services (e.g., family planning, related preventive healthcare, or infertility assessment) to achieve those plans. OPA requires high-quality information on the fertility knowledge and related behaviors of U.S. adolescents and young adults to inform Title X policies and strategies that aim to close knowledge gaps, enhance reproductive life planning, and increase access to appropriate and evidence-informed care.

The Fertility Knowledge Survey will be administered once to each respondent. Respondents will include English-speaking females and males, aged 15 to 29 years, who are able to get pregnant or father a child, respectively. This study will rely on a web survey to

be self-administered at home on personal computers, tablets, or phones. A web survey has numerous methodological advantages, including increased accuracy in measurement of key variables of interest, and reduced burden on study participants. Respondents in this study will be members of the general public. This collection will not involve small business or small entities.

The estimated annualized hour burden of responding to this information collection is 1,333 hours, or a weighted average of 20 minutes (.33 hours) per respondent. The hour-burden estimate includes the time spent by a respondent to read the email invitation, review the online consent or assent (minor), and complete the survey. Participation is voluntary and there are no costs to respondents other than their time. OMB approval is requested for three years.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Fertility Knowledge Survey	General Public, aged 15 to 29 years	4,000	1	20/60	1,333
Total			4,000		1,333

Dated: September 27, 2018.

Terry Clark,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2018–21520 Filed 10–2–18; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; Clinical Trials Review Committee.

Date: October 25–26, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Keary A. Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–827–7912, *copeka@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 27, 2018.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21501 Filed 10–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Jointly Sponsored Predoctoral Training Program in the Neurosciences (T32).

Date: October 23, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Georgetown, 2350 M Street NW, Washington, DC 20037.

Contact Person: Erin E. Gray, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard, NSC 6152B, Bethesda, MD 20892, 301–402–8152, *erin.gray@nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Pathway to Independence Awards (K99/R00).

Date: October 24, 2018.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: September 27, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21504 Filed 10–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following 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 Heart, Lung, and Blood Institute Special Emphasis Panel; Clinical Trial Pilot Studies (R34).

Date: October 24, 2018.

Time: 8:00 a.m. to 8:30 a.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184 Bethesda, MD 20892–7924, 301–827–7942, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; CLTR Conflict Meeting.

Date: October 24, 2018.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–827–7942, *lismerin@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 27, 2018.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21505 Filed 10–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Patient-Oriented Research Review Committee.

Date: October 25–26, 2018.

Time: 8:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott—Pooks Hill Road, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Stephanie Johnson Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–827–7992, *stephanie.webb@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 27, 2018.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21503 Filed 10–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0099]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for T Nonimmigrant Status; Application for Immediate Family Member of T–1 Recipient; and Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I–914 and Supplements A and B

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 November 2, 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 1615–0099 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 June 26, 2018, at 83 FR 29812, allowing for a 60-day public comment period. USCIS did not receive any 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–2006–0059 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:* Application for T Nonimmigrant Status; Application for Immediate Family Member of T–1 Recipient; and Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, Form I–914 and Supplements A and B.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–914 and Supplements A and B; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–914 permits victims of severe forms of trafficking and their immediate family members to demonstrate that they qualify for temporary nonimmigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), and to receive temporary immigration benefits.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Form I–914, 980 responses at 2.33 hours; Form I–914 Supplement A, 1,024 responses at 1.17 hours; I–914 Supplement B—Law Enforcement Officer, 245 responses at 3.50 hours; I–914 Supplement B—Contact by Respondent, 245 responses at.25 hours: Biometric processing 1,759 respondents at 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 6,458 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 $1,986,400.

Dated: September 27, 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. 2018–21488 Filed 10–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0035]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection; Application To Adjust Status From Temporary to Permanent Resident

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 extension 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 December 3, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0035 in the body of the letter, the agency name and Docket ID USCIS–2008–0019. 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–2008–0019;

(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–2008–0019 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:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Adjust Status from Temporary to Permanent Resident.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–698; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and Households. The data collected on Form I–698 is used by USCIS to determine the eligibility to adjust an applicant's residence status.

(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 Form I–698 is 100 and the estimated hour burden per response is 1.25 hours; the estimated total number of respondents for biometrics processing is 100 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 242 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 $49,000.

Dated: September 27, 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. 2018–21483 Filed 10–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0107]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: H–2 Petitioner's Employment Related or Fee Related Notification

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 extension of a currently approved collection of information or new 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 December 3, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0107 in the body of the letter, the agency name and Docket ID USCIS–2009–0015. 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–2009–0015;

(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–2009–0015 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:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* H–2 Petitioner's Employment Related or Fee Related Notification.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No form; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. The notification requirement is necessary to ensure that alien workers maintain their nonimmigrant status and will help prevent H–2 workers from engaging in unauthorized employment.

(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 H–2 Petitioner's Employment Related or Fee Related Notification is 1,700 and the estimated hour burden per response is .5 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 850 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 $8,500.

Dated: September 27, 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. 2018–21489 Filed 10–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2018–N108; FXES11140100000–189–FF01E00000]

Record of Decision for the Final Environmental Impact Statement for the Na Pua Makani Wind Energy Project, Oahu, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; record of decision.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a record of decision (ROD) for proposed issuance of an Endangered Species Act (ESA) permit for the Na Pua Makani Wind Energy Project (project) and habitat conservation plan (HCP). The ROD documents the Service's decision to issue an incidental take permit (ITP) to Na Pua Makani Power Partners, LLC (applicant). As summarized in the ROD, the Service has selected Alternative 2a—the Modified Proposed Action, which includes implementation of the HCP and issuance of the ITP authorizing incidental take of one threatened and six endangered species listed under the ESA that may occur as a result of construction and operation of the project over a 21-year period.

ADDRESSES: You may obtain copies of the ROD and other documents associated with the decision by the following methods.

- *Internet:* Documents may be viewed and downloaded on the internet at *http://www.fws.gov/pacificislands/.*
- *U.S. Mail:* You may obtain a CD–ROM with electronic copies of these documents if you make a request within 30 days after the date of publication of this notice by writing to Mary Abrams, Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850.
- *Telephone:* Call 808–792–9400 during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Nadig (Deputy Field Supervisor), by telephone at 808–792–9400, by Federal Relay Service at 800–877–8339, or by mail to the U.S. Fish and Wildlife Service (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a record of decision (ROD) for proposed issuance of an Endangered Species Act (ESA) section 10(a)(1)(B) permit for the Na Pua Makani Wind Energy Project (project) and habitat conservation plan (HCP). The ROD documents the Service's decision to issue an incidental take permit (ITP) to Na Pua Makani Power Partners, LLC (applicant). As summarized in the ROD, the Service has selected Alternative 2a—the Modified Proposed Action (described below), which includes implementation of the HCP and issuance of the ITP authorizing incidental take of one threatened and six endangered species listed under the ESA that may occur as a result of construction and operation of the project over a 21-year period.

We are advising the public of the availability of the ROD, developed in compliance with the agency decision-making requirements of the National Environmental Policy Act of 1969, as amended (NEPA), as well as the final HCP as submitted by the applicant. All alternatives have been described in detail, evaluated, and analyzed in our final EIS (FEIS) and supplemental EIS (SEIS). Our notice of availability of the FEIS and HCP was published in the **Federal Register** on July 12, 2016 (81 FR 45174).

The Council of Environmental Quality regulations require agencies to prepare supplements to either draft or final EISs if there are substantial changes in the proposed action that are relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns that bear on the proposed action or its impacts; SEISs may also be prepared if the lead agency determines that the purpose of NEPA will be furthered by doing so. After reviewing comments received after issuance of the Draft EIS (DEIS), the Service worked with the applicant to develop a modified action to address some of the comments received. Accordingly, the Service determined that publishing an SEIS and providing an additional opportunity for public review on Alternative 2a would further the purposes of NEPA and the ESA. The SEIS and HCP were noticed in the **Federal Register** on November 17, 2016 (81 FR 81151).

Background

Na Pua Makani Power Partners proposes to construct and operate the project near the town of Kahuku in the Koolauloa District of the City and County of Honolulu on the Island of Oahu, Hawaii. The project would consist of up to 9 wind turbine generators (WTGs) with a net generating capacity of up to approximately 25 megawatts (MW), located within a project site of approximately 707 acres. The site includes portions of two parcels leased from the Hawaii Department of Land and Natural Resources (DLNR), State-owned access areas, and privately owned lands. The site is located almost entirely within the State agricultural land use district.

Na Pua Makani Power Partners applied to the Service for an ITP under ESA section 10(a)(1)(B). The ITP is for a 21-year permit term and authorizes take of the threatened Newell's shearwater (*Puffinus newelli*), and the endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), Hawaiian coot (*Fulica americana alai*), Hawaiian moorhen (*Gallinula chloropus sandvicensis*), Hawaiian duck (*Anas wyvilliana*), Hawaiian goose (*Branta*

sandvicensis), and the Hawaiian hoary bat (*Lasiurus cinereus semotus*) (collectively these species are hereafter referred to as the ''covered species'') that may occur as a result of the construction and operation of the project.

The applicant developed a final HCP that addresses the incidental take of the seven covered species that may occur as a result of the construction and operation of the project over a period of 21 years. The HCP details measures the applicant will implement to minimize, mitigate, and monitor incidental take of the covered species.

The Service prepared an FEIS and SEIS pursuant to the requirements of NEPA in response to the permit application because issuance of an ITP by the Service is a Federal action that may affect the quality of the human environment.

Purpose and Need

The purpose and need of the Service's proposed action is to evaluate the authorization of incidental take of the covered species associated with construction and operation of the project and make a decision on the application pursuant to the requirements of ESA section 10(a)(1)(B) and its implementing regulations and policies. Any permit issued by the Service must meet all applicable issuance criteria, and implementation should be technically and economically feasible. Issuance criteria include requirements that the applicant will minimize and mitigate the impacts of the taking on the covered species to the maximum extent practicable and the taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild.

Alternatives

Our FEIS and SEIS analyzed the environmental impacts of three alternatives related to the issuance of the ITP and implementation of the HCP.

Alternative 1—No Action: Under Alternative 1, the Service would not issue an ITP, and the project would not be constructed.

Alternative 2—Proposed Action: The project, as originally described as Alternative 2 of the DEIS, would consist of between 8 and 10 WTG and includes implementation of the HCP and issuance of an ITP for construction and operation of a wind energy project with a generation capacity of up to 25 MW.

Alternative 2a—Modified Proposed Action: Our selected alternative consists of implementation of the HCP and issuance of an ITP for construction and operation of a wind energy project with a maximum number of 9 WTG with a generation capacity of up to 25 MW. In response to public comments on the DEIS related to visual impacts and consideration of fewer turbines with larger generating capacities, a project design with a reduced maximum number of turbines of only 9 WTG with larger generating capacities and taller dimensions was added to the FEIS and SEIS. The applicant is considering a variety of WTG models, each ranging from 427 feet to 656 feet in height, and each having up to 3.3 MW of generating capacity. The applicant will select the most appropriate WTGs prior to construction. The selection of the WTG models would not change the impacts to the covered species analyzed in the EIS. This alternative includes the avoidance, minimization, and mitigation measures identified for the covered species (described below) to minimize and offset the impacts of the anticipated take of the covered species.

Alternative 3—Consists of a 42–MW generation wind project with up to 12 WTG, each with a generating capacity of up to 3.3 MW. Alternative 3 includes the issuance of an ITP to authorize incidental take of the covered species in association with construction and operation of the up to approximately 25–MW project and implementation of the project HCP with avoidance, minimization, and mitigation measures identified for covered species that would occur at levels described above for the Proposed Action. Due to transmission line upgrades required for additional turbines and associated generating capacity beyond those identified in Alternative 2, there would be a lag of at least 3 years before the construction of an additional two to four turbines. Due to the uncertainty related to the timing of construction of the additional turbines under this alternative, Na Pua Makani Power Partners would reinitiate coordination with the Service prior to their construction to address potential impacts of the larger generation facility to the covered species. The mitigation and monitoring associated with the additional turbines would be covered in an amendment to the HCP.

Decision and Rationale for Decision

Based on our review of the alternatives and their environmental consequences as described in our FEIS and SEIS, we have selected the Modified Proposed Action option (Alternative 2a). The Modified Proposed Action is the implementation of the final HCP and issuance of an ITP authorizing incidental take of the covered species that may occur as a result of the construction and operation of the project.

In order to issue an ITP, we must determine that the HCP meets the issuance criteria set forth in 16 U.S.C. 1539(a)(2)(A) and (B). We have made that determination based on the findings summarized below:

1. *The taking will be incidental.* We find that take of listed species will be incidental to otherwise lawful activities, including the construction, operation, and maintenance of the wind energy facility.

2. *The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such takings.* The applicant has developed and is committed to implementing a program that includes a variety of habitat and species protection measures that minimize and mitigate the impacts of the taking on the covered species.

To reduce take of the Hawaiian hoary bat, Na Pua Makani Partners will implement low wind-speed curtailment by raising the cut-in speed of the WTGs to 16 feet per second (ft/s) and feathering WTG blades below 16 ft/s from sunset to sunrise during the months of March to November.

To offset the impacts of anticipated take on the covered species, the applicant is proposing mitigation measures on Oahu that include: (1) Funding research to support management of the Newell's shearwater; (2) fencing and predator control to conserve the Hawaiian goose; (3) a combination of bat research and native forest restoration and management to increase Hawaiian hoary bat habitat; (4) acoustic surveys to document the presence of the Hawaiian hoary bat; and (5) fencing and public outreach to benefit the conservation of the Hawaiian stilt, Hawaiian coot, Hawaiian moorhen and the Hawaiian duck.

3. *The applicant will ensure that adequate funding for the HCP will be provided.* The applicant has developed an HCP, which includes a detailed estimate of the costs of implementing the HCP. Na Pua Makani Power Partners is committed to providing the funds necessary to implement the HCP, and its associated mitigation, monitoring, reporting, and adaptive management measures. Na Pua Makani Power Partners shall provide assurance of funding in the form of a letter of credit to The State of Hawaii Division of Forestry and Wildlife (DOFAW) in the amount of $3,736,050, which covers the cost for Tier 1 mitigation and post-construction monitoring. Upon triggering Tier 2 mitigation, a letter of credit for an additional $894,000 will be provided to DOFAW.

4. *The taking will not appreciably reduce the likelihood of survival and recovery of any listed species in the wild.* As the Federal action agency considering whether to issue an ITP, we have reviewed the proposed action under section 7 of the ESA. Our biological opinion, dated April 29, 2016, concluded that issuance of the ITP will not jeopardize the continued existence of potentially affected listed species in the wild.

5. *The applicant agrees to implement other measures that the Service requires as being necessary or appropriate for the purposes of the HCP.* We provided technical assistance to the applicant in the development of the HCP. We commented on draft documents, participated in numerous meetings, and worked closely with the applicant throughout the development of the HCP to further the conservation of covered species. The HCP incorporates our technical advice for minimization and mitigation of take impacts likely to be caused by covered activities, as well as steps to monitor the effects of the HCP. Annual monitoring, as well as coordination and reporting mechanisms, have been designed to ensure that changes in the conservation measures via adaptive management can be implemented if proposed measures prove ineffective.

Considerations relied upon for the ITP decision include whether (1) the proposed mitigation will benefit the covered species, (2) adaptive management of the conservation measures will insure that the goals and objectives of the HCP are realized, (3) conservation measures will protect and enhance habitat, (4) mitigation measures will fully offset anticipated impacts to the covered species and facilitate recovery, and (5) the HCP is consistent with the covered species' recovery plans.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531, 1539(c)) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46). The Service has made its decision to issue an ITP to Na Pua Makani Power Partners, LLC for the take of seven species in accordance with their HCP.

Theresa E. Rabot,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2018–21457 Filed 10–2–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. ONRR–2018–0001; [DS63600000 DR2000000.PMN000 178D0102R2]

Royalty Policy Committee Establishment; Request for Nominations

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior (DOI) is seeking nominations for primary and alternate members for several sectors of the Royalty Policy Committee (Committee). This notice solicits nominees from: (1) Indian Tribes, (2) mineral and/or energy stakeholders, (3) States and (4) academia/public interest.

The Committee provides advice to the Secretary on the fair market value of, and the collection of revenues derived from, the development of energy and mineral resources on Federal and Indian lands.

DATES: Nominations for the Committee must be submitted by November 2, 2018.

ADDRESSES: You may submit nominations by any of the following methods:

- Mail or hand-carry nominations to Mr. Chris Mentasti, Department of the Interior, Office of Natural Resources Revenue, 1849 C Street NW, MS 5134, Washington, DC 20240; or
- *Email nominations to: RPC@ios.doi.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Malcolm, Office of Natural Resources Revenue, telephone at (202) 208–3938; email to *Jennifer.Malcolm@onrr.gov.*

SUPPLEMENTARY INFORMATION: The Committee is established under the authority of the Secretary of the Interior (Secretary) and regulated by the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2). The Secretary seeks to ensure that the public receives the full value of the natural resources produced from Federal lands. The duties of the Committee are solely advisory in nature. The Committee will, at the request of the Designated Federal Officer (DFO), advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform.

We are seeking nominations for individuals that represent Indian Tribes, mineral and/or energy stakeholders, States, and academia/public interest, to be considered as Committee alternate members. The Committee will not exceed 28 members and is composed of Federal and non-Federal members in order to ensure fair and balanced representation. The Secretary will appoint non-Federal alternates to the Committee to serve up to a three-year term. The Director for the Bureau of Safety and Environmental Enforcement is currently designated as Acting Chairman of the Committee.

Federal Members: The Secretary has appointed the following officials as non-voting, ex-officio members of the Committee:

- A representative of the Secretary's Immediate Office
- Assistant Secretary—Indian Affairs
- Assistant Secretary—Land and Minerals Management
- Director, Bureau of Indian Affairs
- Director, Bureau of Land Management
- Director, Office of Natural Resources Revenue
- Director, Bureau of Ocean Energy Management
- Director, Bureau of Safety and Environmental Enforcement

These officials may designate a senior official to act on their behalf.

Non-Federal Members: The Secretary may appoint members in the following categories:

- Members representing the Governors of States that receive more than $10,000,000 annually in royalty revenues from onshore and offshore Federal leases.
- Members representing the Indian Tribes that are engaged in activities subject to: The Act of May 11, 1938 (commonly known as the ''Indian Mineral Leasing Act of 1938'') (25 U.S.C. 396a *et seq.*); Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 *et seq.*); The Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*); and any other law relating to mineral development that is specific to one or more Indian Tribes.
- Members representing various mineral and/or energy stakeholders in Federal and Indian royalty policy.
- Members representing academia and public interest groups.

Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable DOI to make an informed decision regarding

meeting the membership requirements of the Committee and to permit DOI to contact a potential member.

The Committee will meet at least once each calendar year and at such other times as the DFO determines to be necessary. Members of the Committee serve without compensation. However, while away from their homes or regular places of business, Committee and subcommittee members engaged in Committee or subcommittee business that the DFO approves may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your nominations, you should be aware that your entire nomination submission—including your personal identifying information—may be made publicly available at any time. While you can ask us in your submission to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C Appendix 2.

Dated: September 27, 2018.

Scott Angelle,

Acting Chairman, Director, Bureau of Safety and Environmental Enforcement.

[FR Doc. 2018–21549 Filed 10–2–18; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000.L14400000.BK0000.18XL 1109AF.HAG 18–0183]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Oregon State Office, Portland, Oregon, 30 calendar days from the date of this publication. The surveys, which were executed at the request of the BLM, are necessary for the management of these lands.

DATES: Protests must be received by the BLM by November 2, 2018.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW 3rd Avenue, Portland, Oregon 97204, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Marshal Wade, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon:

Willamette Meridian, Oregon

T. 14 S, R. 12 E, accepted June 28, 2018
Tps. 40 & 41 S, R. 44 E, accepted July 2, 2018
T. 20 S, R. 9 W, accepted July 2, 2018
Tps. 19 & 20 S, R. 2 W, accepted July 3, 2018

Willamette Meridian, Washington

T. 33 N, R. 15 W, accepted September 21, 2018

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the Chief Cadastral Surveyor for Oregon/ Washington, Bureau of Land Management. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A notice of protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Oregon/ Washington during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the Chief Cadastral Surveyor for Oregon/ Washington within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/ Washington.

[FR Doc. 2018–21459 Filed 10–2–18; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Update With Changes, of a Previously Approved Collection Which Expires November, 2018: Department of Justice Equitable Sharing Agreement and Certification

AGENCY: Money Laundering and Asset Recovery Section, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Criminal Division, Money Laundering and Asset Recovery Section, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 30 days until November 2, 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 Matthew Colon, Senior Attorney Advisor, Money Laundering and Asset Recovery Section, 1400 New York Avenue NW, Washington, DC 20005 (phone: 202–514–1263). Written comments and/or suggestions can also be directed to the Office of Management

and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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:* Update with changes, of the Department of Justice Equitable Sharing Agreement and Certification, a previously approved collection for which approval will expire on November 30, 2018.

2. *The Title of the Form/Collection:* Department of Justice Equitable Sharing Agreement and Certification.

3. *The Agency Form Number, if any, and the Applicable Component of the Department Sponsoring the Collection:* There is not an agency form number. The applicable component within the Department of Justice is the Money Laundering and Asset Recovery Section (''MLARS''), in the Criminal Division.

4. *Affected Public Who Will Be Asked or Required to Respond, as Well as a Brief Abstract:* The Attorney General is required by statute to ''assure that any property transferred to a State or local law enforcement agency . . . will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.'' 21 U.S.C. 881(e)(3). MLARS ensures such cooperation by requiring that all such ''equitably shared'' funds be used only for law enforcement purposes and not be distributed to other governmental agencies by the recipient law enforcement agencies. By requiring that law enforcement agencies that participate in the Equitable Sharing Program (Program) file an Equitable Sharing Agreement and Certification (ESAC), MLARS can readily ensure compliance with its statutory obligations.

