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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–4159; Special Conditions No. 25–735–SC]

Special Conditions: Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 Airplanes; Enhanced Flight Vision System (EFVS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Inc. (Bombardier) Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes will have a novel or unusual design feature associated with an enhanced flight-vision system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Bombardier on November 5, 2018. Send your comments by December 20, 2018.

ADDRESSES: Send comments identified by docket number FAA–2016–4159 using any of the following methods:

- *Federal eRegulations 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, 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: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

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, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John Stuber, FAA, Airframe and Cabin Safety Section, AIR–671, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3164; email *john.stuber@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions previously has been published in the **Federal Register** for public comment. These special conditions have been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and finds that, for the same reason, good cause exists for adopting these special conditions upon publication in the **Federal Register**.

Comments Invited

The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to prior opportunities for comment described above. We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 30, 2012, Bombardier applied for an amendment to type certificate no. T00003NY to include the new Model BD–700–2A12 and BD–700–2A13 airplanes. These airplanes are derivatives of the Model BD–700 series of airplanes and are marketed as the Bombardier Global 7000 (Model BD–700–2A12) and Global 8000 (Model BD–700–2A13). These airplanes are twin-engine, transport-category, executive-interior business jets. The maximum passenger capacity is 19 and the maximum takeoff weights are 106,250 lbs. (Model BD–700–2A12) and 104,800 lbs. (Model BD–700–2A13).

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Bombardier must show that the Model BD–700–2A12 and BD–700–2A13 airplanes meet the applicable provisions of the regulations listed in Type Certificate No. T00003NY, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model BD–700–2A12 and BD–700–2A13 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be

modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model BD–700–2A12 and BD–700–2A13 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Model BD–700–2A12 and BD–700–2A13 airplanes will incorporate the following novel or unusual design features:

Installation of an enhanced flight-vision system (EFVS).

Discussion

When the FAA began to evaluate the display of enhanced flight-vision system (EFVS) imagery on the head-up display, significant potential to obscure the outside view became apparent, contrary to the requirements of § 25.773. Section 25.773 does not permit distortions and reflections in the pilot-compartment view that can interfere with normal duties, and was not written in anticipation of EFVS technology. The EFVS video image potentially interferes with the pilot's ability to see the natural scene in the center of the forward field of view.

The FAA issued special conditions for such HUD/EFVS installations to ensure that the level of safety required by § 25.773 would be met even when the image might partially obscure the outside view. Unlike the pilot's natural forward vision, the EFVS image is infrared-based, monochrome, 2-dimensional (*i.e.,* providing no depth perception), and of lower resolution. Although the pilot may be able to see around and through small, individual symbols on the HUD, the pilot may not be able to see around or through the image that fills the display without some interference of the outside view. Nevertheless, the EFVS may be capable of meeting the required level of safety when considering the combined view of the image and the outside scene visible to the pilot through the image. It is essential that the pilot can use this combination of image and natural view of the outside scene as safely and effectively as is the pilot-compartment view currently available without the EFVS image.

Because § 25.773, at the applicable amendment level, does not provide for any alternatives or considerations for a novel or unusual design feature, the FAA establishes safety requirements that assure an equivalent level of safety and effectiveness of the pilot-compartment view as intended by that rule. The purpose of these special conditions is to provide the unique pilot-compartment-view requirements for the EFVS installation.

Compliance with these special conditions is required for the EFVS to be found acceptable, for the following intended functions, in accordance with § 91.176(b):

1. Presenting an image that would aid the pilot during a straight-in instrument approach.

2. Enable the pilot to determine the ''enhanced flight visibility,'' as required by § 91.176(b)(3), for descent and operation below MDA/DH.

3. Enable the pilot to use the EFVS imagery to detect and identify the ''visual references for the intended runway,'' required by § 91.176(b)(3), to continue the approach with vertical guidance to 100 feet height above touchdown-zone elevation.

Note: The term ''Enhanced Vision System,'' or EVS, commonly refers to a system comprising a HUD, imaging sensor(s), and avionics interface(s) that displays the sensor imagery on the HUD and overlays it with alpha-numeric and symbolic flight information. However, the term has also been used to refer to systems that display the sensor imagery, with or without other flight information, on a head-down display. Therefore, to avoid confusion, the FAA has defined the term ''Enhanced Flight Vision System'' (EFVS) to refer to certain EVS that meet the requirements of § 91.176(b), in particular the requirement for a HUD and specified flight information, and the ability to determine ''enhanced flight visibility.'' Accordingly, an EFVS can be considered a subset of systems otherwise labeled EVS.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 airplanes. Should Bombardier Inc. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two models of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 airplanes.

1. EFVS imagery on the HUD must not degrade the safety of flight, nor interfere with the effective use of outside visual references for required pilot tasks, during any phase of flight in which it is to be used.

2. To avoid unacceptable interference with the safe and effective use of the pilot-compartment view, the EFVS device must meet the following requirements:

a. EFVS design must minimize unacceptable display characteristics or artifacts (*e.g.* noise, ''burlap'' overlay, running water droplets) that obscure the desired image of the scene, impair the pilot's ability to detect and identify visual references, mask flight hazards, distract the pilot, or otherwise degrade task performance or safety.

b. Control of EFVS display brightness must be sufficiently effective, in dynamically changing background (ambient) lighting conditions, to prevent full or partial blooming of the display that would distract the pilot, impair the pilot's ability to detect and identify visual references, mask flight hazards, or otherwise degrade task performance or safety. If automatic control for image brightness is not provided, it must be shown that a single manual setting is satisfactory for the range of lighting conditions encountered during a time-critical, high-workload phase of flight (*e.g.,* low-visibility instrument approach).

c. A readily accessible control must be provided that permits the pilot to immediately deactivate and reactivate display of the EFVS image on demand, without removing the pilot's hands from the primary flight controls (yoke or equivalent) or thrust control.

d. The EFVS image on the HUD must not impair the pilot's use of guidance

information, or degrade the presentation and pilot awareness of essential flight information displayed on the HUD, such as alerts, airspeed, attitude, altitude and direction, approach guidance, wind-shear guidance, TCAS resolution advisories, and unusual-attitude recovery cues.

e. The EFVS image and the HUD symbols, which are spatially referenced to the pitch scale, outside view, and image, must be scaled and aligned (*i.e.,* conformal) to the external scene and, when considered singly or in combination, must not be misleading, cause pilot confusion, or increase workload. Airplane attitudes or cross-wind conditions may cause certain symbols, such as the zero-pitch line or flight-path vector, to reach field-of-view limits such that they cannot be positioned conformably with the image and external scene. In such cases, these symbols may be displayed, but with an altered appearance (*e.g.,* ''ghosting'') which makes the pilot aware that they are no longer displayed conformally.

f. A HUD system that displays EFVS images must, if previously certified, continue to meet all of the requirements of the original approval.

3. The safety and performance of the pilot tasks associated with the use of the pilot-compartment view must be not be degraded by the display of the EFVS image. Pilot tasks, which must not be degraded by the EFVS image, include:

a. Detection, accurate identification, and maneuvering, as necessary, to avoid traffic, terrain, obstacles, and other hazards of flight.

b. Accurate identification and utilization of visual references required for every task relevant to the phase of flight.

4. Use of EFVS for instrument approach operations must be in accordance with the provisions of the applicable § 91.176 operational rule. Appropriate limitations must be stated in the Operating Limitations section of the Airplane Flight Manual to prohibit the use of the EFVS for functions that have not been found to be acceptable.

Issued in Des Moines, Washington, on October 29, 2018.

Victor Wicklund,

Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–24104 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0585; Product Identifier 2018–NM–070–AD; Amendment 39–19481; AD 2018–22–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This AD was prompted by reports that non-conforming FIREX squib wire harness connectors may have been installed, which could result in FIREX squib wire harness connectors being connected to the wrong FIREX bottle connectors on affected aircraft. This AD requires a visual inspection of the connections between the FIREX squib wire harness connectors and FIREX bottle connectors, installation of split ring lanyards on the FIREX squib wire harness connectors, and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 10, 2018.

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

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* internet *http://www.bombardier.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–2018–0585.

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–2018–0585; 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: John DeLuca, Aerospace Engineer, Avionics and Electrical Systems Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7369; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The NPRM published in the **Federal Register** on July 6, 2018 (83 FR 31491). The NPRM was prompted by reports that non-conforming FIREX squib wire harness connectors may have been installed, which could result in FIREX squib wire harness connectors being connected to the wrong FIREX bottle connectors on affected aircraft. The NPRM proposed to require a visual inspection of the connections between the FIREX squib wire harness connectors and FIREX bottle connectors, installation of split ring lanyards on the FIREX squib wire harness connectors, and corrective actions if necessary.

We are issuing this AD to address this wiring discrepancy, which, in the event of an engine fire, could result in misrouting the supply of fire extinguishing agent to the wrong engine, or limit the supply from both FIREX bottles to only one engine, which could result in the inability to extinguish an engine fire.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–08R1, dated March 2, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states:

Bombardier Inc. has been made aware that non-conforming squib connector wire harnesses may have been installed on one of the two engine FIREX bottle installations on some of the affected aeroplanes. The subject non conformity of squib connector wire

length can allow cross connection between the two squib connectors on one of the engine FIREX bottles, preventing proper function of the engine FIREX system.

In the event of an engine fire, this wiring discrepancy may potentially misroute the supply of fire extinguishing agent to the wrong engine, or limit the supply from both FIREX bottles to only one engine, hence impacting the operational safety of the aeroplane.

Bombardier Inc. issued service bulletins (SB) 700–26–011, 700–26–5003, 700–26–6003, and 700–1A11–26–004, for the affected model aeroplanes, to address the potentially unsafe condition caused by the non-conforming FIREX bottle squib connector wiring.

The original version of this [Canadian] AD was issued to mandate compliance with the above-mentioned SBs, as applicable.

Revision 1 of this [Canadian] AD is issued to correct an error in the applicability section of the original AD.

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–2018–0585.

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 Revised Service Information

Bombardier requested that the NPRM be updated to reference the current revision of certain service information to avoid issuing an Alternate Means of Compliance (AMOC) following the release of this AD. Bombardier noted that four service bulletins referred to in the NPRM have been revised. Bombardier stated that the latest revisions correct a minor error in the original weight and balance section. Bombardier also noted that a previous revision to the service information included mention of the Canadian AD CF–2018–08R1, as well as a clarifying note in the close-out instruction of the service information for operator convenience and ease of use.

We agree with the commenter's request. Because the revised service information does not include any additional actions, we have updated the preamble and figure 1 to paragraph (g) of this AD to refer to the revised service information.

Bombardier also requested that we revise the NPRM to include previous revisions of the service information as credit for operators who have already accomplished the required actions to avoid issuance of AMOCs following the release of this AD.

We agree with the commenter's request. Because the previous revisions of the service information do not include any additional actions, we have revised paragraph (h) of this AD to provide credit for actions accomplished prior to the effective date of this AD using the applicable Bombardier service information identified in paragraphs (h)(1) through (h)(12) of this AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule 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

Bombardier, Inc. issued the following service information:

- Bombardier Service Bulletin 700–1A11–26–004, Revision 03, dated August 24, 2018.
- Bombardier Service Bulletin 700–26–011, Revision 03, dated August 24, 2018.
- Bombardier Service Bulletin 700–26–5003, Revision 03, dated August 24, 2018.
- Bombardier Service Bulletin 700–26–6003, Revision 03, dated August 24, 2018.

This service information describes procedures for a visual inspection of the connections between the FIREX squib wire harness connectors and the FIREX bottle connectors to determine whether the connectors are installed correctly, and installation of split ring lanyards on the FIREX squib wire harness connectors. This service information also describes procedures for reconnecting incorrectly installed connectors to the appropriate mating connectors and an operational test of the fire extinguishing system. These documents are distinct since they apply to different airplane models in different configurations. 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 358 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/Modification	2 work-hours × $85 per hour = $170	$55	$225	$80,550

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

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service,

as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes 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):

2018–22–08 Bombardier, Inc.: Amendment 39–19481; Docket No. FAA–2018–0585; Product Identifier 2018–NM–070–AD.