The ESAC requires information regarding the receipt and expenditure of Program funds from the participating agency. Accordingly, it seeks information that is exclusively in the hands of the participating agency.

5. *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* An estimated 6,900 state and local law enforcement agencies electronically file the ESAC annually with MLARS. It is estimated that it takes 30 minutes per year to enter the information. All of the approximately 6,500 agencies must fully complete the form each year to maintain compliance and continue participation in the Department of Justice Equitable Sharing Program.

6. *An Estimate of the Total Public Burden (in hours) Associated With the Collection:* The estimated public burden associated with this collection is 3,250 hours. It is estimated that respondents will take 30 minutes to complete the form. (6,500 participants × 30 minutes = 3,250 hours).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: September 28, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–21528 Filed 10–2–18; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On September 27, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Iowa in the lawsuit entitled *United States* v. *NGL Crude Logistics, LLC,* Civil Action No. 2:16–cv–01038–LRR.

The United States filed this lawsuit under the Clean Air Act's Renewable Fuel Standard program. The United States' Complaint names NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) and Western Dubuque Biodiesel, LLC as defendants. The Court entered a settlement resolving the United States' claims against Western Dubuque Biodiesel, LLC on April 11, 2017. The United States' Complaint seeks retirement of approximately 36 million Renewable Identification Numbers (RINs) and civil penalties.

The Complaint alleges that NGL Crude Logistics, LLC (1) failed to retire approximately 36 million RINs associated with biodiesel NGL Crude Logistics, LLC sold to Western Dubuque Biodiesel, LLC for use as material to create renewable fuel (feedstock); (2) caused Western Dubuque Biodiesel, LLC to commit prohibited acts under the Renewable Fuel Standard program; and (3) transferred approximately 36 million invalid RINs to third parties. The United States District Court for the Northern District of Iowa found NGL liable for these violations on July 3, 2018.

The proposed Consent Decree requires NGL Crude Logistics, LLC to pay a $25 million civil penalty and to purchase and retire 36 million RINs to resolve the civil claims alleged in the Complaint against NGL Crude Logistics, LLC through the date of lodging.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *NGL Crude Logistics, LLC,* D.J. Ref. No. 90–5–2–1–11163. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs.

Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–21484 Filed 10–2–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[Docket No. CIV 154]

September 11th Victim Compensation Fund: Compensation of Claims

AGENCY: Department of Justice (DOJ).

ACTION: Notice of inquiry; request for comment.

SUMMARY: Under the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, Public Law 114–113 (December 18, 2015) (''Reauthorization Act''), the Special Master for the September 11th Victim Compensation Fund (''VCF'') is required to periodically reassess VCF policies and procedures to ensure that (1) the VCF prioritizes compensation to those claimants who suffer with the most debilitating conditions, and (2) the VCF does not exceed the amount of available appropriated funds. Current projections, using data as of August 31, 2018, and at the current rate of disbursal, suggest a possibility that the funds that have been appropriated to compensate claimants pursuant to the James Zadroga 9/11 Health and Compensation Act of 2010 (''Zadroga Act''), Public Law 111–347 (January 2, 2011), as amended by the Reauthorization Act, may be insufficient to compensate all claims (including those filed and those anticipated to be filed) under the current policies and procedures guiding the calculation of awards. In an abundance of caution, therefore, and in fulfillment of her statutory responsibility to conduct periodic reassessments of VCF policies and procedures under the Act, the Special Master issues this Notice of Inquiry to seek public comments on how the remaining funds might be allocated in a fair and equitable manner to claims and amendments that have not yet been determined, with priority given, as the Reauthorization Act requires, to those claimants with the most debilitating conditions. This is a request for information only. No determination has been made that any changes to VCF policies and procedures are necessary at this time. Instead, the Special Master will reassess the available funds and VCF policies and procedures as required by law in early 2019 with data as of December 31, 2018. In the event that the Special Master determines, at that time, that VCF policies and procedures need to be changed, then suggestions made in response to this Notice of Inquiry will be considered. Any changes to policy made as a result of the required statutory reassessment completed with data as of December 31, 2018, will be effective only as to claims filed after February 1, 2019, or such other date as the Special Master shall announce.

DATES: Comments must be received on or before December 3, 2018. The electronic Federal Docket Management System (FDMS) will accept comments until midnight Eastern Time at the end of that day.

ADDRESSES: To access and review all the documents related to the information listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number CIV–154.

To avoid confusion with incoming mail vital to the processing of VCF claims, commenters are strongly encouraged to submit comments electronically. Comments submitted in response to this notice should be submitted by either of the following methods:

- *Internet:* Via the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow instructions for sending comments by selecting the Docket ID number.
- *By mail:* Addressed to September 11th Victim Compensation Fund, Civil Division, U.S. Department of Justice, 290 Broadway, Suite 1300, New York, New York 10007. To ensure proper handling, please reference Docket CIV–154 on your correspondence.

Please note that comments submitted by fax, email, or mail sent to any address other than the one above, and those submitted after the comment period ends, will not be accepted.

FOR FURTHER INFORMATION CONTACT: For specific questions about this Notice, please contact Sally Flynn, Chief of Staff to the Special Master, September 11th Victim Compensation Fund, 855–885–1555 (TTY 855–885–1558).

SUPPLEMENTARY INFORMATION:

Background

The VCF was originally created by Public Law 107–42 (September 22, 2001), as amended by Public Law 107–71 (November 19, 2001), to provide compensation for any individual (or a personal representative of a deceased individual) who suffered physical harm or was killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the debris removal efforts that took place in the immediate aftermath of those crashes. The original VCF (''VCF I'') operated from 2001–2004 under the direction of Special Master Kenneth Feinberg, and distributed over $7 billion. VCF I concluded operations in June 2004.

On January 2, 2011, the President signed into law the Zadroga Act. Title II of the Zadroga Act reactivated the VCF, expanded its pool of eligible claimants, and appropriated $2.775 billion for the operation of the VCF. Pursuant to the Zadroga Act, the VCF re-opened in October 2011 and was authorized to accept claims for a period of five years, ending in October 2016, with a final year for processing and paying claims until October 2017. On December 18, 2015, the President signed into law the Reauthorization Act. The Reauthorization Act extended the VCF for an additional five years, allowing individuals to submit claims until December 18, 2020, and appropriated an additional $4.6 billion. The VCF is administered by a Special Master appointed by the Attorney General.

The Zadroga Act, as amended, authorizes the Special Master to determine claims based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant. The Special Master has promulgated regulations governing the determination of claims, which are published at 28 CFR part 104. The VCF also maintains a website, *www.vcf.gov,* which provides information to the public concerning the operation of the Fund and instructions to potential claimants regarding application procedures, including a substantial Policies and Procedures document that includes information on eligibility criteria, the methodology used to calculate economic and non-economic loss, payment procedures, appeals and hearings, claims for deceased individuals, and information for claimants who are represented by an attorney. The VCF's Sixth Annual Status Report and Second Annual Reassessment of Policies and Procedures was published on February 13, 2018, and monthly progress statistics are published on the website.

The original amount appropriated to fund claims filed pursuant to the Zadroga Act and to pay the cost of operating the VCF was $2.775 billion. The Reauthorization Act appropriated an additional amount of $4.6 billion, for

a total amount of $7.375 billion available to pay VCF claims and to cover operational and administrative costs. As of August 31, 2018, $4.279 billion has been awarded in compensation on VCF claims. As of September 30, 2017 (the end of the most recent Government Fiscal Year), the costs to administer the program totaled $101.3 million, or approximately three percent of the total awards issued as of December 31, 2017.

The Reauthorization Act directs the Special Master to periodically reassess policies and procedures to make sure that the VCF (1) ''prioritize[s] claims for claimants who are determined by the Special Master as suffering from the most debilitating physical conditions to ensure, for purposes of equity, that such claimants are not unduly burdened by such policies or procedures''; and (2) does not exceed ''the amount of funds deposited into the Victims Compensation Fund.'' Current projections, based on forecasts from the World Trade Center Health Program and VCF historical data as of August 31, 2018, suggest the possibility that the VCF may exceed its available funding prior to the currently designated program end. The methodology used to derive these projections is described in the VCF's Sixth Annual Report, at pp. 26–37. With data as of December 31, 2017, the Sixth Annual Report made the following projections:

PROJECTIONS FROM THE VCF'S SIXTH ANNUAL REPORT WITH DATA AS OF DECEMBER 31, 2017

Total Claims Filed	32,689
New Claims Expected to be Filed	6,614
Total Revised Claims Filed	6,288
New Revisions Expected to be Filed	4,717
Value of All Awards by Program End	$7,031,513,264.45
Value of Administrative Costs by Program End	$263,800,000.00
Total Program Cost at Program End	$7,295,313,264.45

Applying the same methodology to VCF data as of August 31, 2018, and at the current rate of disbursal, the projections suggest the possibility that the $7.375 billion in total funding that has been appropriated to compensate claimants may be insufficient to compensate all claims (including those already filed and those anticipated to be filed) under the current policies and procedures guiding the calculation of awards.

There is considerable uncertainty in these projections, as discussed in the Sixth Annual Report, see pp. 26–37 (see also the VCF's Fifth Annual Status and Report and First Annual Reassessment of Policies and Procedures, published March 13, 2017, at pp. 21–34), and several considerations warrant caution, but the VCF believes that, in total, the projections may undervalue program costs and therefore currently underestimate total VCF cost at program end. First, the most recent projections extrapolate from August 31, 2018, data to estimate that approximately 5,500 new claims will be filed before the VCF stops taking claims on December 18, 2020, which is almost certainly an undercount of potential new claims. Over 5,800 claims were filed between December 31, 2017, and August 31, 2018, and the VCF has not seen any noticeable decrease in the number of new claims being filed per month. Second, the projections based on August 31, 2018, data reflect a slight increase in the average value of claim awards, and a more than one percent increase in the number of deceased claim filings. While the former may be an anomaly or a trend that will even out over time, the historical data suggests that the latter is not; the number of deceased claims as a percentage of all claims is increasing (although it still constitutes less than five percent of all claims filed), and is expected to continue to increase as we get further from the events of September 11, 2001. Deceased claims tend to be higher value awards and thus account for some part of the increasing award values.

Accordingly, while the VCF intends to continue to monitor its data closely, and will provide a new reassessment and projections derived from data as of December 31, 2018, when it publishes its Seventh Annual Report in 2019, the Special Master believes that the current projections provide a basis for seeking public input on whether current VCF policies and procedures are appropriately tailored to meet the two statutory directives of prioritizing compensation for those claimants with the most debilitating conditions and not exceeding the available amount of appropriated funds. So that the Special Master can fulfill her statutory obligation to conduct periodic reassessments with the best available information, the VCF is soliciting suggestions from the 9/11 community and other interested members of the public as to potential policy changes that might be considered as the VCF evaluates how to continue to meet its prioritization and funding requirements, noted above, mandated by the Reauthorization Act. The Special Master believes that soliciting suggestions from the public is important given that the equitable distribution of funds is a concern for everyone in the 9/11 community, and thus, welcomes public feedback on her statutory obligations.

At this time, the VCF does not contemplate implementing any changes that would require amendment of the regulations governing the program. Should any changes to VCF policies or procedures be determined to be necessary following the Special Master's reassessment of data for the period ending December 31, 2018, any changes will be effective as of February 1, 2019, or such later date as the Special Master shall announce, and will be applicable only to claims where the claim form or amendment is submitted for compensation review after that effective date. Claims where the claim form or amendment is submitted for compensation review prior to the effective date of the changes will be evaluated under the policies and procedures in effect at the time the claim or amendment is reviewed.

Request for Comments

The VCF requests public comments on the topics listed below. As used below, the term ''victim'' refers to the individual who has been diagnosed with a September 11th-related physical injury or condition. The term ''claimant'' refers to the individual who is filing the claim to seek compensation on behalf of the victim. Individuals who are filing a Personal Injury claim on their own behalf are both the claimant and the victim. In order to contribute effectively to the VCF inquiry process, all commenters are encouraged to provide comments that are responsive specifically to the topics set forth below. All submissions must include the

document title and docket number. Please note the topic on which you are commenting at the top of each response (and, as applicable, the question number), and separately address each topic. You do not need to address all topics. General comments on other aspects of the VCF and its operation are outside of the scope of this inquiry and will not be reviewed at this time.

In general, all comments received will be posted without change to *http://www.regulations.gov*. All submissions in response to this Notice of Inquiry, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of claimants or other individuals, should not be included. Submissions will be edited to remove any identifying or contact information.

The VCF will review all comments from the public and will address all substantive comments received when it makes a determination as to whether policy and procedure changes are required in light of projections rendered with data as of December 31, 2018. The VCF's response to the comments received in response to this Notice will be provided with the Seventh Annual Report, currently expected to be published in February 2019.

Topics of Inquiry

Topic 1: Non-Economic Loss

The Zadroga Act, as amended, defines non-economic loss as losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature. Non-economic loss is sometimes called a ''pain and suffering'' award. The VCF calculates non-economic loss based generally on the severity of the condition and the effect of the condition on the victim's ability to maintain normal activities of daily living. The amount of non-economic loss is *not* tied to the number of conditions from which the individual suffers. The Reauthorization Act established certain caps on non-economic awards for physical injury claims. The maximum non-economic loss for any one type of cancer condition is $250,000. The maximum non-economic loss for any one type of non-cancer condition is $90,000. As a matter of policy, and in accordance with the statutory mandate to prioritize funding for the most debilitating conditions, the VCF has established a low-end non-economic loss award of $20,000 where there is no medical evidence of severity or where there is medical documentation demonstrating that the conditions have resolved over time, are reasonably well-controlled, or have only a mild impairment on the victim's daily life. Similarly, as a matter of policy, the Special Master has identified certain conditions that are treated as presumptively severe and debilitating, warranting the highest-available non-economic loss award. Details regarding how the VCF considers and calculates non-economic loss, including the conditions that the Special Master has identified as presumptively severe and debilitating, are included in the VCF's Policies and Procedures document, at pp. 33–35.

Topic 1 Questions

A. Which non-cancer conditions should be reevaluated in terms of the presumptive amount of non-economic loss awarded? Are there certain non-cancer conditions that should no longer be considered as presumptively severe and debilitating (and therefore no longer presumed to receive the maximum $90,000 non-economic loss award), at least without any further documentation of ongoing severity?

B. Which cancer conditions, if any, should be reevaluated in terms of the amount of non-economic loss awarded? Are there certain cancer conditions that have a limited impact on daily life or are generally considered to be curable that should be presumed to receive lower non-economic loss awards relative to other cancers?

C. Should the VCF lower the $20,000 low-end non-economic loss award for non-cancer conditions (before applicable collateral offsets are deducted) for claims with no medical evidence of ongoing severity?

D. Should the VCF consider the age of the claimant when evaluating non-economic loss?

E. What additional suggestions do you have for changes to non-economic loss awards that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 2: Lost Earnings and Benefits

The Zadroga Act, as amended, defines economic loss as any pecuniary loss resulting from harm, including the loss of earnings or other benefits related to employment, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities, and past out-of-pocket medical expenses loss (but not future medical expenses loss), to the extent recovery for such loss is allowed under applicable State law. There are four types of economic loss: Loss of earnings/benefits, replacement services loss, out-of-pocket medical expenses, and burial expenses. Sections 2.2, 2.3, and 2.4 (pp. 36–61) of the VCF's Policies and Procedures describe the VCF's methodology for calculating economic losses.

Claimants who are physically injured as a result of eligible conditions can make claims for earnings and/or employment benefits lost before they submitted their claims to the VCF, as well as for earnings/benefits they expect to lose in the future (after submission of their claims) as a result of their eligible conditions. Claimants who are filing on behalf of a deceased victim (meaning a victim whose death is attributable to an eligible 9/11-related condition) can make claims for lost earnings/benefits incurred before the victim died as a result of an eligible condition, as well as for the lost future earnings/benefits resulting from the death of the victim. The Reauthorization Act imposes a gross income limitation of $200,000 per year when the VCF calculates income loss in these scenarios.

The loss of employment-related benefits for which the VCF may compensate generally consist of retirement and healthcare benefits. If such benefits were provided through the victim's employment and were lost as a result of death or disability related to an eligible condition, the VCF may compensate that loss. Loss of healthcare benefits is generally measured by the employer's cost to provide the healthcare benefits. Similarly, the VCF can compensate for the loss of an employer's regular contributions to a 401k or similar retirement plan. Losses associated with a defined benefit pension plan involve a more complex calculation: The VCF must project the total value of the pension that will be received and the total value of the pension that would have been received but for the eligible condition, in order to compensate the difference. These calculations involve information specific to the pension plan (such as the formulas the plan administrator uses to calculate pensions) as well as information specific to the victim (such as the victim's years of service and salary history). The VCF has the plan-specific information necessary to calculate pension loss for some pension programs, such as the New York City Fire Pension Fund. To support a claim for pension loss for other pension

programs, claimants may be required to submit additional documents about the pension plan, and additional work may be involved by the VCF to calculate the loss.

If a claimant does not request loss of benefits or does not submit complete information about benefits, and there are no disability pension benefits that must be offset, the VCF will apply standard default benefit values in calculating the lost earnings award: A 401k employer contribution equal to 4% of base salary and $2,400 per year for health insurance. The VCF will also use the standard default values for victims who did not have benefits or who had benefits that were less than the standard default values. Sections 2.2(d) through (h) (pp. 39–40) of the VCF's Policies and Procedures describe the VCF's policies regarding pension loss.

Topic 2 Questions

A. What limitations on, or adjustments to, lost earnings awards should the VCF consider implementing? For example, should the VCF cap the overall total dollar value of the lost earnings award? Should the VCF make adjustments to the components used in calculating the lost earnings award, such as limiting the number of years of work life that can be compensated, and/or adjusting the growth rates?

B. In what ways, if any, should the VCF adjust lost earnings to account for other income or payments the victim has received or is entitled to receive? For example, should the VCF deduct the amount of retirement, pension, or other benefits a victim has received, or is entitled to receive, due to ordinary retirement or due to disabilities that are based on ineligible conditions?

C. What considerations, if any, should be made to account for victims who were determined to be disabled due to an eligible condition only after they had already left the workforce? Should a time limit apply between when a victim leaves the workforce and when s/he is determined to be disabled due to an eligible condition, in order for the VCF to consider awarding lost earnings? Should the reason why the victim stopped working matter?

D. What assumptions should the VCF make in considering and calculating future lost earnings to account for the impact that a victim's pension may have on continued employment? For example, in situations where the victim is receiving a full retirement pension, is it reasonable to assume that the victim would not have continued to work at the same earnings level, or that the victim would not have continued working at all?

E. When awarding lost earnings, should the VCF apply default employer retirement benefits values in *all* cases regardless of whether the victim participated in a defined benefit pension plan? Should the VCF adopt a set of universal default values that would apply to all victims that have defined benefit pension plans, rather than using values derived from victim and employer-specific or union-specific retirement plans?

F. What additional suggestions do you have for changes to the lost earnings award calculation process that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 3: Disability Determinations

To qualify for a future lost earnings/benefits award, a claimant filing a personal injury claim must first establish a permanent partial or total occupational disability based on an eligible 9/11-related physical injury. Under the regulations governing the VCF, to evaluate claims of lost earnings, the Special Master will generally make a determination regarding whether a victim is capable of performing his/her usual profession. 28 CFR 104.45(1), 104.45(3). In general, the VCF will accept a determination by a governmental agency, such as the Social Security Administration, a state workers' compensation board, the Fire Department of New York/New York City Fire Pension Fund (FDNY), the New York City Police Department/New York City Police Pension Fund (NYPD), the New York City Employees' Retirement System (NYCERS), the Veterans Administration, or a private insurer, that a victim has a disability and will accept the governmental agency's (or private insurer's) determination of the cause of the disability. Sections 2.2(b) and (c), pp. 37–39, of the VCF's Policies and Procedures explain the VCF's policies regarding disability determinations.

Topic 3 Questions

A. When a victim has one or more disability determinations, some based on VCF-eligible conditions and some based on VCF-ineligible conditions, what factors should the VCF consider in determining the appropriate percentage of disability attributable to the eligible conditions? Should the VCF consider requiring a minimum percentage of disability attributable to eligible conditions in order to award lost earnings?

B. With respect to claims of total permanent disability, should the Special Master accept a determination of disability as permanent without any further medical evidence or review? How should the Special Master treat available medical evidence suggesting that conditions lessened or resolved themselves since the time of the disability determination? Should the Special Master make allowance for conditions that are curable or that are likely to resolve before a victim reaches the end of worklife when deciding the end date for a lost earnings award?

C. For victims who are considered to be partially disabled due to an eligible condition, the VCF assumes that the victim continues to have a residual earnings capacity—that is, the ability to work and earn income despite the disability. How should the VCF calculate the value of this residual capacity?

D. What additional suggestions do you have for changes to the process by which the Special Master considers a victim's disability determination(s) in calculating awards that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 4: Lost Earnings for Deceased Victims

The VCF may award compensation for lost earnings/benefits for a deceased victim if the claimant filing on behalf of the victim explicitly makes a claim for earnings losses incurred as a result of an eligible condition before the victim died (''pre-death lost earnings'') and/or for earnings loss resulting from the death of the victim (''future lost earnings''). In order to qualify for consideration of a pre-death lost earnings award, the claimant must provide sufficient evidence that the victim was unable to work as a result of an eligible condition before death. In order to qualify for consideration of a future lost earnings/benefits award (*i.e.,* after the victim's death), the claimant must provide sufficient evidence that the cause of death was related to an eligible condition. In either case, the claimant must also submit sufficient information about the victim's earnings and benefits, as well as about benefits paid to the victim's survivors on account of the victim's death. Section 2.2 (pp. 36–46) and Section 6 (pp. 74–81) of the VCF's Policies and Procedures describes the VCF's policies regarding lost earnings in claims for deceased victims.