(a) Effective Date

This AD is effective December 10, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9001 through 9839 inclusive, and serial number 9998.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Reason

This AD was prompted by reports that non-conforming FIREX squib wire harness connectors may have been installed, which could result in FIREX squib wire harness connectors being connected to the wrong FIREX bottle connectors on affected aircraft. We are issuing this AD to address this wiring discrepancy, which, in the event of an engine fire, could result in misrouting the supply of fire extinguishing agent to the wrong engine, or limit the supply from both FIREX bottles to only one engine, which could result in the inability to extinguish an engine fire.

(f) Compliance

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

(g) Required Actions

Within 1,000 flight hours or 15 months, whichever occurs first, after the effective date of this AD, perform a visual inspection for correct connections between the FIREX squib wire harness connectors and FIREX bottle connectors, and install split ring lanyards on the FIREX squib wire harness connectors, in accordance with the Accomplishment Instructions of the applicable service information listed in figure 1 to paragraph (g) of this AD. If any incorrect connections are found: Before further flight, re-connect the connectors to the appropriate mating connecters and do an operational test of the fire extinguishing system, in accordance with the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraph (g) of this AD.

Figure 1 to paragraph (g) of this AD – *Service Information Applicability*

Airplane Model	Bombardier Service Information
BD-700-1A10	Service Bulletin 700-26-011, Revision 03, dated August 24, 2018
BD-700-1A10	Service Bulletin 700-26-6003, Revision 03, dated August 24, 2018
BD-700-1A11	Service Bulletin 700-1A11-26-004, Revision 03, dated August 24, 2018
BD-700-1A11	Service Bulletin 700-26-5003, Revision 03, dated August 24, 2018

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the applicable service information listed in paragraphs (h)(1) through (h)(12) of this AD.

(1) Bombardier Service Bulletin 700–1A11–26–004, dated December 28, 2017.

(2) Bombardier Service Bulletin 700–1A11–26–004, Revision 01, dated February 15, 2018.

(3) Bombardier Service Bulletin 700–1A11–26–004, Revision 02, dated July 27, 2018.

(4) Bombardier Service Bulletin 700–26–011, dated December 28, 2017.

(5) Bombardier Service Bulletin 700–26–011, Revision 01, dated February 15, 2018.

(6) Bombardier Service Bulletin 700–26–011, Revision 02, dated July 27, 2018.

(7) Bombardier Service Bulletin 700–26–5003, dated December 28, 2017.

(8) Bombardier Service Bulletin 700–26–5003, Revision 01, dated February 15, 2018.

(9) Bombardier Service Bulletin 700–26–5003, Revision 02, dated July 27, 2018.

(10) Bombardier Service Bulletin 700–26–6003, dated December 28, 2017.

(11) Bombardier Service Bulletin 700–26–6003, Revision 01, dated February 15, 2018.

(12) Bombardier Service Bulletin 700–26–6003, Revision 02, dated July 27, 2018.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–08R1, dated March 2, 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–2018–0585.

(2) For more information about this AD, contact John DeLuca, Aerospace Engineer, Avionics and Electrical Systems Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7369; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 700–1A11–26–004, Revision 03, dated August 24, 2018.

(ii) Bombardier Service Bulletin 700–26–011, Revision 03, dated August 24, 2018.

(iii) Bombardier Service Bulletin 700–26–5003, Revision 03, dated August 24, 2018.

(iv) Bombardier Service Bulletin 700–26–6003, Revision 03, dated August 24, 2018.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* internet *http://www.bombardier.com.*

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

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

Issued in Des Moines, Washington, on October 22, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23687 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0027; Product Identifier 2017–NM–118–AD; Amendment 39–19482; AD 2018–22–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 787 series airplanes. This AD was prompted by reports that, under certain conditions, the automatic dependent surveillance-broadcast (ADS–B) out function and air traffic control/traffic alert and collision avoidance system (ATC/TCAS) functions can transmit incorrect data. This AD requires an inspection or records review to determine if certain software is installed, the installation of new software for the integrated surveillance system (ISS) operational program software (OPS) if necessary, a software check, and applicable on-condition actions. For certain airplanes, this AD also requires the installation of new software for the ISS OPS, ISS option selection software (OSS) file, and ISS airline selectable option (ASO) file; and installation of a new ISS definition file database within the displays and crew alerting (DCA) system. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 10, 2018.

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

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0027.

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–2018–0027; 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: Nelson O. Sanchez, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3543; email: *nelson.sanchez@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 all The Boeing Company Model 787 series airplanes. The NPRM published in the **Federal Register** on February 9, 2018 (83 FR 5741). The NPRM was prompted by reports that, under certain conditions, the ADS–B out function and ATC/TCAS functions can transmit incorrect data. The NPRM

proposed to require an inspection or records review to determine if certain software is installed, the installation of new software for the ISS OPS if necessary, a software check, and applicable on-condition actions. For certain airplanes, this AD also requires the installation of new software for the ISS OPS, ISS OSS file, ISS ASO file, and installation of a new ISS definition file database within the DCA database system.

We are issuing this AD to address the transmission of incorrect position and pressure altitude data, which could result in potential mid-air collisions.

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. The Air Line Pilots Association, International (ALPA) expressed support for the NPRM. United Airlines had no objection to the NPRM.

Request To Allow for Later-Approved Service Bulletins in Paragraph (h)

American Airlines requested that we consider revising paragraph (h) of the proposed AD to include later-approved service bulletins regarding software loading. American said this change would eliminate the need to obtain alternative methods of compliance (AMOCs) when software is updated.

We partially agree with the commenter's request. We cannot allow operators to use later-approved revisions of the service bulletins, since we may not refer to any document that does not yet exist in an AD. To allow operators to use later revisions of service bulletins (issued after publication of the AD), we must revise the AD to reference specific later revisions, or operators must request approval to use later revisions as an AMOC to the AD. However, we may allow for later-approved software versions if they are approved as a replacement for the applicable software, and are approved as part of the type design by the FAA or the Boeing Commercial Airplanes Organization Designation Authorization (ODA) after issuance of the service bulletins specified in this AD. Therefore, we have revised paragraph (h) of this AD to allow for later-approved versions of the software. Since paragraph (i) of this AD specifies a similar requirement for certain airplanes, we have also revised paragraph (i) of this AD to allow for later-approved software versions.

Request To Include Additional Software

Boeing suggested that we revise the Summary section and ''Related Service Information under 1 CFR part 51'' section of the NPRM and paragraph (i) of the proposed AD to include the following additional software: ISS OSS file, ISS ASO file, and installation of a new ISS definition file database within the DCA system. Boeing asserted that this would clarify which software may be impacted when considering all configurations in service.

We agree with the commenter's request. We have revised this final rule accordingly. We have also added this same information to the Discussion section of this final rule.

Request To Add Other Software Part Numbers to Paragraphs (g), (h), and (j) of the Proposed AD

Boeing suggested adding certain software part numbers to paragraphs (g), (h), and (j) of the proposed AD. Boeing observed that although the part numbers provided in the proposed AD represent the latest software installed in production, additional software might still be installed in-service. According to Boeing, the suggested additions would result in updates to paragraphs (g), (h), and (j) of the proposed AD to include all possible software part numbers.

We partially agree with the commenter's request because software part numbers COL40–0010–0010, COL41–0010–0011, and ISS SysIO OPS COL46–0007–0010, identified by Boeing, also have the potential to transmit incorrect data, which is the basis for the unsafe condition. However, we disagree with the suggestion to include more software part numbers because that would expand the scope of this AD and require a supplemental NPRM (SNPRM) and re-opening of the comment period, thereby delaying issuance of this final rule to address the identified unsafe condition. We are considering additional rulemaking applicable to all Boeing Model 787 airplanes to address the additional part numbers. This AD has not been changed with regard to this request.

Request To Give Credit for Prior Accomplishment of Requirements

Naftaly Wambugu requested that the FAA give credit to operators who will have accomplished Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017, across their Boeing 787 fleet.

We acknowledge the commenter's request and agree to clarify. Paragraph (f) of this AD provides credit to operators who have already accomplished the AD requirements, including those involving Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017, before the effective date of this AD. Therefore, this AD has not been changed with regard to this request.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017. This service information describes procedures for the installation of new software for the ISS OPS (which includes main input/output (IO) software and traffic transponder (XPDR) airborne collision avoidance system (ACAS) software), a software check, and applicable on-condition actions.

We also reviewed Boeing Service Bulletin B787–81205–SB340005–00, Issue 002, dated April 27, 2016. This service information describes procedures for the installation of new software for the ISS OPS, ISS OSS file, ISS ASO file, and for the ISS definition file database within the DCA system.

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 136 airplanes of U.S. registry. We also estimate that 115 airplanes will require installation and check of new software, and 54 airplanes will require the concurrent installation of other software. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Records Review/Inspection (136 airplanes)	1 work-hour × $85 per hour = $85	$0	$85	$11,560
Installation and Check (115 airplanes)	4 work-hours × $85 per hour = $340	0	340	39,100
Concurrent Installation (54 airplanes)	1 work-hour × $85 per hour = $85	0	85	4,590

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
4 work-hours × $85 per hour = $340	$0	$340

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

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):

2018–22–09 The Boeing Company: Amendment 39–19482; Docket No. FAA–2018–0027; Product Identifier 2017–NM–118–AD.

(a) Effective Date

This AD is effective December 10, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 787 series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by reports that under certain conditions the automatic dependent surveillance-broadcast (ADS–B) out and air traffic control (ATC)/traffic alert and collision avoidance system (TCAS) functions can transmit incorrect position and pressure altitude information in the data that is used by ATC to coordinate aircraft separation. We are issuing this AD to address the transmission of incorrect position and pressure altitude data, which could result in potential mid-air collisions.

(f) Compliance

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

(g) Inspection or Records Review

For airplanes that have an original certificate of airworthiness or export certificate of airworthiness issued on or before the effective date of this AD: Within 12 months after the effective date of this AD, inspect to determine if integrated surveillance system (ISS) operational program software (OPS) part number (P/N) COL40–0010–0100 or COL46–0007–0100 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the software can be conclusively determined from that review.

(h) Required Actions

If, during any inspection or records review required by paragraph (g) of this AD, any ISS OPS P/N COL40–0010–0100 or COL46–0007–0100 is found: Within 12 months after the effective date of this AD, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017; except where Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017, specifies installing software P/Ns COL41–0010–0101 and COL44–0007–0102, this AD requires installing P/Ns COL41–0010–0101 and COL44–0007–0102, or later-approved software versions. Later-approved software versions are only those Boeing software versions that are approved as a replacement for the applicable software, and are approved as part of the type design by the FAA or the Boeing Commercial Airplanes Organization Designation Authorization (ODA) after issuance of Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017.

(i) Additional Actions for Group 1 Airplanes

For Group 1 airplanes identified in Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017: Prior to accomplishment of the actions required by paragraph (h) of this AD, install new software for the ISS OPS, ISS option selection software (OSS) file, and ISS airline selectable option (ASO) file; and install a new ISS definition file database within the displays and crew alerting (DCA) system; in accordance with the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB340005–00, Issue 002, dated April 27, 2016; except where Boeing Service Bulletin B787–81205–SB340005–00, Issue 002, dated April 27, 2016, specifies installing certain software, this AD requires installing that software or later-approved software versions. Later-approved software versions are only those Boeing software versions that are approved as a replacement for the applicable software, and are approved as part of the type design by the FAA or the Boeing Commercial Airplanes ODA after issuance of Boeing Service Bulletin B787–81205–SB340005–00, Issue 002, dated April 27, 2016.

(j) Parts Installation Prohibition

As of the effective date of this AD, no person may install ISS OPS part number COL40–0010–0100 or COL46–0007–0100 on any airplane, except in accomplishment of the actions required by paragraph (i) of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (i) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin B787–81205–SB340005–00, Issue 001, dated December 11, 2015.

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

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

(m) Related Information

(1) For more information about this AD, contact Nelson O. Sanchez, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3543; email: *nelson.sanchez@faa.gov.*

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

(n) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin B787–81205–SB340036–00, Issue 001, dated June 30, 2017.

(ii) Boeing Service Bulletin B787–81205–SB340005–00, Issue 002, dated April 27, 2016.