Topic 4 Questions

A. What adjustments should be made to the way the VCF calculates pre-death lost earnings for deceased victims? For

example, should the VCF award pre-death lost earnings only where the victim was deemed fully disabled due to an eligible condition? Should the VCF require a minimum period of time to elapse between the victim's onset of disability and his/her date of death in order for the VCF to award pre-death lost earnings?

B. When calculating future lost earnings awards for deceased victims, how should the VCF account for the fact that a victim was not working prior to death? For example, if the victim had left the workforce due to an ineligible disability, what adjustments should/could be made to account for the impact of the ineligible conditions on his/her ability to perform his/her usual occupation?

C. At what age should the VCF assume an individual would stop working (*i.e.,* presumed worklife expectancy) when calculating future lost earnings for deceased victims? What factors might rebut the presumption of worklife expectancy?

D. What additional suggestions do you have for possible changes to lost earnings awards for deceased victims in the interest of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 5: Replacement Services Loss

The Zadroga Act, as amended, allows for replacement services loss to be awarded when a victim performed general household-related tasks, and the victim can no longer perform those tasks as a result of an eligible condition. The types of tasks that are considered for replacement services compensation are services that the victim performed for their family or for themselves, such as cleaning, cooking, child care, home maintenance and repairs, and financial services. Replacement Services loss is typically considered to be a component of loss in wrongful death claims, or in claims where the victim did not have prior earned income or worked only part-time outside the home. Replacement Services loss awards are not precluded in other circumstances, but they are variable according to the individualized needs and circumstances of the victim and subject to the discretion of the Special Master. Section 2.4(b) (pp. 60–61) of the VCF's Policies and Procedures describes the replacement services policies in detail.

Topic 5 Questions

A. Should claims for replacement services loss only be considered on amendment after an initial award decision is made, similar to the VCF's policy regarding medical expenses loss?

B. Should replacement services compensation be limited solely to claims made on behalf of decedents? Or limited solely to victims with minor and/or special needs children?

C. Should replacement services compensation in wrongful death claims be limited, as it is in personal injury claims, to cases where the victim did not have prior earned income or worked only part-time outside the home prior to death?

D. What additional suggestions do you have for possible changes to the replacement services awards that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 6: Medical Expenses Loss

The VCF may reimburse claimants for past medical expenses related to an eligible condition and paid out-of-pocket. Under current VCF policy, medical expenses can only be claimed after a claimant has received an initial award determination. The VCF will only review the medical expense amendment if the total amount of the claimed medical expenses exceeds $2,000. For each medical expense, the claimant must provide the date of service, name of doctor or facility, a short description of the procedure or expense, proof that the expense is related to an eligible condition, and proof of payment. Reimbursable medical expenses may include, but are not limited to, medical equipment, co-pays, prescription costs, diagnostic tests, or costs associated with home health, hospice, or physical therapy. Section 2.4(a) (pp. 53–60) of the VCF's Policies and Procedures details the medical expenses policies.

Topic 6 Questions

A. Should the $2,000 minimum threshold for consideration of medical expenses be increased?

B. Should the VCF reconsider the categories of medical expenses that are eligible for reimbursement? For example, how should the VCF consider co-pays or expenses paid pursuant to an insurance policy deductible?

C. Should the VCF add or remove expenses to the list of presumptively covered medical expenses, see Policies and Procedures, pp. 59–60?

D. What additional suggestions do you have for changes to the medical expense reimbursement policy that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 7: Collateral Source Offsets

The Zadroga Act, as amended, requires the VCF to offset from all awards the amount of compensation a claimant has received, or is entitled to receive, from certain collateral sources as a result of an eligible condition. During the claim review process, the VCF obtains information regarding certain collateral offset payments directly from the source of the payment, while other collateral source information is provided by the claimant. Because of the statutory offset requirement, claimants are required to notify the VCF in writing of any collateral source benefits resulting from an eligible condition. As a matter of policy, the VCF has adopted a ''grace period'' such that, if a claimant notifies the VCF within 90 days of the time that s/he learns that s/he is entitled to receive such a benefit, an award that has been determined and paid will not be adjusted to reflect the new or revised entitlement or payment. Section 2.5 of the VCF's Policies and Procedures (pp. 61–66) describes how collateral offsets are defined, calculated, and applied to awards.

Topic 7 Questions

A. Should the VCF revise the rule that, if a claimant notifies the VCF within 90 days of a change in an applicable offset, the VCF will *not* adjust the award?

B. How should the VCF treat contingent collateral offsets, for example, survivor benefits paid to a spouse that are contingent such that they will terminate if the spouse remarries?

C. Should the VCF require claimants to notify the VCF of other factors (*i.e.,* in addition to new collateral source payments) that may require an adjustment to the award? For example, should the VCF require notification if a claimant who has been awarded future lost earnings returns to work or becomes disabled by an ineligible condition?

D. What additional suggestions do you have for possible changes to the collateral source offset policy that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 8: Amendments Policy

Under current VCF policy, a claimant may file an amendment if:

- The WTC Health Program certifies the victim for a condition not previously certified, or the victim is diagnosed with a new 9/11 related injury or condition that qualifies for verification through the VCF Private Physician process.

• The victim's injury or condition substantially worsens, resulting in loss that was not previously compensated.

• The victim has incurred additional economic losses due to an eligible injury or condition.

• The claimant has information in support of the claim that was not submitted to the VCF when the award was determined and that the claimant believes would affect the amount of the calculated loss.

• The claimant needs to add, change, or remove the Personal Representative or parent/guardian on an existing claim.

• The claim was denied or deemed inactive because the claimant did not respond to the VCF's request for missing information and the claimant is now ready to provide the requested documents.

• The claimant has received the initial award determination on the claim and is seeking reimbursement for out-of-pocket medical expenses that total more than $2,000.

• The claimant previously submitted a claim for one or more components of economic loss and now wants to withdraw that portion of the claim.

The VCF allows a claimant to file an amendment at any time before or after receiving an initial award determination, including after any payment has been made on the claim, so long as the amendment is filed before December 18, 2020. Section 5 (pp. 73–74) of the VCF's Policies and Procedures explains the amendments policy in detail.

Topic 8 Questions

A. What factors should the VCF consider to limit the filing of amendments? For example, should the VCF impose a temporal limitation, such that the VCF will only consider information and/or claimed losses that were not known to the claimant, or did not exist, at the time the original claim was filed?

B. What additional suggestions do you have for possible changes to the amendments policy and process that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Topic 9: Other Issues/Considerations

A. What additional suggestions do you have for changes to the VCF's policies and procedures that address the goals of preserving funds and ensuring that funding is prioritized for those with the most debilitating eligible conditions?

Dated: September 28, 2018.

Rupa Bhattacharyya,

Special Master, September 11th Victim Compensation Fund.

[FR Doc. 2018–21490 Filed 10–2–18; 8:45 am]

BILLING CODE 4410–13–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Recovery Act

On September 25, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Pennsylvania in the lawsuit entitled *United States* v. *Versatile Metals, Inc.,* Civil Action No. 18–04126–JP.

The United States filed this lawsuit against defendant Versatile Metals, Inc. under Sections 107(a) and 113(g) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). 42 U.S.C. 9607(a) and 9613(g). The complaint requests an order requiring the defendant to reimburse the United States for response costs incurred by the Environmental Protection Agency (''EPA'') in addressing the release of hazardous substances at the Metal Bank of America, Inc. Superfund Site in the City of Philadelphia, Philadelphia County, Pennsylvania. Under the Consent Decree, the defendant has agreed to pay $42,000 to resolve the United States response costs claims, an amount agreed upon by EPA after review of defendant's financial information and a determination of what it could pay without incurring undue financial hardship, in accordance with the EPA's Ability-to-Pay guidance. Defendant has also agreed to assign to the United States its rights to claims under certain comprehensive general liability insurance policies. In return, the United States covenants not to sue the defendant for the claims alleged in the complaint.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Versatile Metals, Inc.,* D.J. Ref. No. 90–11–3–11890. All comments must be submitted no later than thirty (30) days after publication of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* Alternatively, we will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–21492 Filed 10–2–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Unemployment Insurance (UI) Trust Fund Activities Reports

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL's) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Unemployment Insurance (UI) Trust Fund Activities Reports.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by December 3, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Joe Williams by telephone at (202) 693–

2928, TTY 1–877–889–5627 (these are not toll-free numbers), or by email at *Williams.Joseph@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, Room S–4524, 200 Constitution Avenue NW, Washington, DC 20210, by email at: *Williams.Joseph@dol.gov,* or by Fax at (202) 693–3975.

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data is provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Section 303(a)(4) of the Social Security Act (SSA) and Section 3304(a)(3) of the Federal Unemployment Tax Act (FUTA) require that all monies received in the unemployment fund of a state be paid immediately to the Secretary of the Treasury to the credit of the Unemployment Trust Fund (UTF). This is the ''immediate deposit'' standard.

Section 303(a)(5) of the SSA and Section 3304(a)(4) of the FUTA require that all monies withdrawn from the UTF be used solely for the payment of unemployment compensation, exclusive of the expenses of administration. This is the ''limited withdrawal'' standard.

Federal law (Section 303(a)(6) of the SSA) gives the Secretary of Labor the authority to require the reporting of information deemed necessary to assure state compliance with the provisions of the SSA. Under this authority, the Secretary of Labor requires the following reports to monitor state compliance with the immediate deposit and limited withdrawal standards:

ETA 2112: UI Financial Transactions Summary, Unemployment Fund,

ETA 8401: Monthly Analysis of Benefit Payment Account,

ETA 8405: Monthly Analysis of Clearing Account,

ETA 8413: Income—Expense Analysis Unemployment Compensation (UC) Fund, Benefit Payment Account,

ETA 8414: Income—Expense Analysis UC Fund, Clearing Account, and

ETA 8403: Summary of Financial Transactions—Title IX Funds.

The ETA 8403A is no longer in use and is removed from this ICR.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0154.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

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

Agency: DOL–ETA.

Type of Review: Extension with revision.

Title of Collection: Unemployment Insurance (UI) Trust Fund Activities Reports.

Form: ETA 2112, 8401, 8403, 8405, 8413, and 8414.

OMB Control Number: 1205–0154.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Monthly.

Total Estimated Annual Responses: 3,498.

Estimated Average Time per Response: 0.5 hour.

Estimated Total Annual Burden Hours: 1,749 hours.

Total Estimated Annual Other Cost Burden: $0.

Rosemary Lahasky,

Deputy Assistant Secretary.

[FR Doc. 2018–21564 Filed 10–2–18; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Unemployment Insurance (UI) Title XII Advances and Voluntary Repayment Process

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL's) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Unemployment Insurance (UI) Title XII Advances and Voluntary Repayment Process.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by December 3, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Joe Williams by telephone at (202) 693–2928, TTY 1–877–889–5627 (these are not toll-free numbers), or by email at *Williams.Joseph@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training

Administration, Office of Unemployment Insurance, Room S–4524, 200 Constitution Avenue NW, Washington, DC 20210, by email at *Williams.Joseph@dol.gov,* or by Fax at (202) 693–3975.

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data is provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

I. Background

Title XII Section 1201 of the Social Security Act (SSA) provides for advances to states from the Federal Unemployment Account (FUA). The law further sets out specific requirements to be met by a state requesting an advance:

- The Governor, or designee, must apply for the advance;
- the application must cover a three-month period and the Secretary of Labor (Secretary) must be furnished with estimates of the amounts needed in each month of the three month period;
- the application must be made on such forms and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the state unemployment compensation law as the Secretary deems necessary or relevant to the performance of his or her duties under this title;
- the amount required by any state for the payment of compensation in any month shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the state's unemployment fund for the payment of compensation in such month; and
- the term ''compensation'' means cash benefits payable to individuals with respect to their unemployment exclusive of expenses of administration.

Section 1202(a) of the SSA provides that the Governor of any state may at any time request that funds be transferred from the account of such state to the FUA in repayment of part or all of the balance of advances made to such state under Section 1201. These applications and repayments may be requested by an individual designated for that authority in writing by the Governor. The SSA, Sections 1201 and 1202(a), authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL currently estimates that one state will borrow during Fiscal Year 2018, and that state would continue to borrow during calendar year 2018 and beyond.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0199.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

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

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Unemployment Insurance (UI) Title XII Advances and Voluntary Repayment Process.

OMB Control Number: 1205–0199.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 1.

Frequency: Varies.

Total Estimated Annual Responses: 3.

Estimate Average Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 3 hours.

Total Estimated Annual Other Cost Burden: $0.

Rosemary Lahasky,

Deputy Assistant Secretary.

[FR Doc. 2018–21562 Filed 10–2–18; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Resource Justification Model (RJM)

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL's) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled ''Resource Justification Model (RJM).'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by December 3, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Miriam Thompson by telephone at (202) 693–3226, TTY 1–877–889–5627 (these are not toll-free numbers), or by email at *Thompson.Miriam@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, Room S–4520, 200 Constitution Avenue NW,

Washington, DC 20210, by email at *Thompson.Miriam@dol.gov,* or by Fax at (202) 693–2874.

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The collection of actual Unemployment Insurance (UI) administrative cost data from states' accounting records and projected expenditures for upcoming years is accomplished through the RJM data collection instrument. The data collected consists of program expenditures and hours worked by state staff, broken out by functional activity, for the most recently completed Federal fiscal year. This actual cost data, in combination with projected workloads, is used by ETA's UI administrative resource allocation model to distribute to states UI program administration funds. This ICR reflects an updated Personal Services/Personnel Benefit—Information Technology worksheet that no longer requires user input, which reduces the ICR estimated burden hours from 5,804 hours to 5,406 hours.

This information collection is authorized by Section 303(a)(6) of the Social Security Act and is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0430.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

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

Agency: DOL–ETA.

Type of Review: Extension with revision.

Title of Collection: Resource Justification Model (RJM).

OMB Control Number: 1205–0430.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Annually.

Total Estimated Annual Responses: 159.

Estimated Average Time per Response: 34 hours.

Estimated Total Annual Burden Hours: 5,406.

Total Estimated Annual Other Cost Burden: $0.

Rosemary Lahasky,

Deputy Assistant Secretary.

[FR Doc. 2018–21563 Filed 10–2–18; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting

AGENCY: Veterans' Employment and Training Service (VETS), Department of Labor (DOL).

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the ACVETEO. The ACVETEO will discuss the DOL core programs and services that assist veterans seeking employment and raise employer awareness as to the advantages of hiring veterans. There will be an opportunity for individuals or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Gregory Green at 202–693–4734.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Monday, October 22, 2018 by contacting Mr. Gregory Green at 202–693–4734. Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed. The meeting site is accessible to individuals with disabilities. This Notice also describes the functions of the ACVETEO. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES: Thursday, November 1, 2018 beginning at 9:00 a.m. and ending at approximately 4:00 p.m. (EDT).

ADDRESSES: The meeting will take place at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW, Washington, DC 20210, Conference Room N–4437 A & B. Members of the public are encouraged to arrive early to allow for security clearance into the Frances Perkins Building.

Security Instructions: Meeting participants should use the visitor's entrance to access the Frances Perkins Building, one block north of Constitution Avenue at 3rd and C Streets NW. For security purposes meeting participants must:

1. Present a valid photo ID to receive a visitor badge.

2. Know the name of the event being attended: the meeting event is the

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO).

3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW. When receiving a visitor badge, the security officer will retain the visitor's photo ID until the visitor badge is returned to the security desk.

4. Laptops and other electronic devices may be inspected and logged for identification purposes.

5. Due to limited parking options, Metro's Judiciary Square station is the easiest way to access the Frances Perkins Building.

Notice of Intent to Attend the Meeting: All meeting participants should submit a notice of intent to attend by Friday, October 26, 2018, via email to Mr. Gregory Green at *green.gregory.b@dol.gov,* subject line ''November 2018 ACVETEO Meeting.''

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Green, Assistant Designated Federal Official for the ACVETEO, (202) 693–4734.

SUPPLEMENTARY INFORMATION: The ACVETEO is a Congressionally mandated advisory committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended. The ACVETEO is responsible for: Assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire veterans; making recommendations to the Secretary, through the Assistant Secretary for VETS, with respect to outreach activities and employment and training needs of veterans; and carrying out such other activities necessary to make required reports and recommendations. The ACVETEO meets at least quarterly.

Agenda

9:00 a.m. Welcome and remarks, Matthew M. Miller, Deputy Assistant Secretary, Veterans' Employment and Training Service
9:05 a.m. Administrative Business, Gregory Green, Assistant Designated Federal Official
9:10 a.m. Discuss and Finalize Fiscal Year 2018 Report, Eric Eversole, ACVETEO Chairman
10:15 a.m. Break
10:30 a.m. Briefing on Transition Assistance Program (TAP)
11:00 a.m. Panel Discussion on Current State of Military Spouse Employment, Elizabeth O'Brien, Senior Director of Military Spouse Programs, Hiring Our Heroes (moderator); Amanda Bainton, Executive Director, MOAA Foundation, Jenny Korn, Special Assistant to the President, White House Office of Public Liaison, Sara Egeland, Policy Director, Office of the Second Lady Karen Pence
12:15 a.m. Lunch
1:15 p.m. Briefing on HIRE Vets Medallion Program
1:45 p.m. ACVETEO's FY19 Agenda, Eric Eversole, ACVETEO Chairman
3:00 p.m. Lunch
3:00 p.m. Public Forum, Gregory Green, Assistant Designated Federal Official
3:30 p.m. Closing Remarks, Eric Eversole, ACVETEO Chairman
4:00 p.m. Adjourn

Signed in Washington, DC, this 27th day of September 2018.

Matthew M. Miller,

Deputy Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. 2018–21561 Filed 10–2–18; 8:45 am]

BILLING CODE 4510–79–P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on Regulatory Policies and Practices

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on October 17, 2018, at Three White Flint North, 11601 Landsdown Street, Conference Rooms 1C3 & 1C5, North Bethesda, MD 20852.

This meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Wednesday, October 17, 2018—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review the following sections of the Nuclear Regulatory Commission's (NRC's) safety evaluation associated with the Tennessee Valley Authority's (TVA's) Clinch River Early Site Permit application: Sections 2.5.1 & 2.5.3, ''Basic Geologic and Seismic Information'' & ''Surface Faulting;'' Section 2.5.2, ''Vibratory Ground Motion;'' and Sections 2.5.4 & 2.5.5, ''Stability of Subsurface Materials and Foundations'' & ''Stability of Slopes.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff, representatives of TVA, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866–822–3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the Three White Flint North building, 11601 Landsdown Street, North Bethesda, MD 20852. After registering with Security, please proceed to conference room 1C3 & 1C5, located directly behind the security desk on the first floor. You may contact Mr. Theron Brown (Telephone 301–415–6702) for assistance or to be escorted to the meeting room.

Dated: September 28, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–21530 Filed 10–2–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0183]

Nuclear Criticality Safety Standards for Nuclear Materials Outside Reactor Cores

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 3 to Regulatory Guide (RG) 3.71, ''Nuclear Criticality Safety Standards for Nuclear Materials Outside Reactor Cores.'' Revision 3 endorses guidance in multiple American National Standards Institute/American Nuclear Society (ANSI/ANS)–8 standards, as well as a specific International Organization for Standardization (ISO) Standard. In addition, the scope of this guide is expanded to include packaging and transportation and certain storage facilities because many of the standards are based on broad principles that are not limited solely to fuel processing facilities.

DATES: Revision 3 to RG 3.71 is available on October 3, 2018.

ADDRESSES: Please refer to Docket ID NRC–2017–0183 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–2017–0183. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. Revision 3 to RG 3.71 and the regulatory analysis may be found in ADAMS under Accession Nos. ML18169A258 and ML17055B588, respectively.
- *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.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Christopher Tripp, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–8741, email: *Christopher.Tripp@nrc.gov,* and Harriet Karagiannis, telephone: 301–415–2493, email: *Harriet.Karagiannis@nrc.gov,* Office of Nuclear Regulatory Research. Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses. Revision 3 to RG 3.71 describes procedures for preventing nuclear criticality accidents in operations that involve handling, processing, storing, or transporting special nuclear materials (or a combination of these activities).

Revision 3 was issued with a temporary identification of Draft Regulatory Guide, (DG)-3053, ''Nuclear Criticality Safety Standards for Nuclear Materials outside Reactor Cores,'' (ADAMS Accession No. ML17055B591).

This revision endorses the most recent American National Standards Institute (ANSI)-approved versions of American Nuclear Society (ANS) Subcommittee-8 (ANSI/ANS–8) standards, as well as ISO Standard 7753:1987, ''Nuclear Energy—Performance and Testing Requirements for Criticality Detection and Alarm Systems.'' In addition, the scope of this guide is expanded beyond 10 CFR part 70 fuel facilities to include packaging and transportation under 10 CFR part 71 and storage facilities under 10 CFR part 72, because many of the standards are based on broad principles that are not limited solely to fuel processing facilities.

II. Additional Information

The NRC published a notice of the availability of DG–3053 in the **Federal Register** on August 24, 2017 (82 FR 40173), for a 60-day public comment period. The public comment period closed on October 23, 2017. Public comments on DG–3053 and the staff responses to the public comments are available under ADAMS under Accession No. ML18169A253.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This RG provides updates based on changes to ANSI/ANS standards, as well as endorsing an ISO standard, and expands the scope of the RG beyond 10 CFR part 70 to include 10 CFR part 71 and 10 CFR part 72 licensees. Issuance of RG 3.71 would not constitute backfitting under 10 CFR part 70 or 10 CFR part 72. As discussed in the ''Implementation'' section of this RG, the NRC has no current intention to impose the RG on current holders of 10 CFR part 70 or 10 CFR part 72 licenses. The RG could be applied to applications for licenses issued under 10 CFR part 70 or 10 CFR part 72 or amendments thereto. Such action would not constitute backfitting as defined in 10 CFR 70.76 or 10 CFR 72.62, inasmuch as such applicants are not within the scope of entities protected by 10 CFR 70.76 or 10 CFR 72.62. Backfit and issue finality considerations do not apply to licensees and applicants under 10 CFR part 71.

Dated at Rockville, Maryland, this 27th day of September 2018.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2018–21534 Filed 10–2–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Thursday, October 4, 2018, at 9:30 a.m.

PLACE: Washington, DC.

STATUS: Closed.

Matters To Be Considered

Thursday, October 4, 2018, at 9:30 a.m.

1. Strategic Issues.
2. Financial Matters.
3. Executive Session—Discussion of prior agenda items and Temporary Emergency Committee governance.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Acting Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Acting Secretary.

[FR Doc. 2018–21625 Filed 10–1–18; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33260]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

September 28, 2018.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of September 2018. A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 23, 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: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Branch Chief, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

John Hancock Emerging Markets Income Fund [File No. 811–22586]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 27, 2018, and amended on September 17, 2018.

Applicant's Address: 601 Congress Street, Boston, Massachusetts 02210.

John Hancock Floating Rate High Income Fund [File No. 811–22879]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 27, 2018, and amended on September 17, 2018.

Applicant's Address: 601 Congress Street, Boston, Massachusetts 02210.

John Hancock Strategic Diversified Income Fund [File No. 811–22675]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 27, 2018, and amended on September 17, 2018.

Applicant's Address: 601 Congress Street, Boston, Massachusetts 02210.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21554 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84294; File No. SR–NYSE–2018–41]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 902.04 of the NYSE Listed Company Manual To Apply a $50,000 Fee Cap per Transaction for Issuances of Additional Shares by Closed End Funds

September 27, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 19, 2018, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 902.04 of the NYSE Listed Company Manual (the ''Manual'') to apply a $50,000 fee cap per transaction for issuances of additional shares by closed end funds. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 902.04 of the Manual, listing fees on the issuance of additional shares of an already listed class of stock are capped at $500,000 per transaction.[4] The Exchange proposes to amend this provision to establish a fee cap of $50,000 in relation to an issuance of additional shares by a closed end fund.

Under Section 902.02 of the Manual, operating companies benefit from a $500,000 fee cap per calendar year with respect to the aggregate of all annual fees and fees paid for the issuance of additional shares. Giving effect to the payment of annual fees and any earlier payments of listing fees for additional share issuances during the same calendar year, the annual $500,000 fee cap may cause an operating company to be subject to a significantly reduced fee obligation in connection with a material share issuance, or even no additional fees at all. By contrast, Section 902.04 does not include an annual cap on fees for closed end funds at the individual fund level.[5] Therefore, a closed end fund receives no reduction in its fee obligations with respect to a material share issuance as a consequence of its annual fee payments or even the fees paid with respect to other material transactions earlier in the same calendar year. As such, a closed end fund may be charged as much as $500,000 for a transaction for which it would have been charged far smaller fees if it had been an operating company, if any at all.

It is impossible to specify the fee disparity that would exist between the amount that would be paid by any closed end fund under Section 902.04 as currently in effect and how much it would owe under the operating company fee provisions if they applied, as the differential would be affected by the amount of annual fees the company paid, the number of shares issued and whether individual issuances had their fees capped. Nevertheless, the Exchange believes that a $50,000 cap per transaction is a reasonable approach. In reaching this conclusion, the Exchange reviewed the fee impact of additional share issuances on operating companies as limited by the $500,000 annual cap and also examined the likely impact on closed end funds of a $50,000 per transaction fee cap. Based on this review, the Exchange concluded that a $50,000 cap per transaction for closed end funds would generally result in a treatment of closed end funds that would be reasonably similar to the treatment of similarly-situated operating companies. As a per share rate would continue to be applied up to $50,000 under the proposed amendment, the fees for additional issuances would generally be greater for closed end funds that issued greater numbers of additional shares in the course of a year.

The Exchange does not believe that any reduction in revenue would have an impact on its ability to conduct its regulatory activities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4)[7] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges and is not designed to permit unfair discrimination among its members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act, in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act in that it represents an equitable allocation of fees and does not unfairly discriminate among listed companies. The proposed rule change provides for an equitable allocation of fees and is reasonable under Section 6(b)(4) in that it is designed to reasonably address a discrepancy in the fees paid by closed end funds when compared to fees paid by operating companies for similar transactions. The proposal is not unfairly discriminatory under Section 6(b)(5) because all closed end funds will be subject to the same fee schedule for additional share issuances. In addition, as discussed above in the section entitled ''Purpose,'' the proposal is not unfairly discriminatory because it is reasonably designed to address a significant discrepancy in the fee impact of an issuance of additional shares by a closed end fund when compared to the impact of a similar issuance on an operating company that is otherwise similarly situated.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The proposed amendment does not impose and burden on competition as its purpose is to address an anomaly in how closed end funds are charged for additional share issuances compared to the treatment of operating companies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due,

[4] Section 902.04 includes a list of examples of transactions that are subject to this fee cap, including ''in the case where shares are issued in conjunction with a merger or consolidation where a listed company survives, subsequent public offerings of a listed security and conversions of convertible securities into a listed security.''

[5] There is a fund family discount that is exclusively applicable to annual fees. Fund families that list between three and 14 closed end funds receive a 5% discount off the calculated annual fee for each fund listed, and those with 15 or more listed closed end funds receive a discount of 15%. Fund families that list between three and 14 closed end funds receive a 5% discount off the calculated annual fee for each fund listed, those with between 15 and 19 listed closed end funds receive a discount of 15%, and those with 20 or more listed closed end funds receive a discount of 50%. No fund family is required to pay aggregate annual fees in excess of $1,000,000 in any given year. A fund family consists of closed-end funds with a common investment adviser or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [10] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2018–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2018–41. 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–NYSE–2018–41 and should be submitted on or before October 24, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21482 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84297; File No. SR–CboeBYX–2018–014]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Make Permanent Rule 11.24, Which Sets Forth the Exchange's Pilot Retail Price Improvement Program

September 27, 2018.

On July 30, 2018, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') 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 make permanent Rule 11.24, which sets forth the Exchange's pilot Retail Price Improvement Program. The proposed rule change was published for comment in the **Federal Register** on August 17, 2018.[3] The Commission has received no comments on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is October 1, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, pursuant to Section 19(b)(2) of the Act [5] and for the reasons stated above, the Commission designates November 15, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBYX–2018–014).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21487 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; 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 FD, SEC File No. 270–475, OMB Control No. 3235–0536

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation FD (17 CFR 243.100 *et seq.*)—Other Disclosure Materials requires public disclosure of material information from issuers of publicly traded securities so that investors have current information upon which to base investment decisions. The purpose of the regulation is to require that: (1) When an issuer intentionally discloses

material information, to do so through public disclosure, not selective disclosure; and (2) to make prompt public disclosure of material information that was unintentionally selectively disclosed. Regulation FD was adopted due to a concern that the practice of selective disclosure leads to a loss of investor confidence in the integrity of our capital markets. All information is provided to the public for review. The information required is filed on occasion and is mandatory. We estimate that approximately 13,000 issuers make Regulation FD disclosures approximately five times a year for a total of 58,000 submissions annually, not including an estimated 7,000 issuers who file Form 8–K to comply with Regulation FD. We estimate that it takes approximately 5 hours per response (58,000 responses × 5 hours) for a total burden of 290,000 hours annually. In addition, we estimate that 25% of the 5 hours (1.25 hours) is prepared by the filer for an annual reporting burden of 72,500 hours (1.25 hours per response × 58,000 responses).

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 control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) 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.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 27, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21509 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84299; File No. SR–CboeEDGX–2018–035]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 1 and 3, To Permit the Listing and Trading of Options That Overlie the Mini-SPX Index and the Russell 2000 Index

September 27, 2018.

I. Introduction

On August 10, 2018, Cboe EDGX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), 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 permit the listing and trading of options that overlie the Mini-SPX Index (''XSP options''), the Russell 2000 Index (''RUT options''), and the Dow Jones Industrial Average (''DJX options''). The proposed rule change was published for comment in the **Federal Register** on August 21, 2018.[3] The Commission received no comments in response to the Notice. On September 18, 2018, the Exchange filed Amendment No. 1 to the proposal.[4] On September 25, 2018, the Exchange filed Amendment No. 3 to the proposal.[5] This order approves the proposed rule change, as modified by Amendment Nos. 1 and 3 thereto.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83853 (August 15, 2018), 83 FR 42344 (''Notice'').

[4] Amendment No. 1 provides that the lowest strike price interval that may be listed for XSP option series under the Short Term Option Series Program is $0.50. The Exchange notes that this provision was inadvertently omitted in the initial filing. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedgx-2018-035/srcboeedgx2018035-4388446-175573.pdf.* Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

[5] The Exchange filed Amendment No. 2 to the proposal on September 24, 2018. On September 25, 2018, the Exchange withdrew Amendment No. 2 and replaced it with Amendment No. 3. Amendment No. 3 removes all aspects of the proposal related to the listing and trading of DJX options. Amendment No. 3 is available at *https://www.sec.gov/comments/sr-cboeedgx-2018-035/srcboeedgx2018035-4423273-175678.pdf.* Because Amendment No. 3 removes all references specific to the listing and trading of DJX options from the original proposal and does not raise unique or novel regulatory issues, Amendment No. 3 is not subject to notice and comment.

II. Description of the Amended Proposal [6]

The Exchange proposes to amend the Exchange's index options rules to permit the listing and trading of XSP options and RUT options. As more fully set forth in the Notice and Amendment Nos. 1 and 3 and further described below, the proposed new rules and changes to existing rules of the Exchange are based on the existing rules of other options exchanges.[7]

XSP and RUT options will be A.M., cash-settled contracts with European-style exercise.[8] XSP options are options on the Mini-SPX Index, the current value of which is 1/10th the value of the Standard & Poor's 500 Stock Index reported by the reporting authority.[9] RUT options are options on the Russell 2000 Index.[10] According to the Exchange, the index underlying each of XSP and RUT options satisfies the criteria of a broad-based index for the initial listing of options on that index, as set forth in Rule 29.3(b). XSP and RUT options will be subject to the maintenance listing standards set forth in Rule 29.3(c).[11]

As described more fully in the Notice and Amendment Nos. 1 and 3, the Exchange has proposed rules related to the listing and trading of XSP and RUT, including the minimum increments applicable to XSP [12] and strike intervals applicable to both XSP and RUT.[13] In addition, the Exchange has proposed changes to its long-term index options

[6] For a more complete description of the proposed rule change, *see* Notice, *supra* note 3; Amendment No. 1, *supra* note 4; and Amendment No. 3, *supra* note 5.

[7] *See, e.g.,* Cboe Options Rules 6.42, 24.7, and 24.9; C2 Rule 6.11(a)(2).

[8] *See* proposed changes to Rule 29.11(a)(4) and Rule 29.11(a)(5)(B).

[9] *See* proposed Interpretation and Policy .01 to Rule 29.11, which states that the current index value of XSP options will be 1/10th the value of the Standard & Poor's 500 Stock Index reported by the reporting authority. The Exchange states that the S&P Dow Jones Indices is the reporting authority for the Mini-SPX Index. *See* proposed Interpretation and Policy .01 to Rule 29.2.

[10] The Exchange states that the Frank Russell Company is the reporting authority for the Russell 2000 Index. *See* proposed Interpretation and Policy .01 to Rule 29.2.

[11] In the event XSP or RUT options fails to satisfy the maintenance listing standards set forth in Rule 29.3(c), the Exchange states that it will not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act. *See* Notice, *supra* note 3, at 42345, n. 4.

[12] *See* proposed Rule 21.5, Interpretation and Policy .02. The minimum increment for RUT will be as set forth in current Rule 21.5: Five cents if the series is trading below $3.00, and ten cents if the series is trading at or above $3.00. *See* Notice, *supra* note 3, at 42345.

[13] *See* proposed changes to Rule 29.11(c)(1) and (c)(5).

rules, including proposing to extend the maximum term to 180 months (15 years) [14] and adding RUT to the list of indices on which the Exchange may list reduced-value long-term options series.[15] The proposed rule change also modifies the Exchange's rules to describe the opening process for index options,[16] which the Exchange states will be the same as the opening process for index options on C2 Exchange, Inc. (''C2'').[17] The Exchange also proposed rule changes to clarify the applicability of certain provisions of its rules.[18] Additionally, the Exchange has proposed changes to its rules relating to trading halts,[19] the obvious error process,[20] and listing additional expiration months [21] that are consistent with the rules of another options exchange.[22]

The Exchange represents it has an adequate surveillance program in place for index options, and that it is a member of the Intermarket Surveillance Group (''ISG'').[23] Additionally, the Exchange represents that has analyzed its capacity and believes that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of XSP and RUT options up to the proposed number of possible expirations and strike prices.[24] The Exchange believes that any additional traffic that would be generated from the introduction of XSP and RUT options will be manageable, and that its Members will not have a capacity issue as a result of this proposed rule change.[25] The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity.[26] The Exchange states that it will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.[27]

The Exchange states that XSP and RUT options will be subject to the margin requirements set forth in Chapter 28 and the position limits set forth in Rule 29.5. Chapter 28 imposes the margin requirements of either Cboe Options or the New York Stock Exchange on Exchange Options Members. Similarly, Rule 29.5 imposes position (and exercise) limits for broad-based index options of Cboe Options on Exchange Options Members. XSP and RUT options are currently listed and traded on Cboe Options, and the Exchange proposes that the same margin requirements and position and exercise limits that apply to these products as traded on Cboe Options will apply to these products when listed and traded on the Exchange.[28]

III. Discussion and Commission's Findings

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 exchange.[29] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[30] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the Exchange's proposal gives options investors the ability to make an additional investment choice in a manner consistent with the requirements of Section 6(b)(5) of the Act.[31] The Commission notes that the Exchange represents that the index underlying each of XSP and RUT options satisfies the criteria of a broad-based index for the initial listing of options on that index in Rule 29.3(b), which rule has previously been approved by the Commission.[32] In considering the proposed changes to the Exchange rules related to the listing and trading of XSP and RUT, including the rules related to minimum increments [33] and strike price intervals,[34] the Commission notes that the proposed rules are consistent with the rules of another exchange.[35] In addition, the Commission notes that the proposed rule changes related to long-term options series,[36] trading halts,[37] the obvious error process,[38] the opening process [39] and listing additional expiration months [40] are also consistent with the rules of other exchanges.[41] The Commission believes that the Exchange's proposal does not raise any novel regulatory issues, as it is consistent with the rules of other national securities exchanges previously approved by the Commission. Finally, the Commission notes that certain of the Exchange's proposed rule changes are intended to promote clarity about the applicability of the Exchange's rules,[42] thereby reducing any potential investor confusion.

The Commission further believes that the Exchange's proposed position and exercise limits, margin requirements and other aspects of the proposed rule change related to the listing and trading of XSP and RUT options are appropriate and consistent with the Act. In particular, the Commission notes that the Exchange rules regarding position and exercise limits and margin requirements incorporate by reference the corresponding Cboe Options rules

[14] *See* proposed change to Rule 29.11(b)(1). The Exchange represents that it has confirmed with the Options Clearing Corporation (''OCC'') that OCC can configure its systems to support long-term options contracts that have a maximum term of 180 months (15 years). *See* Notice, *supra* note 3, at 42346.

[15] *See* proposed change to Rule 29.11(b)(2). The Exchange represents that the reduced-value long-term RUT series will be subject to the same trading rules as long-term RUT series, except the minimum strike price interval will be $2.50 for all series regardless of the strike price. *See* Notice, *supra* note 3, at 42346. The Exchange also states that for reduced-value long-term RUT series, the underlying value will be computed at 10% of the value of the Russell 2000 Index. *See id.*

[16] *See* proposed changes to Rule 21.7.

[17] *See* Notice, *supra* note 3, at 42348.

[18] *See* proposed changes to Rules 29.11(b)(1)(A), 29.13(b); proposed Rule 29.15.

[19] *See* proposed changes to Rule 29.10(b).

[20] *See* proposed changes to Rule 20.6(g) and (h).

[21] *See* proposed Rule 29.11(i).

[22] *See* Cboe Options Rule 6.42, Interpretation and Policy .03; Cboe Options Rule 6.25(g) and (h); and Cboe Options Rule 24.9, Interpretation and Policy .01(b).

[23] *See* Notice, *supra* note 3, at 42349–50.

[24] *Id.* at 42350.

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] *See* Securities Exchange Act Release No. 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015). Additionally, the Commission notes that options on XSP and RUT will be subject to the maintenance listing standards of Rule 29.3(c). The Exchange represents that in the event XSP or RUT options fails to satisfy the maintenance listing standards set forth herein, the Exchange will not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Exchange Act. *See* Notice, *supra* note 3, at 42345, n. 4.

[33] *See* proposed Rule 21.5, Interpretation and Policy .02.

[34] *See* proposed Rule 29.11(c)(1) and (c)(5).

[35] *See* Cboe Options Rule 6.42, Interpretation and Policy .03; Cboe Options Rule 24.9. Interpretations and Policies .01(a), .11.

[36] *See* proposed changes to Rule 29.11(b).

[37] *See* proposed changes to Rule 29.10(b).

[38] *See* proposed changes to Rule 20.6(g) and (h).

[39] *See* proposed changes to Rule 21.7.

[40] *See* proposed Rule 29.11(i).

[41] *See, e.g.,* Cboe Options Rule 24.9(b)(1); Cboe Options Rule 24.9, Interpretation and Policy .13; Cboe Options Rule 24,7(a); Phlx Rule 1047A(c); Cboe Options Rule 6.25(g) and (h); C2 Rule 6.11(a)(2).

[42] *See, e.g.,* proposed changes to Rule 29.11(b)(1)(A); Rule 29.13; Rule 29.15.

which were previously approved by the Commission. The Commission notes that the Exchange represents that it has an adequate surveillance program in place for index options.[43] Further, the Exchange is a member of the ISG, which provides for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses.

In approving the proposed rule change, the Commission has also relied upon the Exchange's representation that it and OPRA have the necessary systems capacity to support the new options series that will result from this proposal, and that the Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.[44]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[45] that the proposed rule change (SR–CboeEDGX–2018–035), as modified by Amendment Nos. 1 and 3, be approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21486 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission 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 239, SEC File No. 270–638, OMB Control No. 3235–0687

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 239 (17 CFR 230.239) provides exemptions under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and the Trust Indenture Act of 1939 (U.S.C. 77aaa *et seq.*) for security-based swaps issued by certain clearing agencies satisfying certain conditions. The purpose of the information required by Rule 239 is to make certain information about security-based swaps that may be cleared by the registered or the exempt clearing agencies available to eligible contract participants and other market participants. We estimate that each registered or exempt clearing agency issuing security-based swaps in its function as a central counterparty will spend approximately 2 hours each time it provides or update the information in its agreements relating to security-based swaps or on its website. We estimate that each registered or exempt clearing agency will provide or update the information approximately 20 times per year. In addition, we estimate that 75% of the 2 hours per response (1.5 hours) is prepared internally by the clearing agency for a total annual reporting burden of 180 hours (1.5 hours per response × 20 times × 6 respondents).

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 control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) 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.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 27, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21510 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84298; File No. SR–CboeBZX–2018–058]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Permit the Listing and Trading of Options That Overlie the Mini-SPX Index and the Russell 2000 Index

September 27, 2018.

I. Introduction

On August 2, 2018, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), 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 permit the listing and trading of options that overlie the Mini-SPX Index (''XSP options''), the Russell 2000 Index (''RUT options''), and the Dow Jones Industrial Average (''DJX options''). The proposed rule change was published for comment in the **Federal Register** on August 21, 2018.[3] The Commission received no comments in response to the Notice. On September 18, 2018, the Exchange filed Amendment No. 1 to the proposal.[4] On September 24, 2018, the Exchange filed Amendment No. 2 to the proposal.[5] This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto.

II. Description of the Amended Proposal [6]

The Exchange proposes to amend the Exchange's index options rules to

[43] *See* Notice, *supra* note 3, at 42349–50.

[44] *See id.* at 42350.

[45] 15 U.S.C. 78s(b)(2).

[46] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83852 (August 15, 2018), 83 FR 42330 (''Notice'').