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

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

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

Issued in Des Moines, Washington, on October 22, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23690 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0216; Product Identifier 1988–ANE–18–AD; Amendment 39–19474; AD 2018–22–01]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 88–12–10 for certain Honeywell International Inc. (Honeywell) TPE331 turboprop engines. AD 88–12–10 required reducing the life limit for certain second stage turbine rotors. This AD requires removing certain second stage turbine rotors from service at a reduced life limit. This AD was prompted by report that a TPE331–11U engine experienced an uncontained rotor separation. In addition, cracks were discovered through eddy current inspection (ECI) in the bore of the second stage turbine rotor assembly after publication of AD 88–12–10. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 10, 2018.

ADDRESSES: For service information identified in this final rule, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone:

800–601–3099; internet: *https://myaerospace.honeywell.com/wps/portal.* 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–2018–0216.

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–2018–0216; 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 Document 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: Joseph Costa, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 88–12–10, Amendment 39–5910 (53 FR 19766, May 31, 1988), (''AD 88–12–10''). AD 88–12–10 applied to Honeywell TPE331–10, –10R, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, and –11U turboprop engines equipped with 2nd stage turbine rotors, part numbers 3102106–1, –6, and –8, installed. The NPRM published in the **Federal Register** on June 20, 2018 (83 FR 28550). The NPRM was prompted by a report that a TPE331–11U engine installed on an M7 Aerospace LP SA227 airplane experienced an uncontained rotor separation. In addition, cracks were discovered through ECI in the bore of the second stage turbine rotor assembly after publication of AD 88–12–10. The NPRM proposed to remove certain second stage turbine rotors from service at a reduced life limit. We are issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Revise Compliance Times

Honeywell requested that we remove from the NPRM the statement that the FAA finds that allowing an additional 100 cycles-in-service before their removal provides a sufficient level of safety for applicable second stage turbine rotors that have been in service for 30 years after the publication of AD 88–12–10. Honeywell indicated it believes that most of the IN100 rotors have been replaced at around 3,500 cycles during hot section inspection. Honeywell noted that the rotors would not make it to the next hot section inspection with a life of 4,800 cycles. Honeywell noted that there is a not a lot of field experience for IN100 rotors beyond 3,500 cycles.

Honeywell commented that the removal schedule in the Honeywell service bulletin needs to remain the same (within 100 cycles-in-service for 3,301 to 4,000 cycles since new (CSN) rotors and within 50 cycles-in-service for 4,001 to 4,800 CSN rotors) since the event rotor failed at around 4,100 cycles. Additionally, Honeywell has also found rotors through eddy current inspection that had long cracks at around 4,300 cycles.

We disagree. We would normally only require removal of parts within 50 cycles-in-service after the effective date of an AD when the risk justifies immediate action. The FAA assessed the risk of the affected rotors based on service experience and IN100 rotor propagation life of cracked and failed rotors. We found that the additional cycles in service allowed by this AD before the removal of the second stage turbine rotors provides an acceptable level of safety. We did not change this AD.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed.

Related Service Information

We reviewed Honeywell Service Bulletin (SB) TPE331–72–A2319, Revision 0, dated April 25, 2018, and TPE331–72–A2310, Revision 0, dated January 26, 2018. These SBs describe procedures for replacement of the second stage turbine rotor assembly installed on TPE331–8, –10, –10N, –10R, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, and –11U model engines.

Costs of Compliance

We estimate that this AD affects 100 engines installed on airplanes of U.S. registry.

We estimate that 20 commercial engines and 80 general aviation engines will need this turbine rotor replacement to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Scheduled rotor replacement	1 work-hour × $85 per hour = $85	$7,500	$7,585	$379,250
Unscheduled rotor replacement	41 work-hours × $85 per hour = $3,485	7,500	10,985	549,250

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

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) 88–12–10, Amendment 39–5910 (53 FR 19766, May 31, 1988), and adding the following new AD:

2018–22–01 Honeywell International Inc. (Type Certificate previously held by AlliedSignal Inc., Garrett Engine Division; Garrett Turbine Engine Company; and AiResearch Manufacturing Company of Arizona): Amendment 39–19474; Docket No. FAA–2018–0216; Product Identifier 1988–ANE–18–AD.

(a) Effective Date

This AD is effective December 10, 2018.

(b) Affected ADs

This AD replaces AD 88–12–10, Amendment 39–5910 (53 FR 19766, May 31, 1988).

(c) Applicability

This AD applies to Honeywell International Inc. (Honeywell) TPE331–8, –10, –10N, –10R, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, and –11U turboprop engines with second stage turbine rotor assemblies, part number (P/Ns) 3102106–1, –6, and –8 or P/N 3101514–1, –10 and –12, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a report that a TPE331–11U engine installed on an M7 Aerospace LP SA227 airplane experienced an uncontained rotor separation and the discovery of cracks in the bore of the second stage turbine rotor assembly after publication of AD 88–12–10. We are issuing this AD to prevent failure of the second stage turbine rotor. The unsafe condition, if not addressed, could result in uncontained release of the second stage turbine rotor, 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) Remove from service the applicable second stage turbine rotor assembly, P/Ns 3102106–1, –6 and –8, according to the schedule in Table 1 to Paragraph (g)(1) of this AD:

TABLE 1 TO PARAGRAPH (g)(1) OF THIS AD—REMOVAL OF SECOND STAGE ROTOR, P/NS 3102106–1, –6 AND –8

Second stage turbine rotor cycles since new (CSN) on the effective date of the AD	Removal schedule
0 to 2,600	Prior to 3,000 CSN.
2,601 to 3,300	Within 400 cycles-in-service (CIS) after the effective date of this AD or 3,600 CSN, or at next access, whichever occurs first.
3,301 to 4,000	Within 200 cycles-in-service after the effective date of this AD or 4,100 CSN, or at next access, whichever occurs first.
4,001 to 4,800	Within 100 cycles-in-service after the effective date of this AD or 4,800 CSN, or at next access, whichever occurs first.

(2) Remove from service the applicable second stage turbine rotor assembly, P/Ns 3101514–1, –10 and –12, per the schedule in Table 2 to Paragraph (g)(2) of this AD:

TABLE 2 TO PARAGRAPH (g)(2) OF THIS AD—REMOVAL OF SECOND STAGE ROTORS, P/NS 3101514–1, –10 AND –12

Second stage turbine rotor CSN on the effective date of the AD	Removal schedule
0 to 2,600	Prior to 3,000 CSN.
2,601 to 3,200	Within 400 CIS after the effective date of this AD or 3,600 CSN, or at next access, whichever occurs first.
3,201 to 3,800	Within 200 CIS after the effective date of this AD or 4,100 CSN, or at next access, whichever occurs first.
3,801 to 4,400	Within 100 CIS after the effective date of this AD or 4,400 CSN, or at next access, whichever occurs first.

(h) Definition

For the purpose of this AD, ''next access'' is defined as when the applicable second stage turbine rotor assembly is removed from the engine.

(i) Installation Prohibition

As of the effective date of this AD, do not install second stage turbine rotor assemblies, P/Ns 3102106–1, –6, and –8 and P/Ns 3101514–1, –10, and –12 on any engine.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO, 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. You may email your request to: *9-ANM-LAACO-AMOC-REQUESTS@faa.gov.*

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

(k) Related Information

For more information about this AD, contact Joseph Costa, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

(l) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on October 23, 2018.

Karen M. Grant,

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

[FR Doc. 2018–23775 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0326; Product Identifier 2018–CE–006–AD; Amendment 39–19464; AD 2018–21–06]

RIN 2120–AA64

Airworthiness Directives; SOCATA Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 98–16–03 for SOCATA Model TB 9 and Model TB 10 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as fatigue cracking of the wing front attachments on the wing and fuselage sides. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective December 10, 2018.

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

ADDRESSES: You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0326; or in person at 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 service information identified in this AD, contact SOCATA, Direction des services, 65921 Tarbes Cedex 9, France; phone: +33 (0) 5 62 41 73 00; fax: +33 (0) 5 62 41 76 54; email: *info@socata.daher.com;* internet: *https://www.mysocata.com/login/accueil.php.* You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for Docket No. FAA–2018–0326.

FOR FURTHER INFORMATION CONTACT: Quentin Coon, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4168; fax: (816) 329–4090; email: *quentin.coon@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 98–16–03, Amendment 39–10677 (63 FR 40359, July 29, 1998) (''AD 98–16–03''). The NPRM was published in the **Federal Register** on May 9, 2018 (83 FR 21199), and proposed to correct an unsafe condition for SOCATA Model TB 9, Model TB 10, and Model TB 200 airplanes. We based the NPRM on MCAI originated by an aviation authority of another country. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, issued EASA AD No. 2018–0030, dated January 31, 2018 (referred to after this as ''the MCAI''). The MCAI states that:

During a scheduled maintenance inspection, cracks were found on the wing front attachments of a TB 10 aeroplane.

This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.

Prompted by these findings, SOCATA issued SB 10–081–57 to provide inspection and modification instructions, and DGAC France issued AD 94–264(A), later revised, to require repetitive inspections of wing front attachments of TB 9 and TB 10 aeroplanes (all MSN up to 822 inclusive, with some excluded). That [DGAC France] AD also required installation of reinforcement kits, applied as repair (if cracks were found) or as modification (if no cracks were found), of the wing front attachments, on both wing and fuselage sides, and repetitive replacement of those reinforcements afterwards.

Since DGAC France AD 94–264(A) R1 was issued, cracks have been found on wing front attachments, on the wing side, on TB10 aeroplanes to which the AD did not apply, *i.e.* which were not subject to repetitive inspections as required by that [DGAC France] AD. Consequently, SOCATA revised SB 10–081–57 (now at revision (rev) 3), extending the Applicability to all TB 10 aeroplanes, as well as to TB 200 aeroplanes, and improving the repair solution of the wing front attachment on wing side.

For the reason described above, this [EASA] AD retains the requirements of DGAC France AD 94–264(A) R1, which is superseded, expands the Applicability to all MSN for TB 9 and TB 10 aeroplanes and includes TB 200 aeroplanes, and requires an improved repair solution of the wing front attachment on wing side.

The MCAI can be found in the AD docket on the internet at: *https://www.regulations.gov/document?D=FAA-2018-0326-0003.*

Comments

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

Request for an Explanation of Compliance Time

Daher requested that we explain why the compliance times in the NPRM are presented in landings and do not match the compliance times in the EASA AD, which uses both hours time-in-service (TIS) and number of landings.

The NPRM retained the compliance times from AD 98–16–03, which were based in landings instead of hours TIS. The NPRM also retained the formula for converting hours TIS to landings from AD 98–16–03 for airplanes with an unknown number of landings. Because we also retained the effective date of AD

98–16–03 for certain actions, we determined the NPRM would not use both landings and hours TIS, as in the EASA AD.

Change to the Final Rule

In the NPRM, in table 1 to paragraph (g)(1) and table 4 to paragraph (i)(1), we inadvertently referenced the incorrect paragraph designator in the retained compliance times as, ''See paragraph (g) of this AD.'' In this AD, we corrected the paragraph designator to read, ''See paragraph (k) of this AD.''

We also revised the incorporation by reference of the service information to specify the provisions required for each action, instead of the entire service document.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Daher Service Bulletin SB 10–081, Revision 3, dated December 2017. The service bulletin describes procedures for inspecting the front attachments and installing modification kits. 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 will affect 126 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the inspection requirements of this AD. We also estimate that it would take about 25 work-hours per product to comply with the replacement/modification (wing and fuselage sides) requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $3,000 per product.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $677,880, or $5,380 per product.

In addition, we estimate that any necessary follow-on actions to replace the wing attachment on the wing side, resulting from the repetitive inspections, would take about 9 work-hours and require parts costing $3,000, for a cost of $3,765 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

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

Regulatory Findings

We 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 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.

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–2018–0326; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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) 98–16–03, Amendment 39–10677 (63 FR 40359, July 29, 1998) and adding the following new AD:

2018–21–06 SOCATA: Amendment 39–19464; Docket No. FAA–2018–0326; Product Identifier 2018–CE–006–AD.

(a) Effective Date

This AD becomes effective December 10, 2018.

(b) Affected ADs

This AD replaces AD 98–16–03, Amendment 39–10677 (63 FR 40359, July 29, 1998) (''AD 98–16–03'').