[4] Amendment No. 1 provides that the lowest strike price interval that may be listed for XSP option series under the Short Term Option Series Program is $0.50. The Exchange notes that this provision was inadvertently omitted in the initial filing. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboebzx-2018-058/srcboebzx2018058-4387759-175584.pdf.* Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

[5] Amendment No. 2 removes all aspects of the proposal related to the listing and trading of DJX options. Amendment No. 2 is available at *https://www.sec.gov/comments/sr-cboebzx-2018-058/srcboebzx2018058-4421264-175677.pdf.* Because Amendment No. 2 removes all references specific to the listing and trading of DJX options from the original proposal and does not raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

[6] For a more complete description of the proposed rule change, *see* Notice, *supra* note 3; Amendment

permit the listing and trading of XSP options and RUT options. As more fully set forth in the Notice and Amendment Nos. 1 and 2 and further described below, the proposed new rules and changes to existing rules of the Exchange are based on the existing rules of other options exchanges.[7]

XSP and RUT options will be A.M., cash-settled contracts with European-style exercise.[8] XSP options are options on the Mini-SPX Index, the current value of which is 1/10th the value of the Standard & Poor's 500 Stock Index reported by the reporting authority.[9] RUT options are options on the Russell 2000 Index.[10] According to the Exchange, the index underlying each of XSP and RUT options satisfies the criteria of a broad-based index for the initial listing of options on that index, as set forth in Rule 29.3(b). XSP and RUT options will be subject to the maintenance listing standards set forth in Rule 29.3(c).[11]

As described more fully in the Notice and Amendment Nos. 1 and 2, the Exchange has proposed rules related to the listing and trading of XSP and RUT, including the minimum increments applicable to XSP [12] and strike intervals applicable to both XSP and RUT.[13] In addition, the Exchange has proposed changes to its long-term index options rules, including proposing to extend the maximum term to 180 months (15 years)[14] and adding RUT to the list of indices on which the Exchange may list reduced-value long-term options series.[15] The proposed rule change also modifies the Exchange's rules to describe the opening process for index options,[16] which the Exchange states will be the same as the opening process for index options on C2 Exchange, Inc. (''C2'').[17] The Exchange also proposed rule changes to clarify the applicability of certain provisions of its rules.[18] Additionally, the Exchange has proposed changes to its rules relating to trading halts,[19] the obvious error process,[20] and listing additional expiration months [21] that are consistent with the rules of another options exchange.[22]

The Exchange represents it has an adequate surveillance program in place for index options, and that it is a member of the Intermarket Surveillance Group (''ISG'').[23] Additionally, the Exchange represents that has analyzed its capacity and believes that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of XSP and RUT options up to the proposed number of possible expirations and strike prices.[24] The Exchange believes that any additional traffic that would be generated from the introduction of XSP and RUT options will be manageable, and that its Members will not have a capacity issue as a result of this proposed rule change.[25] The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity.[26] The Exchange states that it will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.[27]

The Exchange states that XSP and RUT options will be subject to the margin requirements set forth in Chapter 28 and the position limits set forth in Rule 29.5. Chapter 28 imposes the margin requirements of either Cboe Options or the New York Stock Exchange on Exchange Options Members. Similarly, Rule 29.5 imposes position (and exercise) limits for broad-based index options of Cboe Options on Exchange Options Members. XSP and RUT options are currently listed and traded on Cboe Options, and the Exchange proposes that the same margin requirements and position and exercise limits that apply to these products as traded on Cboe Options will apply to these products when listed and traded on the Exchange.[28]

III. Discussion and Commission's Findings

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 exchange.[29] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[30] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the Exchange's proposal gives options investors the ability to make an additional investment choice in a manner consistent with the requirements of Section 6(b)(5) of the Act.[31] The Commission notes that the Exchange represents that the index underlying each of XSP and RUT options satisfies the criteria of a broad-based index for the initial listing of options on that index in Rule 29.3(b), which rule has previously been

No. 1, *supra* note 4; and Amendment No. 2, *supra* note 5.

[7] *See, e.g.,* Cboe Options Rules 6.42, 24.7, and 24.9; C2 Rule 6.11(a)(2).

[8] *See* proposed changes to Rule 29.11(a)(4) and Rule 29.11(a)(5)(B).

[9] *See* proposed Interpretation and Policy .01 to Rule 29.11, which states that the current index value of XSP options will be 1/10th the value of the Standard & Poor's 500 Stock Index reported by the reporting authority. The Exchange states that the S&P Dow Jones Indices is the reporting authority for the Mini-SPX Index. *See* proposed Interpretation and Policy .01 to Rule 29.2.

[10] The Exchange states that the Frank Russell Company is the reporting authority for the Russell 2000 Index. *See* proposed Interpretation and Policy .01 to Rule 29.2.

[11] In the event XSP or RUT options fails to satisfy the maintenance listing standards set forth in Rule 29.3(c), the Exchange states that it will not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act. *See* Notice, *supra* note 3, at 42331, n. 4.

[12] *See* proposed Rule 21.5, Interpretation and Policy .02. The minimum increment for RUT will be as set forth in current Rule 21.5: Five cents if the series is trading below $3.00, and ten cents if the series is trading at or above $3.00. *See* Notice, *supra* note 3, at 42332.

[13] *See* proposed changes to Rule 29.11(c)(1) and (c)(5).

[14] *See* proposed change to Rule 29.11(b)(1). The Exchange represents that it has confirmed with the Options Clearing Corporation (''OCC'') that OCC can configure its systems to support long-term options contracts that have a maximum term of 180 months (15 years). *See* Notice, *supra* note 3, at 42332.

[15] *See* proposed change to Rule 29.11(b)(2). The Exchange represents that the reduced-value long-term RUT series will be subject to the same trading rules as long-term RUT series, except the minimum strike price interval will be $2.50 for all series regardless of the strike price. *See* Notice, *supra* note 3, at 42332. The Exchange also states that for reduced-value long-term RUT series, the underlying value will be computed at 10% of the value of the Russell 2000 Index. *See id.*

[16] *See* proposed changes to Rule 21.7.

[17] *See* Notice, *supra* note 3, at 42334.

[18] *See* proposed changes to Rules 29.11(b)(1)(A), 29.13(b); proposed Rule 29.15.

[19] *See* proposed changes to Rule 29.10(b).

[20] *See* proposed changes to Rule 20.6(g) and (h).

[21] *See* proposed Rule 29.11(i).

[22] *See* Cboe Options Rule 6.42, Interpretation and Policy .03; Cboe Options Rule 6.25(g) and (h); and Cboe Options Rule 24.9, Interpretation and Policy .01(b).

[23] *See* Notice, *supra* note 3, at 42336.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

approved by the Commission.[32] In considering the proposed changes to the Exchange rules related to the listing and trading of XSP and RUT, including the rules related to minimum increments [33] and strike price intervals,[34] the Commission notes that the proposed rules are consistent with the rules of another exchange.[35] In addition, the Commission notes that the proposed rule changes related to long-term options series,[36] trading halts,[37] the obvious error process,[38] the opening process [39] and listing additional expiration months [40] are also consistent with the rules of other exchanges.[41] The Commission believes that the Exchange's proposal does not raise any novel regulatory issues, as it is consistent with the rules of other national securities exchanges previously approved by the Commission. Finally, the Commission notes that certain of the Exchange's proposed rule changes are intended to promote clarity about the applicability of the Exchange's rules,[42] thereby reducing any potential investor confusion.

The Commission further believes that the Exchange's proposed position and exercise limits, margin requirements and other aspects of the proposed rule change related to the listing and trading of XSP and RUT options are appropriate and consistent with the Act. In particular, the Commission notes that the Exchange rules regarding position and exercise limits and margin requirements incorporate by reference the corresponding Cboe Options rules which were previously approved by the Commission. The Commission notes that the Exchange represents that it has an adequate surveillance program in place for index options.[43] Further, the Exchange is a member of the ISG, which provides for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses.

In approving the proposed rule change, the Commission has also relied upon the Exchange's representation that it and OPRA have the necessary systems capacity to support the new options series that will result from this proposal, and that the Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.[44]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[45] that the proposed rule change (SR-CboeBZX–2018–058), as modified by Amendment Nos. 1 and 2, be approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21485 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

[32] *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010). Additionally, the Commission notes that options on XSP and RUT will be subject to the maintenance listing standards of Rule 29.3(c). The Exchange represents that in the event XSP or RUT options fails to satisfy the maintenance listing standards set forth herein, the Exchange will not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Exchange Act. *See* Notice, *supra* note 3, at 42331, n. 4.

[33] *See* proposed Rule 21.5, Interpretation and Policy .02.

[34] *See* proposed Rule 29.11(c)(1) and (c)(5).

[35] *See* Cboe Options Rule 6.42, Interpretation and Policy .03; Cboe Options Rule 24.9. Interpretations and Policies .01(a), .11.

[36] *See* proposed changes to Rule 29.11(b).

[37] *See* proposed changes to Rule 29.10(b).

[38] *See* proposed changes to Rule 20.6(g) and (h).

[39] *See* proposed changes to Rule 21.7.

[40] *See* proposed Rule 29.11(i).

[41] *See, e.g.,* Cboe Options Rule 24.9(b)(1); Cboe Options Rule 24.9, Interpretation and Policy .13; Cboe Options Rule 24,7(a); Phlx Rule 1047A(c); Cboe Options Rule 6.25(g) and (h); C2 Rule 6.11(a)(2).

[42] *See, e.g.,* proposed changes to Rule 29.11(b)(1)(A); Rule 29.13; Rule 29.15.

[43] *See* Notice, *supra* note 3, at 42336.

[44] *See id.*

[45] 15 U.S.C. 78s(b)(2).

[46] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; 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 R, Rule 701, SEC File No. 270–562, OMB Control No. 3235–0624

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'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Regulation R, Rule 701 (17 CFR 247.701) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Regulation R, Rule 701 requires a broker or dealer (as part of a written agreement between the bank and the broker or dealer) to notify the bank if the broker or dealer makes certain determinations regarding the financial status of the customer, a bank employee's statutory disqualification status, and compliance with suitability or sophistication standards.

The Commission estimates that brokers or dealers would, on average, notify 1,000 banks approximately two times annually about a determination regarding a customer's high net worth or institutional status or suitability or sophistication standing as well as a bank employee's statutory disqualification status. Based on these estimates, the Commission anticipates that Regulation R, Rule 701 would result in brokers or dealers making approximately 2,000 notifications to banks per year. The Commission further estimates (based on the level of difficulty and complexity of the applicable activities) that a broker or dealer would spend approximately 15 minutes per notice to a bank. Therefore, the estimated total annual third party disclosure burden for the requirements in Regulation R, Rule 701 is 500 [1] hours for brokers or dealers.

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.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 27, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21511 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

[1] (2,000 notices × 15 minutes) = 30,000 minutes/60 minutes = 500 hours.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84313; File No. 10–233]

MIAX EMERALD, LLC; Notice of Filing of Application for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

September 28, 2018.

On August 16, 2018, MIAX EMERALD, LLC (''EMERALD'' or ''Applicant'') submitted to the Securities and Exchange Commission (''Commission'') a Form 1 application under the Securities Exchange Act of 1934 (''Exchange Act''), seeking registration as a national securities exchange under Section 6 of the Exchange Act.

The Commission is publishing this notice to solicit comments on EMERALD's Form 1 application. The Commission will take any comments it receives into consideration in making its determination about whether to grant EMERALD's request to be registered as a national securities exchange. The Commission will grant the registration if it finds that the requirements of the Exchange Act and the rules and regulations thereunder with respect to EMERALD are satisfied.[1]

The Applicant's Form 1 application provides detailed information on how EMERALD proposes to satisfy the requirements of the Exchange Act. The Form 1 application also provides that EMERALD would operate a fully automated electronic trading platform for the trading of listed options and would not maintain a physical trading floor. It also provides that liquidity would be derived from orders to buy and orders to sell submitted to EMERALD electronically by its registered broker-dealer members, as well as from quotes submitted electronically by market makers. Further, the Form 1 application states that EMERALD would be wholly-owned by its parent company, Miami International Holdings, Inc. (''Miami Holdings''), which is also the parent company of an two existing national securities exchange, Miami International Securities Exchange, LLC and MIAX PEARL, LLC.

A more detailed description of the manner of operation of EMERALD's proposed system can be found in Exhibit E to EMERALD's Form 1 application. The proposed rulebook for the proposed exchange can be found in Exhibit B to EMERALD's Form 1 application, and the governing documents for both EMERALD and Miami Holdings can be found in Exhibit A and Exhibit C to EMERALD's Form 1 application, respectively. A listing of the officers and directors of EMERALD can be found in Exhibit J to EMERALD's Form 1 application.

EMERALD's Form 1 application, including all of the Exhibits referenced above, is available online at *www.sec.gov/rules/other.shtml* as well as in the Commission's Public Reference Room. Interested persons are invited to submit written data, views, and arguments concerning EMERALD's Form 1, including whether the application is consistent with the Exchange 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/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 10–233 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 10–233. 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/other.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to EMERALD'S Form 1 filed with the Commission, and all written communications relating to the application 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 a.m. and 3 p.m. 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 publicly available. All submissions should refer to File Number 10–233 and should be submitted on or before November 19, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[2]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21555 Filed 10–2–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(a).

[2] 17 CFR 200.30–3(a)(71)(i).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2018–0053]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes extensions and revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2018–0053].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than December 3, 2018. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Response to Notice of Revised Determination—20 CFR 404.913–404.914, 404.992(b), 416.1413–416.1414, and 416.1492(d)—0960–0347. When SSA determines: (1) Claimants for initial disability benefits do not actually have a disability; or (2) current disability recipients' records show their disability ceased, SSA notifies the disability claimants, or recipients of this decision. In response to this notice, the affected claimants and disability recipients have the following recourse: (1) They may request a disability hearing to contest SSA's decision; and (2) they may submit additional information or evidence for SSA to consider. Disability claimants, recipients, and their representatives use Form SSA–765 to accomplish these two actions. If respondents request the first option, SSA's Disability Hearings Unit uses the form to schedule a hearing; ensure an interpreter is present, if required; and ensure the disability recipients or claimants, and their representatives, receive a notice about the place and time of the hearing. If respondents choose the second option, SSA uses the form and other evidence to reevaluate the claimant's or recipients' case, and determine if the new information or evidence will change SSA's decision. The respondents are disability claimants, current disability recipients, or their representatives.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–765	1,925	1	30	963

2. Site Review Questionnaire for Volume and Fee-for-Service Payees and Beneficiary Interview Form—20 CFR 404.2035, 404.2065, 416.665, 416.701, and 416.708—0960–0633. SSA asks organizational representative payees to complete Form SSA–637, the Site Review Questionnaire for Volume and Fee-for-Service Payees, to provide information on how they carry out their responsibilities, including how they manage beneficiary funds. SSA then obtains information from the beneficiaries these organizations represent via Form SSA–639, Beneficiary Interview Form, to corroborate the payees' statements. Due to the sensitivity of the information, SSA employees always complete the forms based on the answers respondents give during the interview. The respondents are individuals; State and local governments; non-profit and for-profit organizations serving as representative payees; and the beneficiaries they serve.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–637	4,924	1	120	9,848
SSA–639	21,772	1	10	3,629
Totals	26,696	.....	.....	13,477

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than November 2, 2018. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Medical Source Opinion of Patient's Capability to Manage Benefits—20 CFR 404.2015 and 416.615—0960–0024. SSA appoints a representative payee in cases where we determine beneficiaries are not capable of managing their own benefits. In these instances, we require medical evidence to determine the beneficiaries' capability of managing or directing their benefit payments. SSA collects medical evidence on Form SSA–787 to: (1) Determine beneficiaries' capability or inability to handle their own benefits; and (2) assist in determining the beneficiaries' need for a representative payee. The respondents are the beneficiary's physicians, or medical officers of the institution in which the beneficiary resides.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of Response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–787	131,556	1	20	43,852

2. Work Activity Report—Employee—20 CFR 404.1520(b), 404.1571–404.1576, 404.1584–404.1593, and 416.971–404.976 —0960–0059. SSA uses the SSA–821–BK to obtain work information during the initial claims process; the continuing disability review process; post-adjudicative work issue actions; and for the Supplemental Security Income (SSI) claims involving work issues. SSA reviews and evaluates the data to determine if the applicant or recipient meets the disability requirements of the law. The respondents are applicants and

recipients of Title II Social Security and Title XVI SSI disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–821–BK	300,000	1	30	150,000

3. State Supplementation Provisions: Agreement; Payments—20 CFR 416.2095–416.2099—0960–0240. Section 1618 of the Social Security Act (Act) requires those states administering their own supplementary income payment program(s) to demonstrate compliance with the Act by passing Federal cost-of-living increases on to individuals who are eligible for state supplementary payments, and informing SSA of their compliance. In general, states report their supplementary payment information annually by the maintenance-of-payment levels method. However, SSA may ask them to report up to four times in a year by the total-expenditures method. Regardless of the method, the states confirm their compliance with the requirements, and provide any changes to their optional supplementary payment rates. SSA uses the information to determine each state's compliance or noncompliance with the pass-along requirements of the Act to determine eligibility for Medicaid reimbursement. If a state fails to keep payments at the required level, it becomes ineligible for Medicaid reimbursement under Title XIX of the Act. Respondents are state agencies administering supplemental programs.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Number of respondents	Average burden per response (minutes)	Estimated total annual burden (hours)
Total Expenditures	7	4	28	60	28
Maintenance of Payment Levels	26	1	26	60	26
Total	33	.....	54	.....	54

4. Appointment of Representative—20 CFR 404.1707, 404.1720, 408.1101, 416.1507, and 416.1520—0960–0527. Individuals claiming rights or benefits under the Act must notify SSA in writing when they appoint an individual to represent them in dealing with SSA. In addition, SSA requires representatives to sign the notice of appointment, or submit the equivalent in writing, if the representative is not an attorney. Recipients use Form SSA–1696–U4 to appoint a representative to handle their claim before SSA, and their appointed representative uses the SSA–1696–U4 to indicate whether they will charge a fee, and to show their eligibility for direct fee payment. In addition, representatives also use the SSA–1696–U4 to inform SSA of their disbarment; suspension from a court or bar in which they previously admitted to practice; or their disqualification from participating in or appearing before a Federal program or agency. Finally, SSA requires non-attorney appointed representatives to sign the SSA–1696–U4, or an equivalent written statement. SSA uses the information on the SSA–1696–U4 to document the appointment of the representative. Respondents are applicants for, or recipients of, Social Security disability benefits (SSDI) or SSI payments who are notifying SSA they have appointed a person to represent them in their dealings with SSA, and their non-attorney representatives who need to sign the form.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1696–U4	800,000	1	13	173,333

5. Representative Payee Report of Benefits and Dedicated Account —20 CFR 416.546, 416.635, 416.640, and 416.665—0960–0576. SSA requires representative payees (RPs) to submit a written report accounting for the use of money paid to Social Security or SSI recipients, and to establish and maintain a dedicated account for these payments. SSA uses Form SSA–6233 to: (1) Ensure the RPs use the payments for the recipient's current maintenance and personal needs; and (2) confirm the expenditures of funds from the dedicated account remain in compliance with the law. Respondents are RPs for SSI and Social Security recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–6233	36,228	1	20	12,076

6. Testimony by Employees and the Production of Records and Information in Legal Proceedings—20 CFR 403.100–403.155 —0960–0619. Regulations at 20 CFR 403.100–403.155 of the Code of Federal Regulations establish SSA's policies and procedures for an individual; organization; or government entity to request official agency information, records, or testimony of an agency employee in a legal proceeding when the agency is not a party. The request, which respondents submit in writing to SSA, must: (1) Fully set out the nature and relevance of the sought testimony; (2) explain why the information is not available by other means; (3) explain why it is in SSA's interest to provide the testimony; and (4) provide the date, time, and place for the testimony. Respondents are individuals or entities who request testimony from SSA employees in connection with a legal proceeding.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
20 CFR 403.100–403.155	100	1	60	100

7. Certification of Prisoner Identity Information—20 CFR 422.107—0960–0688. Inmates of Federal, State, or local prisons may need a Social Security card as verification of their Social Security Number (SSN) for school or work programs, or as proof of employment eligibility upon release from incarceration. Before SSA can issue a replacement Social Security card, applicants must show SSA proof of their identity. People who are in prison for an extended period typically do not have current identity documents. Therefore, under formal written agreement with the correctional institution, SSA allows prison officials to verify the identity of certain incarcerated U.S. citizens who need replacement Social Security cards. Information prison officials provide comes from the official prison files, sent on correctional facility letterhead. SSA uses this information to establish the applicant's identity in the replacement Social Security card process. The respondents are prison officials who certify the identity of prisoners applying for replacement Social Security cards.

Type of Request: Extension of an OMB-approved Information Collection.

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
Verification of Prisoner Identity Statements	1,000	200	200,000	3	10,000

8. Notification of a Social Security Number (SSN) to an Employer for Wage Reporting—20 CFR 422.103(a)—0960–0778. Individuals applying for employment must provide a SSN, or indicate they have applied for one. However, when an individual applies for an initial SSN, there is a delay between the assignment of the number and the delivery of the SSN card. At an individual's request, SSA uses Form SSA–132 to send the individual's SSN to an employer. Mailing this information to the employer: (1) Ensures the employer has the correct SSN for the individual; (2) allows SSA to receive correct earnings information for wage reporting purposes; and (3) reduces the delay in the initial SSN assignment and delivery of the SSN information directly to the employer. It also enables SSA to verify the employer as a safeguard for the applicant's personally identifiable information. The majority of individuals who take advantage of this option are in the United States with exchange visitor and student visas; however, we allow any applicant for an SSN to use the SSA–132. The respondents are individuals applying for an initial SSN who ask SSA to mail confirmation of their application or the SSN to their employers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–132	326,000	1	2	10,867

Dated: September 28, 2018.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2018–21539 Filed 10–2–18; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 10573]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''The Orléans Collection'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''The Orléans Collection,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the New Orleans Museum of Art, in New Orleans, Louisiana, from on or about October 26, 2018, until on or about January 27, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–21512 Filed 10–2–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10572]

Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 1:30 until 4:00 p.m., Wednesday, October 17 in Washington, DC at the State Department, 320 21st St. NW. The meeting will be hosted by the Assistant Secretary of State for Economic and Business Affairs, Manisha Singh, and Committee Chair Paul R. Charron. The ACIEP serves the U.S. government in a solely advisory capacity, and provides advice concerning topics in international economic policy. During this meeting, subcommittees, such as the Stakeholder Advisory Board, can present updates. Topics for discussion will include concerns about Chinese global investment and the implications for U.S. business and economic interests' post-Brexit.

This meeting is open to the public, though seating is limited. Entry to the building is controlled. To obtain pre-clearance for entry, members of the public planning to attend must, *no later than Friday, October 5,* provide their full name and professional affiliation (if any) to Rima Vydmantas by email: *VydmantasRJ@state.gov.* Requests for reasonable accommodation also should be made to Rima Vydmantas before Friday, October 12. Requests made after that date will be considered, but might not be possible to fulfill.

This information is being collected pursuant to 22 U.S.C. 2651a and 22 U.S.C. 4802 for the purpose of screening and pre-clearing participants to enter the host venue at the U.S. Department of State, in line with standard security procedures for events of this size. The Department of State will use this information consistent with the routine uses set forth in the System of Records Notices for Protocol Records (STATE–33) and Security Records (State-36). Provision of this information is voluntary, but failure to provide accurate information may impede your ability to register for the event.

For additional information, contact Rima Vydmantas, Bureau of Economic and Business Affairs, at (202) 647–4301, or *VydmantasRJ@state.gov.*

Rima J. Vydmantas,

Designated Federal Officer, U.S. Department of State.

[FR Doc. 2018–21518 Filed 10–2–18; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice: 10575]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Contesting Modernity: Informalism in Venezuela, 1955–1975'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Contesting Modernity: Informalism in Venezuela, 1955–1975,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Fine Arts, Houston, in Houston, Texas, from on or about October 26, 2018, until on or about January 21, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–21514 Filed 10–2–18; 8:45 am]

BILLING CODE 4710–05–P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing

on November 1, 2018, in Harrisburg, Pennsylvania. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for December 6, 2018, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects. The deadline for the submission of written comments is November 13, 2018.

DATES: The public hearing will convene on November 1, 2018, at 2:30 p.m. The public hearing will end at 5:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is November 13, 2018.

ADDRESSES: The public hearing will be conducted at the Pennsylvania State Capitol, Room 8E–B, East Wing, Commonwealth Avenue, Harrisburg, Pa.

FOR FURTHER INFORMATION CONTACT: Ava Stoops, Administrative Specialist, telephone: (717) 238–0423; fax: (717) 238–2436.

Information concerning the applications for these projects is available at the Commission's Water Application and Approval Viewer at *https://mdw.srbc.net/waav.* Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at *www.srbc.net/regulatory/policies-guidance/docs/access-to-records-policy-2009-02.pdf.*

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects:

Projects Scheduled for Action

1. Project Sponsor and Facility: City of Aberdeen, Harford County, Md. Modification to extend the approval term of the surface water withdrawal approval (Docket No. 20021210) to be coterminous with a revised Maryland Department of the Environment State Water Appropriation and Use Permit for the Aberdeen Proving Ground-Aberdeen Area.

2. Project Sponsor and Facility: City of Aberdeen, Harford County, Md. Modification to extend the approval term of the consumptive use approval (Docket No. 20021210) to be coterminous with a revised Maryland Department of the Environment State Water Appropriation and Use Permit for the Aberdeen Proving Ground-Aberdeen Area.

3. Project Sponsor and Facility: Adams & Hollenbeck Waterworks, LLC (Salt Lick Creek), New Milford Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.720 mgd (peak day) (Docket No. 20141209).

4. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Beech Mountain System, Butler Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.124 mgd (30-day average) from Beech Mountain Well 3.

5. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Beech Mountain System, Butler Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.144 mgd (30-day average) from Beech Mountain Well 1.

6. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Beech Mountain System, Butler Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.144 mgd (30-day average) from Beech Mountain Well 2.

7. Project Sponsor and Facility: ARD Operating, LLC (Pine Creek), Watson Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.720 mgd (peak day) (Docket No. 20141201).

8. Project Sponsor and Facility: Bloomfield Borough Water Authority, Bloomfield Borough, Perry County, Pa. Application for groundwater withdrawal of up to 0.055 mgd (30-day average) from Perry Village Well 2.

9. Project Sponsor and Facility: Denver Borough Authority, Denver Borough, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.098 mgd (30-day average) from Well 2 (Docket No. 19890104).

10. Project Sponsor and Facility: Denver Borough Authority, Denver Borough, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.092 mgd (30-day average) from Well 3 (Docket No. 19890104).

11. Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.045 mgd (30-day average) from Well 9 (Docket No. 19890101).

12. Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.059 mgd (30-day average) from Well 10 (Docket No. 19890101).

13. Project Sponsor and Facility: Eclipse Resources-PA, LP (Pine Creek), Gaines Township, Tioga County, Pa. Application for surface water withdrawal of up to 3.000 mgd (peak day).

14. Project Sponsor and Facility: Masonic Village at Elizabethtown, West Donegal Township, Lancaster County, Pa. Modification to increase consumptive use by an additional 0.055 mgd (peak day), for a total consumptive use of up to 0.230 mgd (peak day) (Docket No. 20030811).

15. Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Seeley Creek), Wells Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20141212).

16. Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Wyalusing Creek), Stevens Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20141213).

17. Project Sponsor and Facility: Schuylkill Energy Resources, Inc., Mahanoy Township, Schuylkill County, Pa. Application for renewal of groundwater withdrawal of up to 5.000 mgd (30-day average) from Maple Hill Mine Shaft Well (Docket No. 19870101).

18. Project Sponsor and Facility: Schuylkill Energy Resources, Inc., Mahanoy Township, Schuylkill County, Pa. Application for renewal of consumptive use of up to 2.550 mgd (peak day) (Docket No. 19870101).

19. Project Sponsor and Facility: SWEPI LP (Cowanesque River), Nelson Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.533 mgd (peak day) (Docket No. 20141211).

20. Project Sponsor and Facility: Tenaska Resources, LLC (Cowanesque River), Westfield Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.400 mgd (peak day) (Docket No. 20141214).

Project Scheduled for Action Involving a Diversion

21. Project Sponsor and Facility: City of Aberdeen, Harford County, Md. Modification to extend the approval term of the out-of-basin diversion approval (Docket No. 20021210) to be coterminous with a revised Maryland Department of the Environment State Water Appropriation and Use Permit for the Aberdeen Proving Ground-Aberdeen Area.

Commission-Initiated Project Approval Modifications

1. Project Sponsor and Facility: Fox Hill Country Club, Exeter Borough,

Luzerne County, Pa. Conforming the grandfathering amount with the forthcoming determination for a groundwater withdrawal of up to 0.125 mgd (30-day average) from the Halfway House Well (Docket No. 20020605).

2. Project Sponsor and Facility: Norwich Pharmaceuticals, Inc., Town of North Norwich, Chenango County, N.Y. Conforming the grandfathering amount with the forthcoming determination for groundwater withdrawals of up to 0.106 mgd (30-day average) from Well 1 and up to 0.082 mgd (30-day average) from Well 2 (Docket No. 20050902).

Opportunity to Appear and Comment

Interested parties may appear at the hearing to offer comments to the Commission on any business listed above required to be subject of a public hearing. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Guidelines for the public hearing are posted on the Commission's website, *www.srbc.net,* prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be subject of a public hearing may also be mailed to Ms. Ava Stoops, Administrative Specialist, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110–1788, or submitted electronically through *www.srbc.net/about/meetings-events/public-hearing.html.* Comments mailed or electronically submitted must be received by the Commission on or before November 13, 2018, to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: September 28, 2018.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2018–21515 Filed 10–2–18; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2018–78]

Petition for Exemption; Summary of Petition Received; Rolls-Royce plc

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

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 23, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0880 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tara Fitzgerald, Federal Aviation Administration, Engine and Propeller Standards Branch, AIR–6A2. 1200 District Avenue, Burlington, Massachusetts 01803–5529; (781) 238–7130; facsimile: (781) 238–7199; email: *Tara.Fitzgerald@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Burlington, Massachusetts, on September 26, 2018.

Diane M. Cook,

Acting Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

Petition for Exemption

Docket No.: FAA–2018–0880.

Petitioner: Rolls-Royce plc.

Section(s) of 14 CFR Affected: § 33.14 at amendment 33–10 and § 33.83(d) at amendment 33–17.

Description of Relief Sought: Rolls-Royce requests a time-limited exemption from 14 CFR 33.14 at amendment 33–10 and § 33.83(d) at amendment 33–17 for the Rolls-Royce Trent 1000–AE3, 1000–CE3, 1000–D3, 1000–G3, 1000–H3, 1000–J3, 1000–K3, 1000–L3, 1000–M3, 1000–N3, 1000–P3, 1000–Q3, 1000–R3, Trent 7000–72, and Trent 7000–72C engine models. Rolls-Royce seeks to temporarily exclude the intermediate pressure compression system from consideration of vibration stresses combined with steady stresses, which exceed the endurance limits of the material concerned. Rolls-Royce states that compensating factors will meet the protections afforded by 14 CFR 33.14 at amendment 33–10 and § 33.83(d) at amendment 33–17.

[FR Doc. 2018–21469 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Notice No. NOA–18–01]

Consensus Standards, Light-Sport Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces the availability of two new and two revised consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule issued July 16, 2004, and effective September 1, 2004. ASTM International Committee F37 on Light-Sport Aircraft developed the new and revised standards with Federal Aviation Administration participation. By this notice, the Federal Aviation Administration finds the new and revised standards acceptable for certification of the specified aircraft

under the provisions of the Sport Pilot and Light-Sport Aircraft rule.

DATES: Comments must be received on or before December 3, 2018.

ADDRESSES: Mail comments to: Federal Aviation Administration, Small Airplane Standards Branch, Programs and Procedures, AIR–694, Attention: Terry Chasteen, Room 301, 901 Locust, Kansas City, Missouri 64106. Comments may also be emailed to: *9-ACE-AVR-LSA-Comments@faa.gov.* Specify the standard being addressed by ASTM designation and title. Mark all comments: Consensus Standards Comments.

FOR FURTHER INFORMATION CONTACT: Terry Chasteen, Light-Sport Aircraft Program Manager, Programs and Procedures, AIR–694, Small Airplane Standards Branch, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4147; email: *terry.chasteen@faa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces the availability of two new and two revised consensus standards that supersede previously accepted consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule. ASTM International Committee F37 on Light-Sport Aircraft developed the new and revised standards. The FAA expects a suitable consensus standard to be reviewed periodically. The review cycle will result in a standard revision or reapproval. A standard is revised to make changes to its technical content or is reapproved to indicate a review cycle has been completed with no technical changes. A standard is issued under a fixed designation (*e.g.,* F2245); the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses following the year of original adoption or revision indicates the year of last reapproval. For example, F2242–05(2013) designates a standard that was originally adopted (or revised) in 2005 and reapproved in 2013. A superscript epsilon (ε) indicates an editorial change since the last revision or reapproval. A notice of availability (NOA) will only be issued for new or revised standards. Reapproved standards issued with no technical changes or standards issued with editorial changes only (*i.e.,* superscript epsilon [ε]) are considered accepted by the Federal Aviation Administration (FAA) without need for an NOA.

Comments Invited: Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the consensus standard number and be submitted to the address specified above. All communications received on or before the closing date for comments will be forwarded to ASTM International Committee F37 for consideration. The standard may be changed in light of the comments received. The FAA will address all comments received during the recurring review of the consensus standard and will participate in the consensus standard revision process.

Background: Under the provisions of the Sport Pilot and Light-Sport Aircraft rule, and revised Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' revised January 27, 2016, industry and the FAA have been working with ASTM International to develop consensus standards for light-sport aircraft. These consensus standards satisfy the FAA's goal for airworthiness certification and a verifiable minimum safety level for light-sport aircraft. Instead of developing airworthiness standards through the rulemaking process, the FAA participates as a member of Committee F37 in developing these standards. The use of the consensus standard process facilitates government and industry discussion and agreement on appropriate standards for the required level of safety.

Comments on Previous Notices of Availability

In the previous NOA issued on March 27, 2017, and published in the **Federal Register** on April 3, 2017 (82 FR 16271), the FAA asked for public comments on the revised consensus standards accepted by that NOA. The comment period closed on June 2, 2017. No public comments were received.

Consensus Standards in This Notice of Availability

The FAA has reviewed the standards presented in this NOA for compliance with the regulatory requirements of the rule. Any light-sport aircraft issued a special light-sport airworthiness certificate, which has been designed, manufactured, operated, and maintained in accordance with these and previously accepted ASTM consensus standards provides the public with the appropriate level of safety established under the regulations. Manufacturers who choose to produce these aircraft and certificate these aircraft under 14 CFR 21.190 or 14 CFR 21.191 are subject to the applicable consensus standard requirements.

The FAA maintains a listing of the latest FAA-accepted standards specific to special light-sport aircraft and information on previously accepted standards on the following FAA website: *http://www.faa.gov/aircraft/gen_av/light_sport/.* The FAA also maintains a separate general listing of standards accepted by the FAA that have or may have applicability to other types of certifications. This general listing includes the FAA-accepted standards specific to special light-sport aircraft. A link to this general listing of standards is available on the following FAA website: *http://www.faa.gov/aircraft/gen_av/light_sport/.*

The Revised Consensus Standard and Effective Period of Use

The following previously accepted consensus standards have been revised, and this NOA is accepting the later revision. Either the previous revision or the later revision may be used for the initial airworthiness certification of special light-sport aircraft until October 3, 2019. This overlapping period of time will allow aircraft that have started the initial airworthiness certification process using the previous revision level to complete that process. After October 3, 2019, manufacturers must use the later revision and must identify the later revision in the Statement of Compliance for initial airworthiness certification of special light-sport aircraft unless the FAA publishes a specific notification otherwise. The following Consensus Standards may not be used after October 3, 2019:

ASTM Designation F2241–14, titled: Standard Specification for Continued Airworthiness System for Powered Parachute Aircraft

ASTM Designation F2295–06, titled: Standard Practice for Continued Operational Safety Monitoring of a Light Sport Aircraft

ASTM Designation F2339–06(2009), titled: Standard Practice for Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft

ASTM Designation F2354–05b(2013), titled: Standard Specification for Continued Airworthiness System for Lighter-Than-Air Light Sport Aircraft

ASTM Designation F2425–05a(2018), titled: Standard Specification for Continued Airworthiness System for Weight-Shift-Control Aircraft

ASTM Designation F2483–12, titled: Standard Practice for Maintenance

and the Development of Maintenance Manuals for Light Sport Aircraft

The Consensus Standards

The FAA finds the following new and revised consensus standards acceptable for initial airworthiness certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule. The following consensus standards become effective October 3, 2018 and may be used unless the FAA publishes a specific notification otherwise:

ASTM Designation F2339–17, titled: Standard Practice for Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft

ASTM Designation F2483–18 ε, titled: Standard Practice for Maintenance and the Development of Maintenance Manuals for Light Sport Aircraft

ASTM Designation F3198–18, titled: Standard Specification for Light Sport Aircraft Manufacturer's Continued Operational Safety (COS) Program

ASTM Designation F3206–17, titled: Standard Practice for Independent Audit Program for Light Aircraft Manufacturers

Availability

ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959 copyrights these consensus standards. Individual reprints of a standard (single or multiple copies, or special compilations and other related technical information) may be obtained by contacting ASTM at this address, or at (610) 832–9585 (phone), (610) 832–9555 (fax), through *service@astm.org* (email), or through the ASTM website at *www.astm.org.* To inquire about standard content and/or membership or about ASTM International Offices abroad, contact Joe Koury, Staff Manager for Committee F37 on Light-Sport Aircraft: (610) 832–9804, *jkoury@astm.org.*

Issued in Kansas City, Missouri, on September 25, 2018.

Steven W. Thompson,

Acting Manager, Small Airplane Standards Branch, Aircraft Certification Service.

[FR Doc. 2018–21458 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2018–0009]

Surface Transportation Project Delivery Program; Ohio Department of Transportation Audit Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Moving Ahead for Progress in the 21st Century Act (MAP–21) established the Surface Transportation Project Delivery Program that allows a State to assume FHWA's environmental responsibilities for environmental review, consultation, and compliance under the National Environmental Policy Act (NEPA) for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years to ensure the State's compliance with program requirements. This notice makes available the final report of Ohio Department of Transportation's (ODOT) second audit under the program.

FOR FURTHER INFORMATION CONTACT: Mr. James G. Gavin, Office of Project Development and Environmental Review, (202) 366–1473, *James.Gavin@dot.gov,* or Mr. David Sett, Office of the Chief Counsel, (404) 562–3676, *David.Sett@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 61 Forsyth Street 17T100, Atlanta, GA 30303. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at *www.regulations.gov.*

Background

The Surface Transportation Project Delivery Program, codified at 23 U.S.C. 327, commonly known as the NEPA Assignment Program, allows a State to assume FHWA's responsibilities for environmental review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities, in lieu of FHWA. The ODOT published its application for assumption under the NEPA Assignment Program on April 12, 2015, and made it available for public comment for 30 days. After considering public comments, ODOT submitted its application to FHWA on May 27, 2015. The application served as the basis for developing the memorandum of understanding (MOU) that identifies the responsibilities and obligations that ODOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on October 15, 2015, at 80 FR 62153, with a 30-day comment period to solicit the views of the public and Federal agencies. After the comment period closed, FHWA and ODOT considered comments and executed the MOU.

Section 327(g) of Title 23, U.S.C., requires the Secretary to conduct annual audits to ensure compliance with the MOU during each of the first 4 years of State participation and, after the fourth year, monitor compliance. The results of each audit must be made available for public comment. The FHWA published a notice in the **Federal Register** on April 18, 2018, soliciting public comment for 30-days, pursuant to 23 U.S.C. 327(g). This notice is available at 83 FR 17212. The FHWA received comments on the draft report from the American Road & Transportation Builders Association (ARTBA). The ARTBA's comments were supportive of the Surface Transportation Project Delivery Program and did not relate specifically to Audit 2. The team has considered these comments in finalizing this audit report. This notice makes available the final report of ODOT's second audit under the program.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; 23 U.S.C. 327; 23 CFR 773.

Issued on: September 26, 2018.

Brandye L. Hendrickson,

Deputy Administrator, Federal Highway Administration.

Surface Transportation Project Delivery Program

Final FHWA Audit of the Ohio Department of Transportation

August 6, 2016–August 4, 2017

Executive Summary

This is the second audit of the Ohio Department of Transportation's (ODOT) assumption of National Environmental Policy Act (NEPA) responsibilities, conducted by a team of Federal Highway Administration (FHWA) staff (the team). The ODOT made the effective date of the project-level NEPA and environmental review responsibilities it assumed from FHWA on December 28, 2015, as specified in a

memorandum of understanding (MOU) signed on December 11, 2015. The ODOT delegated these responsibilities to ODOT representatives located in the Division of Planning. This audit examined ODOT's performance under the MOU regarding responsibilities and obligations assigned therein.

Prior to the on-site visit, the team performed reviews of ODOT's project NEPA approval documentation in EnviroNet (ODOT's official environmental document filing system). This review consisted of a statistically valid sample of 92 project files out of 736 approved documents in ODOT's EnviroNet system with an environmental approval date between May 31, 2016, and March 31, 2017. The team also reviewed ODOT's response to the pre-audit information request (PAIR) and ODOT's Self-Assessment report. In addition, the team reviewed ODOT's environmental processes, manuals, and guidance; ODOT NEPA Quality Assurance and Quality Control (QA/QC) Processes and Procedures; and the ODOT NEPA Assignment Training Plan (collectively, ''ODOT procedures''). The team conducted interviews with ODOT's Central Office during the on-site portion of the review from July 31 to August 4, 2017. The team interviewed the resource agencies the week prior to the on-site review.

Overall, the team finds ODOT continues to make reasonable progress in implementing the NEPA Assignment Program. The team found one non-compliance observation that will require ODOT to respond with corrective action by its next self-assessment and subsequent report. The team also noted five general observations and three successful practices.

Background

The Surface Transportation Project Delivery Program (NEPA Assignment Program) allows a State to assume FHWA's responsibilities for review, consultation, and compliance with environmental laws for Federal-aid highway projects. When a State assumes these responsibilities, it becomes solely responsible and liable for carrying out the responsibilities assumed, in lieu of FHWA.

The State of Ohio represented by ODOT completed the application process and entered into an MOU with FHWA effective on December 28, 2015. With this agreement, ODOT assumed FHWA's project approval responsibilities under NEPA and NEPA-related Federal environmental laws.

The FHWA is obligated to conduct four annual compliance audits of the ODOT's compliance with the provisions of the MOU. Audits serve as FHWA's primary mechanism of overseeing ODOT's compliance with applicable Federal laws and policies, evaluate ODOT's progress toward achieving the performance measures identified in the MOU, and collect information needed for the Secretary's annual report to Congress.

This audit is the second completed in Ohio. The third audit is scheduled for 2018.

Scope and Methodology

The team conducted a careful examination of the ODOT NEPA Assignment Program through a review of ODOT procedures and project documentation, ODOT's PAIR response, and the self-assessment summary report, as well as interviews with ODOT Central Office and district environmental staff and resource agency staff. This review focuses on the following six NEPA Assignment Program elements: (1) Program management, (2) documentation and records management, (3) QA/QC, (4) legal sufficiency, (5) performance measurement, and (6) training.

The PAIR consisted of 22 questions, based on responsibilities assigned to ODOT in the MOU. The team reviewed ODOT's response, and compared the responses to ODOT's written procedures. The team utilized ODOT's responses to draft interview questions to clarify information in ODOT's PAIR response.

The ODOT provided its NEPA Assignment Self-Assessment summary report 30 days prior to the team's on-site review. The team considered this summary report both in focusing on issues during the project file reviews and in drafting interview questions. The report was compared against the previous year self-assessment report and the requirements in the MOU to identify any trends.

Between April 21 and June 5, 2017, the team conducted a project file review of a statistically valid sample of 92 project files representing ODOT NEPA project approvals in ODOT's online environmental file system, EnviroNet with an environmental approval date between May 31, 2016, and March 31, 2017. The sample size of 92 projects was calculated using a 90 percent confidence interval with a 10 percent margin of error. The projects reviewed represented all NEPA classes of action available, all 12 ODOT Districts and the Ohio Rail Development Commission (ORDC).