(c) Applicability

This AD applies to SOCATA airplanes listed in the following groups, certificated in any category:

(1) Group 1 airplanes: Model TB 9, all manufacturer serial numbers (MSN); and Model TB 10, MSN 001 through 803, 805, 806, 809 through 815, and 820 through 822; and

(2) Group 2 airplanes: Model TB 10, MSN 804, 807, 808, 816 through 819, and 823 through 2229; and Model TB 200, all MSNs.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as fatigue cracking of the wing front attachments on the wing and fuselage sides. We are issuing this AD to prevent fatigue cracking of the wing front attachments, which could lead to structural failure of the airplane and loss of control.

(f) Compliance

Unless already done, do the following actions listed in paragraphs (g) through (j) of this AD. The compliance times of this AD are presented in landings instead of hours time-in-service (TIS). If the number of landings is unknown, multiply the number of hours TIS by 1.5. For the purposes of this AD, the ''XX'' in the kit numbers can be any numerical value.

(g) Actions for Airplanes NOT EQUIPPED With Modification Kit OPT109110XX

(1) Within the compliance time specified in table 1 to paragraph (g)(1) of this AD, do an initial inspection of the wing front attachments on the wing side. Inspect repetitively thereafter at intervals not to exceed 3,000 landings. Follow paragraphs B(1) through B(4) under the Description of Accomplishment Instructions in SOCATA Daher Service Bulletin SB 10–081, Revision 3, December 2017 (SB 10–081, Revision 3).

Table 1 to paragraph (g)(1) of this AD—Front Wing Attachment, Wing Side, Initial Inspection

Compliance Time for Initial Inspection of the Front Wing Attachment, Wing Side (whichever occurs later, A or B)	
A	Before or upon accumulating 3,000 landings on the airplane; or
B	Group 1 airplanes: Within the next 100 landings after September 21, 1998 (the effective date retained from AD 98-16-03). See paragraph (k) of this AD.
	Group 2 airplanes: Within 13 months after the effective date of this AD.

(2) If a crack was found during any inspection required in paragraph (g)(1) of this AD, before further flight, install the modification reinforcement kit OPT10911002 for the front attachment on the wing side. Follow paragraph B(5) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

(3) Within the compliance time specified in table 2 to paragraph (g)(3) of this AD, unless already done as corrective action as specified in paragraph (g)(2) of this AD, install the modification reinforcement kit OPT10911002 for the front attachment on the wing side. Follow paragraph B(5) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

Table 2 to paragraph (g)(3) of this AD—Front Wing Attachment, Wing Side, Installation of the Reinforcement Modification Kit

Compliance Time for Installation of the Reinforcement Modification Kit (whichever occurs later, A or B)	
A	Before or upon accumulating 12,000 landings on the airplane; or
B	Within the next 75 landings after the effective date of this AD.

(h) Actions for Airplanes EQUIPPED With Modification Kit OPT109110XX

(1) Within the compliance time specified in table 3 to paragraph (h)(1) of this AD, do an initial inspection of the reinforced front attachment on the wing side. Inspect repetitively thereafter at intervals not to exceed 3,000 landings. Follow paragraphs B(1) through B(4) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

Table 3 to paragraph (h)(1) of this AD—Front Wing Attachment, Wing Side, Reinforcement Kit Initial Inspection

Compliance Time for Initial Inspection of the Reinforcement Kit (whichever occurs later, A or B)	
A	Before or upon accumulating 6,000 landings on the airplane after installation of the reinforcement modification kit OPT109110XX; or
B	Within the next 75 landings after the effective date of this AD.

(2) Replacing kit OPT109110XX with kit OPT10911002 on an airplane, at intervals not to exceed 6,000 landings, is acceptable to comply with the inspection requirements of paragraph (h)(1) of this AD for that airplane. Follow paragraph B(5) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

(3) If a crack was found during any inspection required in paragraph (h)(1) of this AD, before further flight, do the applicable corrective actions. Follow paragraph B(5) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

(i) Actions for Group 1 Airplanes

(1) Within the compliance time specified in table 4 to paragraph (i)(1) of this AD, do an initial inspection of the wing front attachments on the fuselage side. Inspect repetitively thereafter at intervals not to exceed 3,000 landings. Follow paragraphs B(1) through B(4) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

Table 4 to paragraph (i)(1) of this AD—Front Wing Attachment, Fuselage Side, Initial Inspection

Compliance Time for Initial Inspection of the Front Wing Attachment, Fuselage Side (whichever occurs later, A or B)	
A	Before or upon accumulating 3,000 landings on the airplane; or
B	Within the next 100 landings after September 21, 1998 (the effective date of this AD retained from AD 98-16-03). See paragraph (k) of this AD.

(2) If a crack was found during any inspection required in paragraph (i)(1) of this AD, before further flight, do the applicable corrective actions. Follow paragraph B(5) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

(3) Unless already done as corrective action required in paragraph (i)(2) of this AD, within the compliance time specified in table 5 to paragraph (i)(3) of this AD, reinforce the front attachment on fuselage side. Follow paragraph B(5)(b) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

Table 5 to paragraph (i)(3) of this AD—Front Wing Attachment, Fuselage Side, Reinforcement Modification

Airplane Models	MSN and Configuration	Compliance Time
TB 9 TB 10	MSN 001 to 399 and 413 airplanes that do not have SOCATA Technical Instruction OPT10-9081-53 (Kit OPT908100) installed	Before or upon accumulating 6,000 landings on the airplane.
	MSN 001 to 399 and 413 airplanes that do have SOCATA Technical Instruction OPT 10-9081-53 (Kit OPT908100) installed	Before or upon accumulating 12,000 landings on the airplane.
TB 9	MSN 400 to 412 and 414 to 2229	
TB 10	MSN 400 to 412, 414 to 803, 805, 806, 809 to 815, and 820 to 822	

(4) Before or upon accumulating 12,000 landings after the reinforcement modification required in paragraph (i)(2) or (3) of this AD, replace the reinforced front attachment on the fuselage side. Follow paragraph B(5)(c) under the Description of Accomplishment Instructions in SB 10–081, Revision 3.

(j) Replacement of the Reinforced Front Attachment

Replacement of the reinforced front attachment on the wing side and/or replacement of the reinforced front attachment on the fuselage side does not terminate the inspections required in paragraphs (h)(1) and (i)(1) of this AD. After replacement, the initial and repetitive inspection cycle starts over.

(k) Credit for Previous Actions

This AD allows credit for the initial inspections required in paragraphs (g)(1), (h)(1), and (i)(1) of this AD if done before the effective date of this AD by following Socata Service Bulletin No. SB 10–081–57, Revision 1, dated August 1996 or Revision 2, dated January 2017. This AD also allows credit for any replacement that may have been required based on the initial inspection required in paragraphs (g)(1), (h)(1), and (i)(1) of this AD if done before the effective date of this AD by following Socata Service Bulletin No. SB 10–081–57, Revision 1, dated August 1996 or Revision 2, dated January 2017. After the effective date of this AD, you must do any inspections or replacements by following SB 10–081, Revision 3.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Quentin Coon, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4168; fax: (816) 329–4090; email: *quentin.coon@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must instead be accomplished using a method approved by the Manager, Small Airplane Standards Branch, FAA; or the European Aviation Safety Agency (EASA).

(m) Related Information

Refer to MCAI EASA No. 2018–0030, dated January 31, 2018; and Socata Service Bulletin No. SB 10–081–57, Revision 1, dated August 1996, or Revision 2, dated January 2017, for related information. The MCAI can be found in the AD docket on the internet at: *https://www.regulations.gov/document?D=FAA-2018-0326-0003.*

(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) SOCATA Daher Service Bulletin SB 10–081, Revision 3, December 2017.

(ii) [Reserved]

(3) For service information identified in this AD, contact SOCATA, Direction des services, 65921 Tarbes Cedex 9, France; phone: +33 (0) 5 62 41 73 00; fax: +33 (0) 5 62 41 76 54; email: *info@socata.daher.com;* internet: *https://www.mysocata.com/login/accueil.php.*

(4) You may view this service information at FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. In addition, you can access this service information on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0326.

(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 Kansas City, Missouri, on October 26, 2018.

Melvin J. Johnson,

Aircraft Certification Service, Deputy Director, Policy and Innovation Division, AIR–601.

[FR Doc. 2018–24007 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2018–0914]

Changes to Surveillance and Broadcast Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of changes to surveillance and broadcast services.

SUMMARY: This action announces changes to the following surveillance and broadcast services (''surveillance services'') after January 1, 2020: Automatic Dependent Surveillance—Broadcast (ADS–B); Traffic Information Service—Broadcast (TIS–B); Automatic Dependent Surveillance—Rebroadcast (ADS–R); and Automatic Dependent Surveillance—Same Link Rebroadcast (ADS–SLR). These service changes will affect aircraft equipped with older ADS–B avionics that do not meet the requirements of 14 CFR 91.225. The service changes will primarily affect aircraft operating in specific airspace areas, though a few service changes will affect aircraft operating throughout the National Airspace System (NAS).

DATES: The FAA will initiate the actions described herein on January 2, 2020.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact: David E. Gray, Program Manager, Surveillance and Broadcast Services, AJM–232, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: 202–267–3615; email: *adsb@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 2010, the FAA issued a final rule mandating equipage requirements and performance standards for Automatic Dependent Surveillance—Broadcast (ADS–B) Out avionics on aircraft operating in certain airspace after January 1, 2020 (75 FR 30160, May 28, 2010). Use of ADS–B Out will move air traffic control (ATC) from a radar-based system to a satellite-derived aircraft location system and enhance aircraft surveillance by the FAA and Department of Defense air traffic controllers. Equipage with ADS–B avionics also provides aircraft operators with a platform for additional flight applications and services, including TIS–B [1] and ADS–R [1], which will improve a pilot's situational awareness in aircraft not equipped with a traffic alert and collision avoidance system (TCAS). Under 14 CFR 91.225, after January 1, 2020, to operate in certain airspace, an aircraft must have equipment installed that meets the performance requirements of Technical Standard Order (TSO)–C166b or TSO–C154c (''2020 Equipment'').

Between 2010 and 2014, the FAA completed the ADS–B ground infrastructure. To ensure the benefits of the ADS–B surveillance infrastructure were made available as soon as it was deployed, the FAA enabled aircraft equipped with Pre-2020 [2] Equipment to receive TIS–B and ADS–R services even though these aircraft would not be considered rule compliant after January 1, 2020. The FAA also provided ATC surveillance services to aircraft that were equipped with Pre-2020 Equipment outside radar coverage in Alaska and offshore Gulf of Mexico airspace.

Service Changes to Operations in Alaska

With regard to operations in Alaska, the FAA funded a project to upgrade Pre-2020 Equipment for aircraft operating within Alaska to ensure these aircraft would meet the 2020 Equipment standards in time for the mandate.[3] This upgrade project will conclude in early 2019. Aircraft flying to and from Anchorage, Alaska and within Class A airspace over Alaska must also be in compliance with § 91.225 after January 1, 2020.

Pursuant to this action, on January 2, 2020, the FAA will begin terminating air traffic control surveillance services outside radar coverage for aircraft with Pre-2020 Equipment. In a 30-day period ending in June 2018 the FAA detected less than 30 aircraft equipped with Pre-2020 Equipment in the Alaskan airspace where the FAA receives ADS–B signals. Therefore, the FAA anticipates that this service change will only affect a small number of aircraft equipped with Pre-2020 Equipment.

Service Changes to Operations in the Gulf of Mexico

The provisions of § 91.225 require all aircraft flying in Class E airspace at and above 3,000 feet mean sea level (MSL) over the Gulf of Mexico from the coastline of the United States out to 12 nautical miles to have operational 2020 Equipment (unless otherwise authorized by ATC) after January 1, 2020. As noted, the FAA has been providing surveillance services to approved aircraft with Pre-2020 Equipment operating in this airspace. Pursuant to this action, the FAA will begin terminating these surveillance services after January 1, 2020, to the aircraft with Pre-2020 Equipment. During a 30-day period ending in June 2018, the FAA found less than 10 aircraft with Pre-2020 Equipment were receiving ATC surveillance services in the offshore Gulf of Mexico airspace managed by Houston Center. The FAA has already informally notified these operators that FAA will not provide ATC surveillance services to aircraft equipped with Pre-2020 Equipment after January 1, 2020.