During the on-site review week, the team conducted interviews with 37 ODOT staff members at the central office and three districts: District 1 (Lima); District 11 (New Philadelphia); and District 12 (Cleveland). Interviewees included District Environmental Coordinators (DEC), environmental staff, and executive management, representing a diverse range of expertise and experience. The interviews at the ODOT Districts included a discussion with staff regarding NEPA Assignment.

The team conducted interviews the week prior to the on-site review with personnel from the Ohio Environmental Protection Agency Division of Air Pollution Control, U. S. Environmental Protection Agency (EPA) Region V Office, and the Ohio Historic Preservation Office. These agencies provided valuable insight to the team regarding ODOT's performance and relationships with partner resource agencies.

The team identified gaps between the information from the desktop review of ODOT procedures, PAIR, self-assessment, project file review, and interviews. The team documented the results of its reviews and interviews and consolidated the results into related topics or themes. From these topics or themes, the team developed the review observations and successful practices. The audit results are described below.

Overall, the team found evidence that ODOT made reasonable progress in implementing the NEPA Assignment Program based on the Audit 1 observations and demonstrated commitment to success of the program. The team found one non-compliance observation that will require ODOT to respond with corrective action by its next self-assessment and subsequent report. The team also noted five general observations and three successful practices.

The FHWA expects ODOT to develop and implement timely corrective action to address the non-compliance observation. In addition, based on the observations noted below, the team urges ODOT to consider improvements in order to build upon the early successes of its program.

Observations and Successful Practices

Program Management

Observation 1: Implementation of ODOT policy, manuals, procedures, and guidance is inconsistent across the State, particularly involving local governments and consultants.

The team noted inconsistencies in the application of various ODOT procedures in project file reviews. These inconsistencies were particularly apparent in documents produced and

actions taken by Local Public Agencies (LPA) and consultants, likely due to variability in these outside parties' understanding of ODOT procedures and requirements in areas such as public involvement (PI) and environmental justice (EJ). Inconsistencies included items such as not initiating contact with emergency and public services as part of PI during the NEPA process and a failure to include EJ forms in project files.

The ODOT representatives reported in response to interviews that they have already taken action to train LPA and consultant staff in response to this observation. The ODOT staff said that they moved registration for the environmental training program from their office to the Office of Local Technical Assistance Program and the result was greater visibility and exposure of environmental training opportunities for the LPAs. The ODOT representatives are hopeful the additional focus on training will mitigate any inconsistencies in their program.

Successful Practice 1: ODOT has effective program management processes in place resulting in successful project delivery.

In the 2 years since ODOT has assumed NEPA responsibilities, ODOT has approved more than 1000 NEPA actions. Since Audit 1, ODOT undertook measures to solidify its program management approach. The ODOT representatives assigned subject matter experts with responsibility for ODOT's procedures in their subject areas providing a sense of ownership and allowing for ODOT to stay current in its program management responsibilities. The ODOT developed and implemented over 140 procedures to document how to implement NEPA Assignment, manage the program, and provide detailed instruction for completion of environmental actions to document preparers and reviewers. The ODOT implemented a quarterly update system for new or revised ODOT procedures using a listserv approach and a single Web-based repository of all guidance to share information. The ODOT continues to use routine statewide NEPA chats and DEC Meetings to share updated information with NEPA practitioners and to hear concerns from the field. Lastly, ODOT is committed to continued process improvements to refine areas of noted deficiency.

Documentation and Records Management

Non-Compliance Observation 1: Disclosure language required by Sections 3.1.2 or 3.1.3 of the MOU was missing from project materials and documents.

The team identified 10 project files where PI materials lacked the required disclosure language required in MOU Sections 3.1.2 or 3.1.3. The disclosure in both sections states, ''*The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015 and executed by FHWA and ODOT.*'' In addition to these 10 projects, ODOT identified 9 additional projects in which various other documents lacked the required disclosure language, as part of its self-assessment.

The projects identified by FHWA came from 8 of ODOT's 12 Districts and included both ODOT and LPA projects. The projects identified by ODOT have a similar distribution among districts and project sponsors. The team considers this problem to be systemic across Ohio, identified in about 20 percent of the FHWA sample.

The team acknowledges that ODOT has already developed an action plan to address this issue, including the following:

- *In support of NEPA Assignment, ODOT has issued over 140 pieces of guidance, manuals or instructions on ODOT's process and implementation of the NEPA Assignment Program. The ODOT will review guidance that references this section of the MOU and ensure that there are no changes that we could make to better provide direction or guidance to our teams on how to comply with this requirement.*
- *The MOU Section 3.1.3 requirement is already a part of several of ODOT environmental training classes, including the PI class, Categorical Exclusion (CE) class, 1-Week NEPA class, among others. However, ODOT will review these classes to ensure Section 3.1.3 requirements are included and seek to include this compliance area into other classes.*
- *In addition, ODOT will make this area a renewed focus at our NEPA chats and DEC meetings. Both of these events are training events with all of ODOT's environmental staff, statewide. In addition, this topic will be presented to our consultant teams at our next Consultant Environmental Update Meeting and our Ohio Transportation Engineering Conference (OTEC). Lastly, ODOT will look for opportunities to increase outreach to our LPA's on this subject. The ODOT will keep working to improve our overall performance in this area.*

Observation 2: Project-level compliance issues were identified in four areas: Public Involvement, Environmental Justice, Environmental Commitments, and Fiscal Constraint. In addition, instances were identified where the information included in the online environmental file did not comply with ODOT standards.

The FHWA identified project-level compliance issues on 17 projects in 4 areas in Audit 2. Three areas were identified in both Audit 1 and Audit 2 (i.e., PI, EJ, and environmental commitments) and one was a new area of issue in the current audit (i.e., fiscal constraint). Three of the areas in need of improvement from the FHWA Audit 1 (i.e., floodplains, Wetlands Findings per E.O. 11990, and Section 4(f)) were not identified in this audit, as shown in Table 1. As a result of the first FHWA audit and ODOT's first self-assessment, ODOT updated many procedures relating to the NEPA process and NEPA Assignment to improve its processes and meet Federal requirements. This may be a contributing factor to the changes in the areas in need of improvement identified in FHWA Audit 1 and FHWA Audit 2

The ODOT's second Self-Assessment summary report also identified PI, EJ, and environmental commitments as areas of needed improvements and fiscal constraint as a compliance issue. During Audit 2, ODOT informed FHWA about planned changes and improvements to EnviroNet that should address some of the errors identified in the FHWA project file review.

TABLE 1—AREAS WITH PROJECT-LEVEL COMPLIANCE ISSUES BY YEAR

Area	FHWA Audit 1 (2016)	FHWA Audit 2 (2017)
Public Involvement	✓	✓
Environmental Justice	✓	✓
Environmental Commitments.	✓	✓
Fiscal Constraint		✓
Floodplains	✓	
Wetlands Findings per E.O. 11990.	✓	
Section 4(f)	✓	

In addition, FHWA identified issues with project file management in both Audit 1 and Audit 2. The ODOT also identified project file management as an

area in need of improvement through its Self-Assessment summary reports. For example, the team could not find required documentation in the Project File Tab even though there were indications that a related task was completed. The areas under which the errors occurred, include, but are not limited to PI, EJ, environmental commitments, maintenance of traffic, and fiscal constraint. The projects identified represent all ODOT's 12 districts and included ODOT, ORDC, and LPA projects.

The team considers these to be project level compliance issues because, although documentation expected to be in the project file was missing, the files generally contained indications that the necessary review or commitments were being implemented. The team strongly encourages ODOT to continue improvements to EnviroNet and ODOT procedures to ensure complete documentation and compliance on future projects. The FHWA will more closely review these project level compliance issues in its next Audit review.

Quality Assurance/Quality Control (QA/QC)

Observation 3: There are variations in awareness, understanding, and implementation of QA/QC process and procedures.

The inconsistencies and missing information so far described are an indication that ODOT's QA/QC process requires attention. The interviews revealed that middle and upper management at the districts are not involved in the QA/QC process. The ODOT District environmental staff and non-environmental staff said that they rely on the ODOT Central Office to be the final backstop for QA/QC. However, most district staff indicated a lack of awareness or understanding of the overall QA/QC process. No training is provided exclusively for QA/QC.

Successful Practice 2: EnviroNet serves as QA/QC in terms of process and consistency.

Interviews with district and ODOT Central Office staff indicated that, overall, EnviroNet has changed the NEPA review process for the better and represents a ''one-stop shop'' for documentation of the NEPA process. The ODOT staff indicated that with everything now on-line, including electronic signatures, communication is easier between ODOT, the LPAs and consultants. The use of drop down menus and response selections within the project file resource areas acts as QC, creating increased standardization and consistency statewide.

The system of checks built into the system includes error messages and a hard stop of the project if a peer review is required and not completed. Another safeguard of EnviroNet is ''validation'' which instigates a hard stop if required fields are not filled in the project file. There are security protocols to allow access to the appropriate staff for project file review and input, peer review and ultimately approval officials.

Legal Sufficiency Review

To date, ODOT has not applied the ''ODOT NEPA Assignment Legal Sufficiency Review Guidance'' guidance because it did not have any documents that required legal sufficiency review. There are no observations to report at this time.

Performance Measures

Observation 4: Some of ODOT's performance measures are ineffective.

The ODOT developed Performance Measures as required in MOU Section 10.2 to provide an overall indication of ODOT's execution of its responsibilities assigned by the MOU. The team urges ODOT to refine or revise performance measures to reveal any occasional or ongoing challenges in agency relationships as well as any possible need to adjust approaches to QC.

Training Program

The ODOT has a robust environmental training program and provides adequate budget and time for staff to access a variety of internal and external training. The ODOT updated its training plan in January 2017, and provided the plan to FHWA and resource agencies for their review, as required by Section 12.2 of the MOU. The training plan includes both traditional, instructor-based training courses and quarterly DEC meetings as well as monthly NEPA chats, where ODOT Central Office staff can share new information and guidance with district staff, including interactive discussions on the environmental program. Furthermore, the training plan includes a system to track training needs within ODOT. In addition, ODOT holds bi-annual meetings with consultants to provide on-going updates about the environmental program.

Successful Practice 3: ODOT continues the practice of required and continuous training of both staff and consultants involved in the environmental process.

The ODOT's training plan states that all ODOT environmental staff (both central and district offices) and environmental consultants are required to take the pre-qualification training courses. Staff is also encouraged to take training offered beyond the minimum required training. All staff interviewed indicated that ODOT management fully supports required training of staff and consultants.

Observation 5: Opportunities exist for expanding training in Environmental Justice (EJ).

Currently, ODOT's training plan does not include a stand-alone training course on EJ. In the Self-Assessment summary report, ODOT identified EJ as an area needing improvement. This observation and that the team found project level compliance issues related to EJ indicate that additional attention should be paid by ODOT to EJ compliance. The FHWA encourages ODOT to include specific EJ training opportunities in its training plan, such as the Web-based course currently under development, and other EJ courses offered by the National Highway Institute, the FHWA Resource Center, and/or the EPA.

Finalization of Report

The FHWA received one response to the **Federal Register** Notice during the public comment period for this draft report. This response, from the American Road & Transportation Builders Association, was supportive of the Surface Transportation Project Delivery Program and did not relate specifically to Audit 2. This report is a finalized draft version without substantive changes.

[FR Doc. 2018–21565 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Procedures Subcommittee Meeting.

TIME AND DATE: The meeting will occur on October 9, 2018, at 1 p.m. Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–866–210–1669, passcode 5253902#, to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Procedures Subcommittee will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. An agenda for this meeting will be available in advance of the meeting at *https://ucrplan.org.*

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors, at (505) 827–4565.

Issued on: September 28, 2018.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2018–21622 Filed 10–1–18; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0133]

Commercial Driver's License (CDL): Application for Exemption; U.S. Custom Harvesters, Inc. (USCHI)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the U.S. Custom Harvesters, Inc. (USCHI) an exemption from the ''K'' intrastate restriction on commercial driver's licenses (CDLs) held by custom harvester drivers operating in interstate commerce. The Federal Motor Carrier Safety Regulations (FMCSRs) exempt drivers of commercial motor vehicles (CMVs) controlled and operated by a person engaged in interstate custom harvesting, including the requirement that drivers be at least 21 years old. However, many younger custom harvester drivers hold CDLs with an intrastate-only (or ''K'') restriction. This has caused drivers of USCHI member companies to be cited during roadside inspections in a different State, as the ''K'' restriction means that the license is invalid outside the State of issuance, even when the younger driver is operating under the custom harvester exemption. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: The exemption is effective from October 3, 2018 through October 3, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614–942–6477. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Custom harvesters are businesses that supply the equipment and labor to assist farmers with harvesting during their busiest seasons. Typically, there are two different classes of operations, grain harvesting and forage harvesting. A grain harvester uses combines to harvest wheat, corn, barley, canola, sunflowers, soybeans, and grain sorghum, among others. These crop products are transported to an elevator or on-farm storage, where the crop is stored and later transported elsewhere to be processed into products for public use. A forage harvester uses a chopper to harvest whole-plant crops such as corn, sorghum, milo, triticale, and alfalfa. These crops are used for silage to feed livestock in dairies and feedlots. Custom harvesters travel from State to State and can spend from a few days to several months cutting crops for one farmer.

USCHI stated that custom harvesters are experiencing a problem with the exemption in 49 CFR 391.2(a). It was adopted by the Federal Highway Administration on December 22, 1971 [34 FR 24218] and has been widely used by custom harvesters since then. Under this provision, drivers of commercial motor vehicles (CMVs) controlled and operated by a person engaged in custom harvesting are exempt from all of part 391, including the requirement to be at least 21 years of age to operate a CMV in interstate commerce. USCHI member companies frequently employ drivers 18–21 years of age, who are issued commercial driver's licenses (CDLs) with a ''K'' restriction that makes the license valid only for operations within the issuing State (49 CFR 383.23(a)(2) and 383.153(a)(10)(vii)). The problem arises because the CDL regulations, adopted long after 1971, were not drafted to include an exemption corresponding to section 391.2(a). As a result, the ''K'' restriction means that the license is invalid outside the issuing State, even though section 391.2(a) exempts younger custom harvester drivers from the 21-year-old age requirement when operating in interstate commerce. Section 391.2(a) does not preempt State CDL regulations, like requirement in section 383.23(a)(2) to ''possess a CDL which meets the standards contained in subpart J of this part,'' including any ''K'' restriction imposed under section 383.153(a)(10)(vii) of subpart J. This has caused drivers employed by USCHI's members to be cited for CDL violations during inspections, which is an issue not only for the individual driver, but also for the custom harvester employer, whose safety record is adversely affected.

Public Comments

On May 1, 2017, FMCSA published notice of the USCHI application for exemption and requested public comment (82 FR 20415). The Agency received a total of thirteen sets of comments. Ten comments—all submitted by custom harvesters—supported the exemption. Two commenters—the Oregon Department of Transportation (ODOT) and the American Association of Motor Vehicle Administrators (AAMVA) expressed various concerns with the request. One other commenter did not take a position on the exemption.

Those filing in support of the request stated that a large percentage of their employees have been under the age of 21. They rely on the rule allowing 18-

year-olds to obtain a CDL for intrastate (''K'' restricted) operations [49 CFR 383.25(a)(4) and 383.71(a)(2)(i)] to have enough employees to effectively run their businesses. This provision has allowed workers under the age of 21 to obtain experience with truck driving. The commenters said that many of these individuals have gone on to be professional, full-time truck drivers, and that all of them would cite the harvest work as pivotal to their training as a CDL driver. They argued that the exemption from the ''K'' restriction is incredibly important to their businesses, as well as to the development of quality, responsible truck drivers for America's highways.

Others commenting in favor of the exemption said that the way the current law is interpreted causes much difficulty. Custom harvesters can hire and train entry-level drivers, but it is difficult to find employees who are willing to work seasonal jobs. In many cases, the individuals most likely to work in these entry-level positions are 18- to 20-year-olds. Many custom harvesters feel that 49 CFR 391.2(a) is very clear; however, some States have different interpretations of the exemption.

The Oregon Department of Transportation (ODOT) was concerned that the remedy sought by USCHI will have unintended consequences on interstate commerce, is cumbersome for State driver licensing agencies (SDLAs) responsible for issuing the CDL, and addresses only a symptom of the identified problem while ignoring the root cause. ODOT states that this exemption would create a burden for SDLAs in the licensing process. Accommodating this exemption would require time consuming and costly programming work with no nexus to highway safety.

The American Association of Motor Vehicle Administrators (AAMVA) also expressed concern with the USCHI exemption request. AAMVA commented that retaining State discretion on age limitations for intrastate drivers should remain within the purview of the States. Further, utilizing the ''K'' restriction on a restricted CDL ensures underage operators of CMVs do not fully participate, unrestricted, in interstate commerce. At issue is the removal of an intrastate restriction that could allow an untested, younger driver, access to the full interstate system without restriction.

FMCSA Decision

FMCSA has evaluated USCHI's application for exemption and the public comments and decided to grant the exemption. One requirement of any exemption issued under 49 CFR part 381 is that it be likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. In this case interstate operations by custom harvester drivers below the age of 21 is already authorized by 49 CFR 391.2(a), and has been since 1971. However, it conflicts with, but does not preempt, the subsequently adopted requirements of 49 CFR 383.23(a)(2) and 383.153(a)(10)(vii). FMCSA believes this exemption, by removing the obstacle posed by sections 383.23(a)(2) and 383.153(a)(10)(vii), would not have any impact on the safe operation of CMVs and is therefore likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 391.2(a)).

It should be noted that this exemption does not require any special action or processing by the State driver licensing agencies. They will continue to place the ''K'' restriction when called for, but enforcement officers will disregard it in situations involving drivers who can demonstrate eligibility for the custom harvester exemption.

Stakeholders

The information below is provided to clarify what impact or meaning this exemption will have on the following stakeholders.

Custom Harvester Drivers

Custom harvester drivers will be able to display this exemption notice to help explain that when operating in that capacity, they are permitted to operate outside the State issuing their CDL even though the license has a ''K'' (intrastate only) restriction.

Enforcement Officers

This exemption notice will explain to law enforcement officers that 49 CFR 391.2(a) authorizes custom harvester drivers to operate in interstate commerce even though under 21 years of age. The notice will explain that a ''K'' restriction on these drivers' CDLs does not limit them from driving outside the license-issuing State when they are operating as custom harvesters in accordance with 49 CFR 391.2(a).

State Driver Licensing Agencies

This exemption requires no action or inaction on the part of State driver-licensing agencies. They will continue to issue CDLs with a ''K'' restriction to drivers under the age of 21.

Terms and Conditions of the Exemption

(1) Drivers for custom harvesters operating in interstate commerce shall be exempt from any intrastate-only ''K'' restriction on their CDLs when operating under the provisions of this exemption.

(2) Drivers must have a copy of this notice in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.

(3) Drivers to be included in this exemption are identified in 49 CFR 391.2 as those operating a CMV to transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or transport custom-harvested crops to storage or market.

(4) To ensure that the driver is authentically operating as a custom harvester, he/she should be able to provide *at least three* of the following methods of verification:

(a) The driver may have on hand a valid custom harvesting document such as a current date agricultural commodity scale sheet, a current date custom harvesting load sheet, an official company document stating the company purpose, etc.;

(b) The CMV may have license plates specific to custom harvesting, or the verbiage ''Harvesting'' may be part of the business signage on the vehicle;

(c) The CMV may be designed to haul a harvested agricultural commodity or equipment for harvesting, or be a support vehicle for custom-harvesting operations such as a service truck;

(d) The CMV may be hauling a harvested agricultural commodity or equipment for the purpose of custom harvesting;

(e) The CMV may have newly harvested commodity or remnants on board;

(f) The driver will be able to provide a verifiable location of the current harvesting operation or delivery location for a harvested commodity.

Period of the Exemption

This exemption from the requirements of 49 CFR 383.23(a)(2) and 383.153(a)(10)(vii) is effective from October 3, 2018 through October 3, 2023.

Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts

with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Notification to FMCSA

Under this exemption, the custom harvester employer must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's drivers operating under the terms of this exemption. The notification must include the following information:

(a) Identity of Exemption: ''USCHI''

(b) Date of the accident,

(c) City or town, and State, in which the accident occurred, or closest to the accident scene,

(d) Driver's name and license number,

(e) Co-driver's name and license number,

(f) Vehicle number and State license number,

(g) Number of individuals suffering physical injury,

(h) Number of fatalities,

(i) The police-reported cause of the accident,

(j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and

(k) The total driving time and total on-duty time period prior to the accident.

Accident notifications shall be emailed to *MCPSD@dot.gov.*

Termination

FMCSA believes that the drivers of custom harvesting vehicles will continue to maintain their previous safety record while operating under this exemption. However, should problems occur, FMCSA will take all steps necessary to protect the public interest, including revocation or restriction of the exemption. FMCSA will immediately revoke or restrict the exemption for failure to comply with its terms and conditions.

Issued on: September 26, 2018.

Raymond P. Martinez,

Administrator.

[FR Doc. 2018–21541 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–2018–0060]

Reports, Forms, and Record Keeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on July 17, 2018. This notice addresses comments received.

DATES: Written comments should be submitted on or before November 2, 2018.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Mary Byrd, Office of Behavioral Safety, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, W46–466, Washington, DC 20590; telephone: (202) 366–5595; email: *mary.byrd@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Information Collection Request

Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with these requirements, this notice announces that the following information collection request has been forwarded to OMB.

OMB Control Number: To be issued at time of approval.

Title: Emergency Medical Services Sleep Health and Fatigue Education.

Form Numbers: NHTSA Forms 1460, 1461, 1462, 1463, 1464, 1465, 1466, and 1467.

Type of Review: New information collection.

Abstract: NHTSA proposes to collect information from Emergency Medical Services (EMS) personnel who operate ambulances on the roadway for a one-time voluntary study to evaluate the effectiveness of a fatigue mitigation intervention that delivers education and training. Up to 200 EMS agencies across the United States will be contacted and screened in order to recruit a total of 30 agencies to participate in the study. NHTSA anticipates contacting up to 100 EMS personnel per participating agency (3,000 total) to screen and recruit 1,500 eligible participants for the study. NHTSA expects 1,200 voluntary participants to complete the sign-up process, including providing demographic information and shift schedules, and to consent to participate in the 24-week study. Participants will complete a baseline survey that includes self-reported fatigue and sleepiness and will retake the survey halfway through the study and again at the end of the study. All participants will complete the ten ten-minute training modules during the study period. Once the study is underway, participants will be asked to respond to daily text messages about sleepiness and fatigue for eight weeks of the 24-week study. Finally, NHTSA will ask 30 of the 1,200 participants to provide additional information by keeping a daily sleep diary for eight weeks and by taking a brief vigilance task test to measure fatigue at the beginning and end of each shift over eight days.

Respondents: NHTSA anticipates contacting up to 3,000 EMS personnel across 30 participating agencies to recruit up to 1,200 voluntary respondents.

Estimated Total Annual Burden: The total estimated burden for EMS agency recruitment (17 hours), recruitment of EMS clinicians (250 hours), the consenting process (250 hours), initial data collection and training (2,900), follow-up data collection (6,600), and additional data collection for assessing measurement error (124) is 10,141 hours.

II. Comment Response

On July 14th, 2018, NHTSA published a notice in the **Federal Register** (NHTSA–2018–0060) with a 60-day public comment period to announce this proposed information collection. As of the closing date of September 17th, 2018, two comments were received in response to this notice.

Both comments were positive and supportive of this information collection request.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.95.

Issued in Washington, DC on September 28, 2018.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2018–21540 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2013–0074]

Request OMB Clearance for Agency Request for Reinstatement of a Previously Approved Information Collection: Foreign Air Carrier Application for Statement of Authorization

AGENCY: Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Department of Transportation, Office of the Secretary invite the general public, industry and other governmental parties to comment on the Foreign Air Carrier Application for Statement of Authorization. The pre-existing information collection request previously approved by the Office of Management and Budget (OMB) expired on May 31, 2017.

DATES: Written comments should be submitted by December 3, 2018.

FOR FURTHER INFORMATION CONTACT: Darren Jaffe, (202) 366–2512, Office of International Aviation, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W86–441, Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

ADDRESSES: You may submit a comment to Docket No. DOT–OST–2013–0074 through one of the following methods:

Website: http://www.regulations.gov. Follow the instructions for submitting comments on the FDMS electronic docket site.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590.

Hand Delivery: 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., Monday through Friday, except Wednesday and Federal Holidays.

Instructions: All comments must include the agency name and FDMS Docket No. DOT–OST–2013–0074. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT's complete Privacy Act Statement in the **Federal Register** published on February 3, 2006 (71 FR 5780), or you may visit *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Wednesday and Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on Docket No. DOT–OST–2013–0074.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) to submit comments to the docket and to ensure their timely receipt at U.S. DOT.

SUPPLEMENTARY INFORMATION:

OMB Control No. 2106–0035.

Title: Foreign Air Carrier Application for Statement of Authorization.

Form No.: Form OST 4540.

Type of Review: Reinstatement of a Previously Approved Information Collection.

Respondents: Foreign Air Carriers.

Number of Respondents: Approximately 100.

Estimated Time per Response: 2.25 hours per application.

Total Annual Burden: 1,000 hours.

Abstract: Applicants use Form OST 4540 to request statements of authorization to conduct numerous types of operations authorized under Title 14, CFR part 212. The form requires basic information regarding the carrier(s) conducting the operation, the party filing the form, the operations being conducted, the number of third- and fourth-freedom flights conducted in the last twelve-month period, and certification of reciprocity from the carrier's homeland government. DOT analysts will use the information collected to determine if applications for fifth-freedom operations meet the public interest requirements necessary to authorize such applications.

Burden Statement: We estimate that the industry-wide total hour burden for this collection to be approximately 1,000 hours or approximately 2.25 hours per application. Conservatively, we estimate the compilation of background information will require 1.75 hours, and the completion and submission of OST Form 4540 will require thirty (30) minutes. Reporting the number of third- and fourth-freedom operations conducted by an applicant carrier will require collection of flight data, and detailed analysis to determine which flights conducted by the carrier are third- and fourth-freedom. Applicants should be able to use data collected for the Department's T–100 program to provide this information (under this program, carriers are required periodically to compile and report certain traffic data to the Department, as more fully described in the Docket referenced in footnote 1 below). The Bureau of Transportation Statistics (BTS) provide carriers with a computer program that allows them to compile and monitor, among other things, flight origin and destination data, to be used in making the carriers' T–100 submissions.[1] We estimated that carriers will require 1.25 hours per application [2] to compile and analyze the data necessary to disclose the number of third- and fourth-freedom flights conducted within the twelve-month period preceding the filing of an application.

Foreign carriers will also have to provide evidence that their homeland government will afford reciprocity to U.S. carriers seeking authority for the similar fifth-, sixth- and seventh-freedom operations. Carriers may cite certifications submitted by carriers from the same homeland if that homeland

[1] The rule-making associated with the T–100 program can be found on the Federal Docket Management System (FDMS) at *http://www.regulations.gov,* in Docket DOT–OST–1998–4043. Information regarding burden hours is on file in the Office of Aviation Analysis (X–50).

[2] The Office of Aviation Analysis (X–50) estimated that small-carriers would require 1 burden hour per report, and large carriers would require 3 burden hours per report to analyze and report T–100 program data. Considering that the data required in this information collection can be derived from data already collected, we have taken an average of the estimated time required, and conservatively shortened the time by 45 minutes because no new data entry will be required.

issued such certification within the preceding six-month period. Approximately 100 carriers from roughly 30 distinct homelands use OST Form 4540 to apply for statements of authorization annually. We estimate that one foreign carrier from any given homeland will expend roughly 4 hours every six-months to obtain certification from its homeland governments.[3] We have apportioned 30 minutes to each application to account for the time required to obtain certifications from homeland governments.

We have no empirical data to indicate how much time is required for a person to complete OST Form 4540; however, anecdotal evidence reveals that respondents spend thirty (30) minutes or less completing the form and brief justification. In some cases, respondents spend a limited amount of time, less than ten (10) minutes, reviewing the form before sending it via facsimile or email to the Department. In the interest of providing a conservative estimate so as to not understate the burden hours, we estimate the hour burden for completing OST Form 4540 as thirty (30) minutes.

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 Office of the Secretary's performance; (2) the accuracy of the estimated burden; (3) ways for the Office of the Secretary 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. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

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

Issued in Washington, DC, on September 14, 2018.

Brian J. Hedberg,

Director, Office of the International Aviation.

[FR Doc. 2018–20494 Filed 10–2–18; 8:45 am]

BILLING CODE 4910–9X–P

[3] Calculation: (4 burden hours per application) × (30 foreign homelands) × (2 requests per year) = 240 annual burden hours. Apportioning 240 annual burden hours equally among an average of 430 applications annually = approximately 30 burden minutes per application.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–2018–0128]

Privacy Act of 1974; Department of Transportation, Office of the Secretary of Transportation; DOT/ALL 26; Department of Transportation Insider Threat Program

AGENCY: Office of the Departmental Chief Information Officer, Office of the Secretary of Transportation, DOT.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Transportation (DOT) intends to establish a system of records titled, ''DOT/ALL 26, Insider Threat Program.'' This system of records will allow DOT to administer an insider threat program, including identification of potential external foreign intelligence risks and insider threats, and to maintain information regarding counterintelligence or insider threat inquiries. This system will be included in the Department of Transportation's inventory of record systems.

DATES: Written comments should be submitted on or before November 2, 2018 The Department may publish an amended SORN in light of any comments received. This new system will take effect November 2, 2018.

ADDRESSES: You may submit comments, identified by docket number OST–2018–0128 by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number OST–2018–0128. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's system of records notice for dockets in the **Federal Register** notice published on January 17, 2008 (73 FR 3316–3317).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For questions, please contact: Claire W. Barrett, Departmental Chief Privacy Officer, Privacy Office, Department of Transportation, Washington, DC 20590; *privacy@dot.gov*; or (202) 366–8135.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the United States Department of Transportation (DOT) proposes to create a new DOT system of records titled, ''DOT/ALL–26 Insider Threat Program.'' This system of records is created as a DOT/ALL system because records are maintained for this program by the Office of the Secretary (OST) and the Federal Aviation Administration (FAA), two DOT components. This system of records notice only applies to records maintained by the Office of the Secretary and the Federal Aviation Administration's Insider Threat Programs. There are no other components within DOT authorized to administer an insider threat program. The term ''DOT Insider Threat Program'' refers to the insider threat program administered by both OST and the FAA.

Executive Order 13587, *Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information,* directs Federal departments and agencies to establish insider threat programs consistent with guidance and standards developed by the National Insider Threat Task Force, which was established under section 6 of Executive Order 13587. The National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs were issued in November 2012. As described in Executive Order 13587 and the National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, insider threat programs are intended to deter and detect insider threats and mitigate the risks associated with an individual using his or her authorized access to Government information and facilities to do harm to the security of the United States. This insider threat may include espionage, terrorism, unauthorized

disclosure of national security information, or the loss or degradation of Government resources or capabilities.

The DOT Insider Threat Program will adhere to Executive Order 13587 and the National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, and will include protocols for reporting and responding to potential or suspected insider threat activity.

The DOT Insider Threat Program applies to all DOT Operation Administrations and Secretarial Offices, and to all DOT employees who have access to classified systems (as defined in Executive Order 13587), as well as to controlled unclassified information or information systems, as determined by DOT. For the purposes of the DOT Insider Threat Program, Executive Order 12968 defines ''employee'' as ''a person, other than the President and Vice President, employed by, detailed or assigned to, an agency, including members of the Armed Forces; an expert or consultant to an agency; an industrial or commercial contractor, licensee, certificate holder, or grantee of an agency, including all subcontractors; a personal services contractor; or any other category of person who acts for or on behalf of an agency,'' as determined by the Secretary of Transportation or, for the FAA, the FAA Administrator. This definition includes interns and students. A licensee, certificate holder (such an airman), or grantee who is not also a DOT employee is generally excluded from the DOT Insider Threat Program; however, such an individual may be included if a determination is made that the nature and extent of that individual's access to DOT personnel, facilities, equipment, systems, networks, operations, and information necessitates their inclusion.

Per DOT Order 1642.1, the Department's Defensive Counterintelligence and Insider Threat Program Manager within the Office of the Secretary oversees the collection, analysis, and reporting of information across DOT, including FAA, to support the identification and assessment of insider threats. Subject to this oversight, OST administers the DOT Insider Threat Program for all DOT Operating Administrations except the FAA, which administers the DOT Insider Threat Program for itself.

The DOT Insider Threat Program will maintain information about employees who demonstrate indicia of potential insider threats. Indicia of potential insider threats may be identified to the DOT Insider Threat Program through referrals or the Insider Threat Program office's review/analysis of DOT information assets (together, referred to as ''reports''). Reports of potential insider threats can come from a variety of sources, including other Federal agencies, DOT employees, and Insider Threat program staff. The DOT Insider Threat Program will review reports in accordance with established DOT and FAA Insider Threat Program management policy and procedures, as applicable. Based on this review, an appropriate authorized OST or FAA official will determine whether to proceed with an insider threat inquiry, refer the matter to appropriate law enforcement officials, close the matter, or take other appropriate action. Insider threat inquiries will be comprised primarily of existing DOT information assets including, but not limited to, records from information security, personnel security, and human resources; and may include information obtained from other Federal agencies or from publicly available resources (such as internet searches). The DOT Insider Threat Program records also will be used to track reports of indicia of potential insider threats, whether or not an inquiry was opened; the rationale for opening or not opening an inquiry; the disposition of all inquiries, and referrals to law enforcement (such as the DOT Office of the Inspector General or the Federal Bureau of Investigation); and to report on DOT's Insider Threat Program activities.

In addition to the General Routine Uses applicable to all DOT systems of records, the Department may disclose information from this system to third parties, only to the extent necessary and relevant to an insider threat inquiry conducted by DOT or FAA. The DOT also may disclose information from this system to other Federal agencies, when necessary and relevant to an insider threat inquiry conducted by that Federal agency. These routine uses are compatible with the purposes for which the information was collected because individuals who have authorized access to classified or controlled unclassified information are aware that the Federal Government must take steps, such as sharing information with other Federal agencies, when necessary to obtain additional information relevant to the subject matter of an insider threat inquiry. It must also protect these assets from unauthorized access, use, and disclosure, including regularly evaluating/re-evaluating individuals' suitability for employment and for access to classified or sensitive but unclassified information and information systems.

This new system will be included in DOT's inventory of record systems.

II. Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A ''System of Records'' is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (*e.g.,* to determine if the system contains information about them and to contest inaccurate information).

In a notice of proposed rulemaking, which will be published separately in the **Federal Register**, the Department is proposing exempting this system from certain provisions of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2).

In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER

Department of Transportation (DOT)/ ALL—26, Insider Threat Program

SECURITY CLASSIFICATION:

Most of the records in this system are unclassified or controlled unclassified information; however, the system also may include records that are classified.

SYSTEM LOCATION:

Records are maintained in the DOT, Office of the Secretary, and Federal Aviation Administration at their headquarters in Washington, DC.

SYSTEM MANAGERS:

DOT, Office of Intelligence, Security and Emergency Response, 1200 New Jersey Ave. SE, Washington, DC 20590.

FAA, Assistant Administrator for Security and Hazardous Materials Safety, 800 Independence Avenue SW, Washington, DC 20591.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3381 (section 811 of the Intelligence Authorization Act for Fiscal Year 1995); Executive Order 10450, Security Requirements for Government

Employment (April 17, 1953); Executive Order 12444; Executive Order 10865, Safeguarding Classified Information within Industry (Jan. 7, 1961); Executive Order 12829, National Industrial Security Program (Jan. 6, 1993); Executive Order 12968, Access to Classified Information (Aug. 2, 1995); Executive Order 13567, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information (June 30, 2008); Executive Order 13488, Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust (Jan. 16, 2009); Executive Order 13526, Classified National Security Information (Jan. 5, 2010); Executive Order 13587, Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information (Oct. 7, 2011); 49 U.S.C. 40113, 49 U.S.C. 44701(a)(5).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to receive and respond to reports of potential insider threats, manage and track insider threat inquiries and law enforcement referrals, and identify potential insider threats to DOT information assets.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOT employees, including contractors, subcontractors, experts, consultants, licensees, certificate holders, grantees, interns, students, or any other category of person who acts on behalf of DOT and has authorized access to classified or controlled unclassified information, as determined by the Secretary of Transportation or Administrator of the Federal Aviation Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the system will include reports of indicia of insider threat activity, and information relevant and necessary to DOT's evaluation of those reports and the conduct of an insider threat inquiry. These records may include information obtained from DOT Operating Administrations, other Federal agencies, or publicly available sources, including, but not limited to, personnel security records, administrative adjudication records, regulatory records, incident reports, personnel records, network or building access records, identification media records, law enforcement records, financial records, and travel records. Information derived from these record sources may include full name; former names/aliases; date and place of birth; social security number; hair and eye color; ethnicity and race; gender; biometric data; mother's maiden name; current and former home and work addresses, phone numbers, and email addresses; employment history; military history; education history; criminal history; court actions; credit reports; financial information, including financial disclosure filings; personnel security adjudications and eligibility decisions; spouse, cohabitant, or relative names, dates and places of birth, social security numbers, and citizenship information; foreign contacts and activities; travel records or briefings; polygraph examination reports; document control registries; facility access records; security violation files; and requests for access to classified information. This system also includes reports of indicia of potential insider threats and counterintelligence referrals, insider threat inquiry reports, and referrals to law enforcement.

RECORD SOURCE CATEGORIES:

Records are obtained from existing DOT record systems, publicly-available sources, Federal agencies, DOT employees, or individuals who are the subject of such records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3):

(1) To third parties only to the extent necessary and relevant to a DOT or FAA insider threat inquiry;

(2) To any Federal agency with responsibilities for activities related to counterintelligence or the detection of insider threats, for the purpose of conducting such activities;

DOT General Routine Uses

(3) To the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of implementing, investigating, prosecuting, or enforcing a statute, regulation, rule or order, when a record in this system indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, including any records from this system relevant to the implementation, investigation, prosecution, or enforcement of the statute, regulation, rule, or order that was or may have been violated;

(4) To a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary for DOT to obtain information relevant to a DOT decision concerning the hiring or retention or an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit;

(5) To a Federal agency, upon its request, in connection with the requesting Federal agency's hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation or 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 requested is relevant and necessary to the requesting agency's decision on the matter;

(6) To the Department of Justice, or any other Federal agency conducting litigation, when (a) DOT, (b) any DOT employee, in his/her official capacity, or in his/her individual capacity if the Department of Justice has agreed to represent the employee, or (c) the United States or any agency thereof, is a party to litigation or has an interest in litigation, and DOT determines that the use of the records by the Department of Justice or other Federal agency conducting the litigation is relevant and necessary to the litigation; provided, however, that DOT determines, in each case, that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records where collected.

(7) To parties in proceedings before any court or adjudicative or administrative body before which DOT appears when (a) DOT, (b) any DOT employee in his or her official capacity, or in his or her individual capacity where DOT has agreed to represent the employee, or (c) the United States or any agency thereof is a party to litigation or has an interest in the proceeding, and DOT determined that is relevant and necessary to the proceeding; provided, however, that DOT determines, in each case, that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records where collected.

(8) To the Office of Management and Budget (OMB) in connection with the review of privacy relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and

clearance process set forth in that Circular.

(9) To the National Archives and Records Administration for an inspection under 44 U.S.C. 2904 and 2906.

(10) To another agency or instrumentality of any government jurisdiction for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims; however, this routine use only permits the disclosure of names pursuant to a computer matching program that otherwise complies with the requirements of the Privacy Act.

(11) To the Attorney General of the United States, or his/her designee, information indicating that a person meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by DOT to the Attorney General (or designee), it shall be a routine use of the information in this system to make any disclosures of such information to the National Background Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

(12) To appropriate agencies, entities, and persons, when (1) DOT suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) DOT 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 DOT or not) that rely on the compromised information; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(13) To the Office of Government Information Services (OGIS) for the purpose of resolving disputes between requesters seeking information under the Freedom of Information Act (FOIA) and DOT, or OGIS' review of DOT's policies, procedures, and compliance with FOIA.

(14) To DOT's contractors and their agents, DOT's experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.

(15) To an agency, organization, or individual for the purpose of performing an audit or oversight related to this system or records, provided that DOT determines the records are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under Section (b)(1) of the Privacy Act.

(16) To a Federal, State, local, tribal, foreign government, or multinational agency, either in response to a request or upon DOT's initiative, terrorism information (6 U.S.C. 485(a)(5), homeland security information (6 U.S.C. 482(f)(1), or law enforcement information (Guideline 2, report attached to White House Memorandum, ''Information Sharing Environment,'' Nov. 22, 2006), when DOT finds that disclosure of the record is necessary and relevant to detect, prevent, disrupt, preempt, or mitigate the effects of terrorist activities against the territory, people, and interests of the United States, as contemplated by the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–456, and Executive Order 13388 (Oct. 25, 2005).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically and/or on paper in secure facilities.

POLICIES AND PRACTICES FOR RETREIVEAL OF RECORDS:

Records may be retrieved by individual's name or DOT- or FAA-assigned case number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records in this system are covered by National Archives and Records Administration Schedule 5.6, items 230 and 240. Records determined to be associated with an insider threat or to have potential to be associated with an insider threat are destroyed 25 years after the date the threat was discovered, but a longer retention is authorized if required for business use. User attributed data collected to monitor user activities on a network to enable insider threat programs and activities to support authorized inquiries and investigations, is destroyed five years after an inquiry was opened, but a longer retention period is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individual seeking access to records in this system of records should follow the procedures described in the section ''Notification procedure'' below.

CONTESTING RECORD PROCEDURES:

Individuals seeking amendment to the records in this system of records should follow the procedures described in the section ''Notification procedure'' below.

NOTIFICATION PROCEDURES:

The Secretary of Transportation has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it may contain classified information, and includes allegations and inquiries about potential unauthorized disclosure of classified or controlled unclassified information in violation of federal law. However, DOT/FAA will consider individual requests to determine whether or not the information requested may be released. Thus, individuals who seek notification of and access to any record contained in this system, or who seek to contest its content, may submit a request for such information to the DOT or FAA. Individuals seeking access to records in this system maintained by the DOT Insider Threat Program should submit a request to the DOT or FAA System Manager identified at the address listed under ''System Manager and Address,'' above.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 49 CFR part 10. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual

certifying his/her agreement for you to access his/her records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system contains classified and unclassified records that are exempt from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2): (c)(3), (d), (e)(1), (e)(4)(G)–(I), and (f).

HISTORY

This is a new system of records.

Claire W. Barrett,

Departmental Chief Privacy Officer.

[FR Doc. 2018–21441 Filed 10–2–18; 8:45 am]

BILLING CODE P

Reader Aids

Federal Register

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CUSTOMER SERVICE AND INFORMATION

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The United States Government Manual — **741–6000**

Other Services

Electronic and on-line services (voice) — **741–6020**

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ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

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Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, OCTOBER

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CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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