Service Changes at Airports With ADS–B Surface Service Volumes

To date, aircraft with Pre-2020 Equipment have been receiving ADS–SLR services in ADS–B surface service volumes (all U.S. airports with Airport Surface Detection Equipment Model X (ASDE–X) or Airport Surface Surveillance Capability (ASSC) systems). After January 1, 2020, in order to reach any airport with an ADS–B surface service volume, an aircraft will pass through airspace requiring 2020 Equipment. Accordingly, after January 1, 2020, the FAA will begin terminating

[1] TIS–B uses secondary surveillance radars and multilateration systems to provide proximate traffic situational awareness, including position reports from aircraft not equipped with ADS–B Out or providing poor quality ADS–B Out data. TIS–B data does not provide as much information as could be received directly from an aircraft's ADS–B Out broadcast, because of the information available and required data processing. The TIS–B signal is an advisory service that is not designed for aircraft surveillance or separation, and cannot be used for either purpose.

[1] ADS–R collects traffic information from each ADS–B link and rebroadcasts it to ADS–B In-equipped aircraft on the other ADS–B link as needed. Note that ADS–R services are only available when both aircraft are within range of any ADS–B ground radio station, so there are regions of airspace without ADS–R coverage. ADS–B-In avionics with dual link receive capability neither require nor receive ADS–R.

[2] For purposes of this document, Pre-2020 Equipment refers to aircraft that are in compliance with Technical Standard Order (TSO)–C166a or TSO–C154b. It does not include aircraft that are equipped with avionics compliant with TSO–C166 or TSO–C154a (or earlier). Note that aircraft equipped with ADS–B avionics compliant with TSO–C166 or TSO–C154a (or earlier) have never been provided with FAA TIS–B or ADS–R services or FAA ATC surveillance services using ADS–B.

[3] The aircraft were originally equipped with the Pre-2020 Equipment by the FAA's Alaska Capstone program in the early 2000s.

provision of ADS–SLR services to aircraft with Pre-2020 Equipment. The only aircraft that will be affected by the ADS–SLR service change are those aircraft that are not equipped with 2020 Equipment as required by § 91.225.

NAS-Wide Service Changes

As described above, FAA will no longer use ADS–B data from Pre-2020 Equipment to provide ATC surveillance services after January 1, 2020. As such, the FAA will discontinue TIS–B and ADS–R client services NAS-wide for aircraft equipped with Pre-2020 Equipment after January 1, 2020.[4]

Implementation

The FAA will begin making the above described changes on January 2, 2020. However, each of the changes requires the implementation of software revisions and some require changes at multiple locations NAS-wide. Because of the number of changes required and to ensure safe implementation, the changes will not be complete on January 2, 2020, but sometime soon thereafter.

Summary

Starting on January 2, 2020, the FAA will begin to discontinue ATC surveillance services for aircraft equipped with Pre-2020 Equipment operating in Alaska and the offshore Gulf of Mexico airspace. The number of affected aircraft is expected to be less than 20. Any affected aircraft will receive ATC surveillance services only within FAA radar coverage over Alaska and the Gulf of Mexico.

Starting on January 2, 2020, the FAA will begin to discontinue ADS–SLR services for aircraft equipped with Pre-2020 Equipment at airports that lie immediately under the airspace defined in § 91.225(d)(1) and/or (d)(2). After January 1, 2020, these specific airspace areas require aircraft to have 2020 Equipment. As such, the only affected aircraft will be those aircraft that have failed to equip to meet the regulatory requirements effective on January 2, 2020.

Starting on January 2, 2020, in all airspace where TIS–B and ADS–R services are currently provided, the FAA will begin to discontinue TIS–B and ADS–R client services for aircraft equipped with Pre-2020 Equipment. This change will maximize the number of aircraft eligible for ATC surveillance services and support the safe provision of air traffic services. This action also reduces the resources required to provide and maintain TIS–B/ADS–R services.

Starting on January 2, 2020, the FAA will begin enabling National Accuracy Category for Velocity (NACv) filtering for TIS–B and ADS–R client status throughout the NAS.[5] This action will not impact any aircraft with 2020 Equipment meeting the requirements of § 91.227 or any aircraft with ADS–B avionics that meet the minimum requirements in TSO–C199 for a Class B position source.

Issued in Washington, DC, on October 24, 2018.

Kristen G. Burnham,

Vice President, Program Management Organization, FAA Air Traffic Organization.

[FR Doc. 2018–24052 Filed 11–2–18; 8:45 am]

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[4] In 2016, the FAA changed how these services were provided. More information is available at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/0/45845cd583ad3cd686257d62006b3b3e/$FILE/TIS-B_Service_Change_Summary.pdf.*

[5] A complete description of NACv filtering is available at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/0/45845cd583ad3cd686257d62006b3b3e/$FILE/TIS-B_Service_Change_Summary.pdf.*

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–10566; 34–84325; 39–2522; IC–33261]

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (''EDGAR'') Filer Manual and related rules. The EDGAR system is scheduled to be upgraded on October 1, 2018.

DATES: Effective November 5, 2018. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of November 5, 2018.

FOR FURTHER INFORMATION CONTACT: In the Division of Investment Management, for questions concerning Form N–CEN, contact Heather Fernandez at (202) 551–6708. In the Division of Corporation Finance, for questions concerning the Form 8–K, Form 20–F and Form 12b–25, contact Heather Mackintosh at (202) 551–8111. In the Division of Economic and Risk Analysis, for questions concerning retired taxonomies or structured data requirements, contact Mike Willis, at (202) 551–6627. In the EDGAR Business Office, for questions concerning changes to the availability of the return copy, contact Christian Windsor at (202) 551–3419.

SUPPLEMENTARY INFORMATION: We are adopting an updated EDGAR Filer Manual, Volume I and Volume II. The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.[1] It also describes the requirements for filing using EDGARLink Online and the Online Forms/XML website.

The revisions to the Filer Manual reflect changes within Volume I, entitled EDGAR Filer Manual, Volume I: ''General Information,'' (Version 32) (October 2018), and Volume II, entitled EDGAR Filer Manual, Volume II: ''EDGAR Filing,'' Version 48 (October 2018). The updated manual will be incorporated by reference into the Code of Federal Regulations.

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.[2] Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.

The EDGAR System and Filer Manual will be updated in Release 18.3 and will reflect the changes described below.

EDGAR Release 18.3 will introduce changes that will prevent the system from retrieving and exposing a return copy, if one is requested, of a TEST or LIVE submission. Please refer to Chapter 5 (Maintenance of Company Data), Appendix B (Frequently Asked Questions) of the EDGAR Filer Manual, Volume I: General Information. Please also refer to Chapter 7 (Preparing and Transmitting EDGARLink Online Submissions), Chapter 8 (Preparing and Transmitting Online Submissions) and Chapter 10 (Determining the Status of Your Filings) of the EDGAR Filer Manual, Volume II: EDGAR Filing.

EDGAR Release 18.3 will update the XBRL validation requirements to identify, and provide warning messages, when the submission header

[1] We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33–6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on July 10, 2018. *See* Release No. 33–10518 (July 10, 2018)[83 FR 33119].

[2] *See* Rule 301 of Regulation S–T (17 CFR 232.301).

information is inconsistent with the tagged information in the XBRL attachments included in the submission package. EDGAR will also provide warning messages when an XBRL attachment contains: certain US–GAAP and IFRS numeric reporting items that are tagged as incorrectly negative, if a filing uses deprecated tags in a submission, or if a filing contains custom Axis tags for purposes already served by certain existing standard taxonomy Axis tags. Also, EDGAR will provide warnings, but accept the filing, if footnote elements are tagged out of order. Please see Chapter 6 (Interactive Data) of the EDGAR Filer Manual, Volume II: EDGAR Filing.

EDGAR Release 18.3 will update submission form types N–CEN and N–CEN/A to rename the save button for Part E: Additional Questions for Exchange-Traded Funds and Exchange-Traded Managed Funds to ''Save & Close This Fund.'' Please refer to Chapter 8 (Preparing and Transmitting Online Submissions) of the EDGAR Filer Manual, Volume II: EDGAR Filing.

EDGAR Release 18.3 will revise the submission process for documents submitted through the Filer Web, Online Forms management, EDGARLink Online, or EDGAR Filer Management to provide a submission progress indicator. Please See Chapter 3 (Becoming an EDGAR Filer), Chapter 4 (Generating EDGAR Access Codes) and Chapter 5 (Maintenance of Company Data) of the EDGAR Filer Manual, Volume I: General Information. Also, see Chapter 7 (Preparing and Transmitting EDGARLink Online Submissions) and Chapter 8 (Preparing and Transmitting Online Submissions) of the EDGAR Filer Manual, Volume II: EDGAR Filing.

EDGAR Release 18.3 will update submission form types 8–K/A, 8–K12B/A, 8–K12G3/A, 8–K15D5/A, 20–F/A and NT 20–F/A to issue a warning, but still accept the filing, if the period tag of the amendment does not match the period tag of the original, accepted filing or prior amendment. Please refer to Appendix A (Messages Reported By EDGAR) of the EDGAR Filer Manual, Volume II: EDGAR Filing.

The EDGAR system will be upgraded to remove the IFRS–2016 taxonomy which has been superseded. For further information please refer to the SEC's public website at *https://www.sec.gov/info/edgar/edgartaxonomies.shtml.*

Finally, the Technical Specifications for the Form N–PORT and Form N–CEN schemas will be updated. For more information on the revised Technical Specifications, please refer to the SEC's public website at *https://www.sec.gov/oit/Article/info-edgar-tech-specs.html.*

Along with the adoption of the Filer Manual, we are amending Rule 301 of Regulation S–T to provide for the incorporation by reference into the Code of Federal Regulations of today's revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The updated EDGAR Filer Manual will be available for website viewing and printing; the address for the Filer Manual is *https://www.sec.gov/info/edgar/edmanuals.htm.* You may also obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.

Since the Filer Manual and the corresponding rule and form amendments relate solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (''APA'').[3] It follows that the requirements of the Regulatory Flexibility Act[4] do not apply.

The effective date for the updated Filer Manual and the related rule and form amendments is November 5, 2018. In accordance with the APA,[5] we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual with these system upgrades.

Statutory Basis

We are adopting the amendments to Regulation S–T under the authority in Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,[6] Sections 3, 12, 13, 14, 15, 15B, 23, and 35A of the Securities Exchange Act of 1934,[7] Section 319 of the Trust Indenture Act of 1939,[8] and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.[9]

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

[3] 5 U.S.C. 553(b)(A).

[4] 5 U.S.C. 601–612.

[5] 5 U.S.C. 553(d)(3).

[6] 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

[7] 15 U.S.C. 78c, 78*l,* 78m, 78n, 78*o,* 78o–4, 78w, and 78*ll.*

[8] 15 U.S.C. 77sss.

[9] 15 U.S.C. 80a–8, 80a–29, 80a–30, and 80a–37.

Text of the Amendments

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78*o*(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets forth the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: ''General Information,'' Version 31 (October 2018). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: ''EDGAR Filing,'' Version 48 (October 2018).

Additional provisions applicable to Form N–SAR filers are set forth in the EDGAR Filer Manual, Volume III: ''N–SAR Supplement,'' Version 6 (January 2017). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. The EDGAR Filer Manual is available for website viewing and printing; the address for the Filer Manual is *https://www.sec.gov/info/edgar/edmanuals.htm.* You can obtain paper copies of the EDGAR Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. You can also inspect the document 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: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

By the Commission.

Dated: October 1, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–24128 Filed 11–2–18; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2016–D–4414]

Nutrition and Supplement Facts Labels: Questions and Answers Related to the Compliance Date, Added Sugars, and Declaration of Quantitative Amounts of Vitamins and Minerals; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a guidance for industry entitled ''Nutrition and Supplement Facts Labels: Questions and Answers Related to the Compliance Date, Added Sugars, and Declaration of Quantitative Amounts of Vitamins and Minerals; Guidance for Industry.'' This guidance is intended for conventional food and dietary supplement manufacturers. The guidance finalizes the draft guidance we issued in January 2017, which provides questions and answers (Q&A) on topics related to compliance with the Nutrition Facts and Supplement Facts label and Serving Size final rules, the labeling of added sugars, declaration of quantitative amounts of vitamins and minerals, and format issues on the Nutrition Facts and Supplement Facts labels.

DATES: The announcement of the guidance is published in the **Federal Register** on November 5, 2018.

ADDRESSES: You may submit either electronic or written comments on FDA guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–4414 for ''Nutrition and Supplement Facts Labels: Questions and Answers Related to the Compliance Date, Added Sugars, and Declaration of Quantitative Amounts of Vitamins and Minerals.'' 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.'' We will review this copy, including the claimed confidential information, in our 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 guidance to Office of Nutrition and Food Labeling, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Blakeley Fitzpatrick, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1450.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Nutrition and Supplement Facts Labels: Questions and Answers Related to the Compliance Date, Added Sugars, and Declaration of Quantitative Amounts of Vitamins and Minerals.'' This guidance is intended to help industry determine when manufacturers must comply with the two final rules on Nutrition and Supplement Facts labels and serving size, and how their products will need to comply with these rules. We are issuing this guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current

thinking of FDA on this topic. 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.

In the **Federal Register** of May 27, 2016, FDA issued two final rules entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' (81 FR 33742; the ''Nutrition Facts label final rule'') and the ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments (81 FR 34000; the ''Serving Size final rule''). The Nutrition Facts label final rule amends the regulations for the nutrition labeling of conventional foods and dietary supplements to provide updated nutrition information and to improve how the nutrition information is presented to consumers. The Nutrition Facts label final rule also revised the Nutrition Facts label to replace ''sugars'' with ''total sugars'' and to include the declaration of added sugars. The Serving Size final rule amended the definition of a single-serving container, required dual-column labeling on certain packages, and amended several reference amounts customarily consumed that are used by manufacturers to determine their label serving size. The two final rules provided two compliance dates distinguishing between manufacturers with $10 million or more in annual food sales (July 26, 2018) and manufacturers with less than $10 million in annual food sales (July 26, 2019). As discussed below, FDA extended the compliance dates for these final rules.

In the **Federal Register** of January 5, 2017 (82 FR 1347), we made available a draft guidance for industry entitled ''Questions and Answers on the Nutrition and Supplement Facts Labels Related to the Compliance Date, Added Sugars, and Declaration of Quantitative Amounts of Vitamins and Minerals; Draft Guidance for Industry; Availability'' and gave interested parties an opportunity to submit comments by March 6, 2017, for us to consider before beginning work on the final version of the guidance. We received several comments on the draft guidance primarily related to compliance dates and labeling requirements for added sugars, and have modified the final guidance where appropriate in response to the comments. Changes to the guidance include new Q&A(s) regarding added sugars, which include examples for calculating added sugars in certain products. The guidance notes that, although the Nutrition Facts label and Serving Size final rules became effective on July 26, 2016, their compliance dates (originally scheduled to be July 26, 2018, for manufacturers with $10 million or more in annual food sales and July 26, 2019, for manufacturers with less than $10 million in annual food sales) have not been realized yet. In the **Federal Register** of October 2, 2017 (82 FR 45753), however, we proposed to extend the compliance date for manufacturers with $10 million or more in annual food sales from July 26, 2018, to January 1, 2020, and the compliance date for manufacturers with less than $10 million in annual food sales from July 26, 2019, to January 1, 2021. We finalized the changes to the compliance date in the **Federal Register** of May 4, 2018 (83 FR 19619). In addition, we made editorial changes to the draft guidance language to improve clarity. The guidance announced in this notice finalizes the draft guidance dated January 2017.

II. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/FoodGuidances* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: October 30, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24125 Filed 11–2–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A501010.999900 253G]

25 CFR Part 23

RIN 1076–AF42

Change of Address; Indian Child Welfare Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; technical amendment.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending its regulations to reflect a change of addresses for filing copies of Indian Child Welfare Act (ICWA) notices to the Alaska Regional Director and Midwest Regional Director, and to update the mail stop for BIA's Central Office in Washington, DC for filing ICWA adoption notices. This rule is a technical amendment that corrects the addresses for filing ICWA documents with the Alaska Regional Director, Midwest Regional Director, and Central Office in Washington, DC.

DATES: Effective November 5, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: ICWA requires, in any involuntary proceeding, the party seeking foster-care placement of, or termination of parental rights to, an Indian child must notify the parents, Indian custodians, and child's Tribe and send a copy to the appropriate BIA Regional Director. This notice updates the addresses for two of the Regional Director offices. ICWA also requires that any State court entering a final adoption decree or order in any Indian child adoptive placement furnish a copy of the decree or order to BIA Chief of Human Services at BIA's Central Office. This rule also updates the mail stop for Central Office in Washington, DC, because the mail stop has moved.

Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

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

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

B. Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The rule is administrative in nature and affects only mailing addresses.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable ''taking.'' A takings implication assessment is therefore not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no 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. This rule corrects BIA mailing addresses.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule meets the criteria of section 3(a) requiring all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation and meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

The Department strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined there are no potential effects on federally recognized Indian Tribes and Indian trust assets.

I. Paperwork Reduction Act

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* prohibits a Federal agency from conducting or sponsoring a collection of information that requires OMB approval, unless such approval has been obtained and the collection request displays a currently valid OMB control number. Nor is any person required to respond to an information collection request that has not complied with the PRA. This rule does not contain any information collections requiring approval under the PRA; however, OMB has approved the information collection requirements related to this rule under OMB Control No. 1076–1086.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature. *See,* 43 CFR 46.210(i). No extraordinary circumstances exist that would require greater review under the National Environmental Policy Act.

K. Effects on the Energy Supply (E.O. 13211)

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

L. Determination To Issue Final Rule Without the Opportunity for Public Comment and With Immediate Effective Date

BIA is taking this action under its authority, at 5 U.S.C. 552, to publish regulations in the **Federal Register**. Under the Administrative Procedure Act, statutory procedures for agency rulemaking do not apply ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). BIA finds that the notice and comment procedure are impracticable, unnecessary, or contrary to the public interest, because: (1) These amendments are non-substantive; and (2) the public benefits for timely notification of a change in the official agency address, and further delay is unnecessary and contrary to the public interest. Similarly because this final rule makes no substantive changes and merely reflects a change of address and updates to titles in the existing regulations, this final rule is not subject to the effective date limitation of 5 U.S.C. 553(d).

List of Subjects in 25 CFR Part 23

Administrative practice and procedures, Child welfare, Grant programs—Indians, Grant programs—social programs, Indians, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, amends part 23 in title 25 of the Code of Federal Regulations as follows:

PART 23—INDIAN CHILD WELFARE ACT

■ 1. The authority for part 23 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 1901–1952.

■ 2. In § 23.11, revise paragraphs (b)(2) and (7) to read as follows:

§ 23.11 Notice.

* * * * *

(b) * * *

(2) For child-custody proceedings in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, notices must be sent to the following address: Minneapolis Regional Director, Bureau of Indian Affairs, 5600 American Blvd. W, Ste. 500, Bloomington, MN 55437.

* * * * *

(7) For child-custody proceedings in Alaska (except for notices to the Metlakatla Indian Community, Annette Island Reserve, Alaska), notices must be sent to the following address: Alaska Regional Director—Attn: Human Services, Bureau of Indian Affairs, 3601 C Street, Suite 1258, Anchorage, Alaska 99503. Notices to the Metlakatla Indian Community, Annette Island Reserve, Alaska, must be sent to the Portland Regional Director at the address listed in paragraph (b)(11) of this section.

* * * * *

■ 3. In § 23.140, revise paragraph (a) introductory text to read as follows:

§ 23.140 What information must States furnish to the Bureau of Indian Affairs?

(a) Any State court entering a final adoption decree or order in any voluntary or involuntary Indian-child adoptive placement must furnish a copy of the decree or order within 30 days to the Bureau of Indian Affairs, Chief, Division of Human Services, 1849 C Street NW, Mail Stop 3645 MIB, Washington, DC 20240, along with the following information, in an envelope marked ''Confidential'':

* * * * *

Dated: August 16, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–24173 Filed 11–2–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560 and Appendix A to Chapter V

Iranian Transactions and Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Iranian Transactions and Sanctions Regulations (ITSR) to implement further the President's May 8, 2018 decision to cease the United States' participation in the Joint Comprehensive Plan of Action (JCPOA) by making changes to reflect the re-imposition of sanctions pursuant to certain sections of Executive Order 13846 and changes to certain sanctions lists maintained by OFAC. OFAC is also amending an existing general license in the ITSR to authorize U.S. persons to sell personal property in Iran and transfer the proceeds to the United States.

DATES: *Effective:* November 5, 2018.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website (*www.treasury.gov/ofac*).

Background

Implementing the President's May 8, 2018 Decision by Reinstating Certain Authorities in the ITSR and Making Certain Technical and Conforming Changes

On May 8, 2018, the President issued National Security Presidential Memorandum-11 (NSPM–11), which set forth his decision to cease the United States' participation in the JCPOA. In NSPM–11, the President directed the Secretary of State and the Secretary of the Treasury to immediately begin taking steps to reimpose all U.S. sanctions lifted or waived in connection with the JCPOA as expeditiously as possible, and in no case later than 180 days from the date of NSPM–11. In accordance with his decision, on August 6, 2018, the President issued Executive Order 13846 (83 FR 38939, August 7, 2018) (E.O. 13846) to, among other things, re-impose relevant authorities from certain Executive Orders that had been revoked previously. Today, OFAC is amending the ITSR, 31 CFR part 560, and appendix A to 31 CFR chapter V to take additional regulatory steps to implement the President's May 8, 2018 decision.

Previously revoked authorities. On January 16, 2016, the President issued Executive Order 13716 (81 FR 3693, January 21, 2016) (E.O. 13716), which, among other things, revoked Executive Order 13622 of July 30, 2012 (77 FR 45897, August 2, 2012) (E.O. 13622) in connection with the JCPOA. In light of this revocation, on January 21, 2016, OFAC amended the ITSR to, among other things, remove regulatory provisions that implemented sections 5 and 6 of E.O. 13622. (*See* 81 FR 3330). In that rule, OFAC also made certain technical and conforming changes to the ITSR and appendix A to 31 CFR chapter V related to (1) the removal of certain individuals and entities from OFAC's Specially Designated Nationals and Blocked Persons List (SDN List), the Foreign Sanctions Evaders List, and the Non-SDN Iran Sanctions Act List on January 16, 2016, and (2) the concurrent transfer of certain individuals and entities that OFAC had previously identified as blocked pursuant to E.O. 13599 of February 5, 2012, to a ''List of Persons Identified as Blocked Solely Pursuant to Executive Order 13599'' (E.O. 13599 List), which OFAC made available on its website on January 16, 2016.

Reinstating certain authorities and removing E.O. 13599 List references. In furtherance of the President's May 8, 2018 decision and in light of the issuance of E.O. 13846, OFAC is now amending the ITSR and appendix A to 31 CFR chapter V by: (1) Reinstating the regulatory provisions implementing the authorities that were previously in sections 5 and 6 of E.O. 13622 and now are in sections 1 and 10 of E.O. 13846 by revising paragraph (c) of § 560.211 of the ITSR; and (2) removing references to the E.O. 13599 List by revising notes in §§ 560.211 and 560.304 of the ITSR, revising note 1 to § 560.324 of the ITSR, and revising a note to appendix A to 31 CFR chapter V.

Sections 1(a)(i) and 1(a)(ii) of E.O. 13846 authorize the Secretary of the Treasury to block all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person, including any foreign branch, of a person upon determining that: (i) On or after August 7, 2018, the person has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the purchase or acquisition of U.S. bank notes or precious metals by the Government of Iran, or (ii) on or after November 5, 2018, the person has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the National Iranian Oil Company (NIOC), the Naftiran Intertrade Company (NICO), or the Central Bank of Iran. Section 16 of E.O. 13846 defines the terms ''NIOC'' and ''NICO'' as including any entity owned or controlled by, or operating for or on behalf of, respectively, NIOC or NICO. Section 10 of E.O. 13846 provides that section 1(a) of the order, among other specified provisions, shall not apply to any person for conducting or facilitating a transaction involving a project described in subsection (a) of section 603 of the Iran Threat Reduction and Syria Human Rights Act of 2012 to which the exception under that section applies. Although it is not named in the section, section 10 of E.O. 13846 refers to the Shah Deniz natural gas field in Azerbaijan's sector of the Caspian Sea and related pipeline projects to bring the gas from Azerbaijan to Europe and Turkey.

By separate action, effective November 5, 2018, OFAC is removing the E.O. 13599 List from its website and relisting on the SDN List, as

appropriate, individuals and entities that were previously listed on the E.O. 13599 List.

Sale of Certain Personal Property and Transfer of Proceeds to the United States

Separately, OFAC is amending an existing general license in the ITSR to authorize U.S. persons to sell certain personal property in Iran and transfer the proceeds to the United States. Section 560.543 of the ITSR authorizes U.S. persons to engage in transactions necessary and ordinarily incident to the sale of real property in Iran, and to transfer the proceeds to the United States, provided that such real property was either acquired before the individual became a U.S. person or inherited from persons in Iran. OFAC routinely receives and approves specific license applications related to the sale of personal property in Iran which, prior to today's rule, were outside the scope of § 560.543. OFAC is therefore amending this general license to authorize U.S. persons to engage in transactions necessary and ordinarily incident to the sale of personal property in Iran, and to transfer the proceeds to the United States, provided that such personal property was either (1) acquired before the individual became a U.S. person or (2) inherited from persons in Iran. This authorization will complement § 560.518, which authorizes certain transactions in Iranian-origin household and personal effects, as referenced in a new note OFAC is adding to § 560.518.

Public Participation

Because the amendment of the ITSR involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the ITSR are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 560

Administrative practice and procedure, Banks, banking, Iran.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR chapter V as follows:

PART 560—IRANIAN TRANSACTIONS AND SANCTIONS REGULATIONS

■ 1. The authority citation for part 560 is revised to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 22 U.S.C. 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Pub. L. 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Pub. L. 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217; E.O. 13599, 77 FR 6659, 3 CFR, 2012 Comp., p. 215; E.O. 13846, 83 FR 38939.

Subpart B—Prohibitions

■ 2. Amend § 560.211 by revising paragraph (c), adding a note to paragraph (c)(2), and revising notes 1 and 2 to paragraphs (a) through (c) to read as follows:

§ 560.211 Prohibited transactions involving blocked property.

* * * * *

(c)(1) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraphs (a) through (c)(1)(i) of this section; or

(ii) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To have, on or after August 7, 2018, materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the purchase or acquisition of U.S. bank notes or precious metals by the Government of Iran; or

(B) To have, on or after November 5, 2018, materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the National Iranian Oil Company (NIOC); the Naftiran Intertrade Company (NICO); any entity owned or controlled by, or operating for or on behalf of, NIOC or NICO; or the Central Bank of Iran.

(2) Paragraph (c)(1)(ii) of this section shall not apply with respect to any person for conducting or facilitating a transaction involving a project—

(i) For the development of natural gas and the construction and operation of a pipeline to transport natural gas from Azerbaijan to Turkey and Europe;

(ii) That provides to Turkey and countries in Europe energy security and energy independence from the Government of the Russian Federation and the Government of Iran; and

(iii) That was initiated before August 10, 2012 pursuant to a production-sharing agreement, or an ancillary agreement necessary to further a production-sharing agreement, entered into with, or a license granted by, the government of a country other than Iran before August 10, 2012.

Note to paragraph (c)(2) of § 560.211: The natural gas development and pipeline project referred to in this paragraph is the project to develop the Shah Deniz natural gas field in Azerbaijan's sector of the Caspian Sea and related pipeline projects to bring the gas from Azerbaijan to Europe and Turkey.

Note 1 to paragraphs (a) through (c) of § 560.211: The names of persons that the Office of Foreign Assets Control (OFAC) has designated or identified pursuant to Executive Order 13599 (E.O. 13599) or sections 1(a)(i) or 1(a)(ii) of Executive Order 13846, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''[IRAN].'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 560.425 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section. E.O. 13599 blocks the property and interests in property of the Government of Iran and Iranian financial institutions, as defined in § 560.304 and § 560.324, respectively. The property and

interests in property of persons who meet the definitions of the terms *Government of Iran* or *Iranian financial institution* are blocked pursuant to this section regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

Note 2 to paragraphs (a) through (c) of § 560.211: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List with the identifier ''[BPI–IRAN].''

* * * * *

Subpart C—General Definitions

■ 3. Revise Note 1 to § 560.304 to read as follows:

§ 560.304 Government of Iran.

* * * * *

Note 1 to § 560.304: The names of persons that the Office of Foreign Assets Control (OFAC) has identified as meeting this definition are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''[IRAN].'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn*. However, the property and interests in property of any persons meeting the definition of the term *Government of Iran* are blocked pursuant to § 560.211 regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

* * * * *

■ 4. Revise Note 1 to § 560.324 to read as follows:

§ 560.324 Iranian financial institution.

* * * * *

Note 1 to § 560.324: The names of persons that the Office of Foreign Assets Control (OFAC) has identified as meeting this definition are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''[IRAN].'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn*. However, the property and interests in property of any persons meeting the definition of the term *Iranian financial institution* are blocked pursuant to § 560.211 regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

* * * * *

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 5. Add a Note to § 560.518 to read as follows:

§ 560.518 Transactions in Iranian-origin and Iranian government property.

* * * * *

Note to § 560.518: *See* § 560.543 for an authorization to engage in all transactions necessary and ordinarily incident to the sale of certain real and personal property located in Iran.

■ 6. Amend § 560.543 by revising the section heading, paragraph (a), and paragraph (b)(2) to read as follows:

§ 560.543 Sale of certain real and personal property in Iran and transfer of related funds to the United States.

(a) Individuals who are U.S. persons are authorized to engage in transactions necessary and ordinarily incident to the sale of real and personal property in Iran and to transfer the proceeds to the United States, provided that such real and personal property was acquired before the individual became a U.S. person or inherited from persons in Iran. Authorized transactions include engaging the services of any persons in Iran necessary for the sale, such as an attorney, funds agent, or broker.

(b) * * *

(1) * * *

(2) The re-investment in Iran of the proceeds from the real or personal property sales authorized in paragraph (a) of this section; or

* * * * *

Appendix A to Chapter V—[Amended]

■ 7. Revise the authority citation for appendix A to chapter V to read as follows:

Authority: 3 U.S.C. 301; 8 U.S.C. 1182, 1189; 18 U.S.C. 2339B; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. App. 1–44; Public Law 110–286, 122 Stat. 2632 (50 U.S.C. 1701 note); Public Law 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Public Law 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Public Law 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); Public Law 112–208, 126 Stat. 1502; Public Law 113–278, 128 Stat. 3011 (50 U.S.C. 1701 note); Public Law 114–102, 129 Stat. 2205; Public Law 114–122, 130 Stat. 93; Public Law 114–194, 130 Stat. 674 (50 U.S.C. 1701 note); Public Law 114–328, 130 Stat. 2000 (22 U.S.C. 2656 note); Public Law 115–44, 131 Stat. 886.

■ 8. Revise note 8 to appendix A to chapter V to read as follows:

Appendix A to Chapter V—Information Pertaining to the Specially Designated Nationals and Blocked Persons List

* * * * *

Notes: * * *

* * * * *

8. The SDN List includes the names of persons identified as the *Government of Iran* or an *Iranian financial institution* and other persons whose property and interests in property are blocked pursuant to § 560.211 of the Iranian Transactions and Sanctions Regulations, 31 CFR part 560 (ITSR). The SDN List entries for such persons include the identifier ''[IRAN].'' U.S. persons are advised to review 31 CFR part 560 prior to engaging in transactions involving the persons included on the SDN List with the identifier ''[IRAN].'' U.S. persons are further cautioned that persons identified as the *Government of Iran* or an *Iranian financial institution* and any other person whose property and interests in property are blocked pursuant to 31 CFR 560.211 also may be designated or blocked pursuant to other sanctions programs administered by OFAC. The SDN List entry for such a person may include—in addition to the identifier ''[IRAN]''—identifier(s) for the other sanctions program(s) pursuant to which the person is listed on the SDN List. Moreover, the prohibitions set forth in the ITSR, and the compliance obligations, with respect to persons who meet the definition of the *Government of Iran* in § 560.304 of the ITSR or the definition of *Iranian financial institution* in § 560.324 of the ITSR apply regardless of whether such persons are identified on the SDN List.

Dated: October 30, 2018.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2018–24058 Filed 11–2–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2018–0539]

Special Local Regulation: Fort Lauderdale Grand Prix of the Seas, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation daily from 8:30 a.m. to 4:00 p.m. November 17 through November 18, 2018 to provide for the safety and security of navigable waterways during the Fort Lauderdale Grand Prix of the Seas. During the enforcement periods, all non-participant persons and vessels are prohibited from entering, transiting, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative. The operator of any

vessel in the regulated area must comply with instructions from the Coast Guard or designated representative.

DATES: The regulation in 33 CFR 100.723 will be enforced daily from 8:30 a.m. until 4:00 p.m. November 17 through November 18, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Mara J. Brown, Sector Miami Waterways Management Division, U.S. Coast Guard: Telephone: 305–535–4317, Email: *Mara.J.Brown@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a special local regulation for the Fort Lauderdale Grand Prix of the Seas in 33 CFR 100.723 daily from 8:30 a.m. to 4:00 p.m. November 17 through November 18, 2018. This action is being taken to provide for the safety and security of navigable waterways during this two-day event. Our regulation for marine events within the Seventh Coast Guard District, § 100.723, specifies the location of the special local regulation for the Fort Lauderdale Grand Prix of the Seas, which encompasses certain navigable waters of the Atlantic Ocean off South Beach Park in Fort Lauderdale. Only event sponsor designated participants and official patrol vessels are allowed to enter the regulated area. Spectators may contact the Coast Guard Patrol Commander or designated representative to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area at safe speed and without loitering.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will inform the public through Local Notice to Mariners and marine information broadcasts at least 24 hours in advance of the enforcement of the special local regulation.

Dated: October 30, 2018.

M.M. Dean,

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

[FR Doc. 2018–24055 Filed 11–2–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 164

46 CFR Part 35

[Docket No. USCG–2015–0926]

RIN 1625–AC27

Tankers—Automatic Pilot Systems

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will permit tankers with automatic pilot systems that meet certain international standards to operate using those systems in shipping safety fairways and traffic separation schemes specified in 33 CFR parts 166 and 167, respectively. This final rule removes the previous regulatory restriction, updates the technical requirements for automatic pilot systems, and promotes the Coast Guard's maritime safety and stewardship (environmental protection) missions by enhancing maritime safety.

DATES: This final rule is effective December 5, 2018. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on December 5, 2018.

ADDRESSES: You may view comments and related material identified by docket number USCG–2015–0926 using the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For information about this document or to view material incorporated by reference call or email LCDR Matthew J. Walter, CG–NAV–2, U.S. Coast Guard; telephone 202–372–1565, email *cgnav@uscg.mil.*

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

BLS Bureau of Labor Statistics
COTP Captain of the Port
ECDIS Electronic Chart Display and Information System
FR **Federal Register**
IEC International Electrotechnical Commission
IMO International Maritime Organization
INS Integrated navigation system
LOD Letter of Deviation
OMB Office of Management and Budget
PWSA Ports and Waterways Safety Act
SBA Small Business Administration
§ Section symbol
TSS Traffic separation scheme
U.S.C. United States Code

II. Basis and Purpose, and Regulatory History

Sections 2103 and 3703 of Title 46 U.S.C. provide the legal basis for this rulemaking. Section 2103 gives the Secretary of the department in which the Coast Guard is operating discretionary authority to prescribe regulations to carry out the provisions for tanker carriage of liquid bulk dangerous cargoes. Section 3703 requires the Secretary to prescribe regulations for the operation and equipping of liquid bulk dangerous cargoes and other issues related to these cargoes. Section 4114 of the Oil Pollution Act of 1990 requires the Coast Guard to define the conditions under which a tank vessel may operate in the navigable waters with an autopilot engaged. In Department of Homeland Security Delegation Nos. 0170.1 (II)(70), (92.a), and (92.b) and 5110, Revision 01, the Secretary delegated authority under these statutes to the Commandant of the Coast Guard.

The purpose of this rule is to permit tankers equipped with automatic pilot systems—also generically known as ''autopilots''—that meet certain international standards to operate using those systems in shipping safety fairways or traffic separation schemes (TSS) specified in 33 CFR parts 166 and 167, respectively. In 1993, the Coast Guard promulgated 33 CFR 164.13, permitting the use of autopilots. However, that same year, the Coast Guard suspended the final rule provision allowing tankers to use autopilots in concert with an integrated navigation system (INS) in TSS and shipping safety fairways because there was no performance standard for the accuracy, integrity, or reliability of INS (58 FR 36141, July 6, 1993). The suspension had the effect of prohibiting the use of any autopilot in fairway or TSS waters.

Since then, the International Electrotechnical Commission (IEC), a voluntary industry consensus standards-setting body, has developed standards for heading and track control systems.[1] The International Maritime Organization (IMO) has adopted resolutions endorsing these standards, and has recommended to IMO member states that they adopt performance standards ''not inferior to'' those the IMO has adopted. The Coast Guard believes that tanker autopilot systems that meet the IEC's standards should be relieved of the regulatory burden that prohibits use of these systems in fairway and TSS waters.

Prohibiting the use of autopilots creates regulatory burdens for both industry and the Coast Guard, as tanker owners and operators must apply for deviations from the prohibition. The Coast Guard grants the deviations on a case-by-case basis and, since 2013, has issued approximately 35 deviations to allow tankers to operate specific IEC and IMO compliant autopilots in fairway or TSS waters within specific Captain of the Port (COTP) zones. To eliminate these unnecessary burdens on industry and the Coast Guard, the Coast Guard published a notice of proposed rulemaking with a request for comments titled ''Tankers—Automatic Pilot Systems in Waters'' in the **Federal Register** on July 11, 2016 (81 FR 44817).

III. Discussion of the Final Rule

This final rule amends 33 CFR 164.13, which relates to the navigation of tankers underway. Specifically, this rule amends 33 CFR 164.13 to allow tankers equipped with specific IEC-compliant autopilots to use those systems in fairway and TSS waters without having to apply to individual COTPs for deviations, and without the need for COTPs to ensure IEC compliance and issue deviations.

This action will eliminate the current burdens on industry applying for deviations and the Coast Guard granting those deviations that are no longer necessary because of advances in technology. Moreover, the Coast Guard expects that this rule will enhance maritime safety because the autopilots in question offer greater precision and navigational safety than conventional autopilots, and arguably, even human steering. Lastly, by incorporating industry standards, this rule is consistent with Executive Order 13609 (Promoting International Regulatory Cooperation), which encourages international regulatory cooperation to reduce, eliminate, or prevent unnecessary difference in regulatory requirements.[2]

For these reasons, the Coast Guard adopts, as final, 33 CFR 164.13 as proposed in the notice of proposed rulemaking. The Coast Guard also makes additional changes described in Section IV of this preamble. These changes respond to public comment requesting clarity on specific terms used in the proposed regulatory text.

Finally, the Coast Guard is removing a cross-reference to 33 CFR 164.13 in 46 CFR 35.20–45. This cross-reference was necessary when the two sections had different information regarding the use of autopilots. However, it is no longer necessary with the changes implemented by this rule.

IV. Discussion of Comments and Changes

During the public comment period, the Coast Guard received comments from 7 commenters, including mariners, a pilots' association, a state board of commissioners of pilots, a company operating tank vessels, and an association of companies engaged in oceangoing shipping. Below we summarize the comments and provide our responses.

Three commenters supported permitting tankers to use autopilots with appropriate safeguards. The Coast Guard concurs, and believes § 164.13 provides adequate safeguards because it requires the continued presence of a qualified helmsman; prohibits the use of autopilot in anchorage grounds or within one-half nautical mile of the U.S. shore; and imposes conditions for the use of autopilots in fairway and TSS waters.

One commenter said that although autopilots have benefited from advances in technology since the initial 1993 rulemaking, maintaining a cross track error of less than 10 meters might not be sufficient in some pilotage waters. For these reasons, and because the notice of proposed rulemaking estimated annual government cost savings of approximately $4,600,[3] the commenter recommended the Coast Guard withdraw the proposed rule.

Regarding a mariner's use of an autopilot, the Coast Guard's position has not changed. As the Coast Guard stated in the 1993 final rule,[4] vessel masters and pilots are in the best position to determine if the use of autopilots is safe based on the local conditions in the waters where the rule allows discretion. This rule does not compel a tanker's master or pilot to use an autopilot, and the Coast Guard is not promoting indiscriminate use of an autopilot. This rule is permissive and recognizes that an autopilot is a navigational tool that, when used by a prudent mariner under appropriate circumstances, can assist the mariner in the safe transit of a tanker. Because of the improvement in autopilot technology, the discretion of masters within the operational limits of this rule described above, and the fact that this rule is expected to produce net benefits, the Coast Guard is promulgating this rule.

The same commenter suggested that local COTPs should continue to grant case-by-case waivers of autopilot restrictions.

The Coast Guard disagrees. As addressed in the 1993 final rule,[5] it is in the interest of the mariner and Coast Guard to minimize the prospect of a confusing array of rules that may vary from port to port. The Coast Guard finds that a single, national rule will facilitate compliance and not complicate enforcement.

A different commenter disagreed with removing the ban, stating that despite technological advances, computer malfunctions could still lead to major disasters. While the Coast Guard acknowledges that computer malfunctions and errors can lead to major disasters, these systems are hardwired to steering systems and not intended to be connected to a network. Additionally, the IEC standard that we are incorporating conforms to the IMO performance standards for heading monitoring; position monitoring; override functions; manual change over from track control to manual steering; and sensor information validation and failure alarms. Here, a competent person is still required to be present, thereby being made aware (by the system, visual cues and other independent bridge equipment) of a failure or malfunction and potentially averting major disasters.

A commenter recommended that the rule be redrafted to include language from 46 CFR 35.20–45, which is applicable to a much broader spectrum of ship types. The commenter argued that the ''extra precautions'' of § 35.20–45 should also apply to tank vessels carrying petroleum or chemical products.

[1] IEC 62065, First Edition, (2002–03), Maritime navigation and radiocommunication equipment and systems—Track control systems—Operational and performance requirements, methods of testing and required test results; and IEC 62065, Edition 2.0, (2014–02). These and all other documents referenced in this rule are available in the docket by following the directions in the **ADDRESSES** section of this preamble.

[2] (77 FR 26413, May 4, 2013).

[3] 81 FR 44821, footnote 24.

[4] 58 FR 27633, 27631 (May 10, 1993).

[5] 58 FR 27628.

The Coast Guard concurs that requiring a competent person to be ready to change immediately from manual steering to autopilot or vice versa under the supervision of the officer of the watch when operating in areas of high traffic density, restricted visibility, or other hazardous navigational situations is an appropriate restriction for the safe use of autopilots by tank vessels. Currently, when transiting the navigable waters of the United States, tankers are never without officer of the watch supervision, as referenced in 33 CFR 164.13(c), meaning that a competent person who can manually steer the vessel is already on board and ready to take over should the need arise. Accordingly, we reference § 35.20–45 in § 164.13(d)(2) of this rule. The Coast Guard also makes a conforming change to the introductory language of § 35.20–45.

The same commenter suggested that the use of autopilots should not be allowed when operating in restricted visibility. As indicated above, the Coast Guard agrees that the restrictions in § 35.20–45 are appropriate when operating in restricted visibility. However, the Coast Guard does not agree that the prohibition on autopilot during restricted visibility applies to waters not covered under the restrictions or prohibitions of this rule. In waters where the Coast Guard does not have prohibitions or restrictions in place, autopilot use is best determined by vessel masters and pilots as the prevailing conditions dictate.

The same commenter suggested that it should be possible to establish immediate manual control of steering at all times an autopilot is in use. The Coast Guard agrees that immediate manual control of steering at all times an autopilot is in use is necessary, and the rule already requires it. In order for a system to meet the referenced equipment standard, it must be able to accept a signal from the override facilities to terminate track control mode. According to the IMO, this should be possible at any rudder angle, under any condition, including any failure of the track control system. Because the rule requires compliance with the IEC standards, including this prescription as a separate provision in 33 CFR 164.13 would be redundant.

The same commenter also suggested that a person who is competent to steer the vessel manually should be required to be present and ready at all times an autopilot is in use. The Coast Guard agrees, and has modified proposed § 164.13(d)(2) in this rule to clarify that a person should be present and ready ''at all times.''

The same commenter suggested that the Coast Guard should clarify the meaning of the phrase one-half nautical mile offshore. The commenter asked if the Coast Guard meant one-half mile from the demarcation line or the headlands, or if the text should have read one-half mile from land, the riverbank, or from shoal water.

The Coast Guard agrees with this statement and has updated § 164.13(d)(1) to reference terms defined elsewhere in the CFR.[6]

The Coast Guard received comments from the Board of Commissioners of Pilots of the State of New York in opposition to the Coast Guard's preemption determination and the use of autopilots in New York State pilotage waters, citing the peculiarities of local waters where special precautionary measures are required. The American Pilots' Association echoed the Board of Commissioners of Pilots of the State of New York in its concern regarding pilotage waters where traffic converges and special precautionary measures are required.

As to the preemption determination, the Coast Guard disagrees that this rule alters a State's authority to regulate pilotage requirements under 46 U.S.C. 8501. This rule does not regulate State pilots. This rule regulates vessel equipment and operations—specifically, navigation equipment. In other words, this rule will not prohibit or otherwise interfere with a State's right to establish state pilotage requirements. The Coast Guard has added clarifying language to its federalism statement in this rule.

As to the use of autopilots within certain waters, the Coast Guard recognizes that precautionary measures are required for areas of special concern. On certain waters, vessel traffic transits along straight corridors as prescribed by charted routing measures (*e.g.* channels, fairways, lanes, and others). Vessels transiting other charted routing measures (*e.g.* anchorages, precautionary areas, and others) behave less predictably. At times, vessel convergence areas are in pilotage waters. Therefore, the Coast Guard has added a prohibition on the use of autopilots in precautionary areas, as defined in 33 CFR 167.5, in addition to the prohibition in regulated anchorage areas. We are also adding this prohibition in response to the comment suggesting incorporation of restrictions in 46 CFR 35.20–45, which include limitations when using autopilots in hazardous navigational situations.

Although, as stated, this prohibition is limited to only waters within one-half nautical mile of shore, regulated anchorages, and precautionary areas, it is not an unfettered endorsement to use track control or heading control systems in all other waters. Vessel operators should always assess the risk of collision, allision, or grounding, and recognize that it may be imprudent to use said systems under certain prevailing circumstances and conditions such as transiting other areas of converging traffic, maneuvering close aboard to other vessels or structures, or other times of maneuvering various courses and speeds.

A commenter asked if it was the Coast Guard's intent to allow autopilots to take voyage inputs, such as position and track information, from systems other than an Electronic Chart Display and Information System (ECDIS).

The Coast Guard understands that some autopilots may receive voyage inputs from systems other than an ECDIS. As long as those other systems are addressed in the referenced IEC 65065 standard, autopilots may take voyage inputs from systems other than an ECDIS. The IEC 65065 standard prescribes which sensors must be interfaced with an autopilot. It further requires those sensors meet an applicable IMO performance standard.

V. Incorporation by Reference

Material incorporated by reference in 33 CFR 164.13 appears in the amendment to 33 CFR 164.03. The Director of the Federal Register has approved the material in § 164.03 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. For information about how to view this material, see the **ADDRESSES** section of this preamble. Copies of the material are also available from the sources listed in § 164.03. We incorporated the IEC standard IEC 62065, First Edition (2002–03) and Edition 2.0 (2014–02).

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is

[6] This includes the definition of territorial sea baseline in 33 CFR 2.20, definition of anchorages per 33 CFR part 110, and the definition of precautionary areas in 33 CFR 167.5.

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

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

A combined regulatory analysis and Threshold Regulatory Flexibility Analysis follows and provides an evaluation of the economic impacts associated with this rule. The substantive change affecting this analysis from the proposal to the final rule was that the Coast Guard updated its estimates of wage data from 2013 to 2016 data. We calculate that this rule will result in net cost savings of $76,572 (7-percent discount rate) over a 10-year period, with annualized net savings of $10,902 (7-percent discount rate). This cost saving is achieved through a reduction in labor costs associated with requesting letters of deviation (LOD) to use autopilot under the current regulatory scheme. This rule will also result in cost savings for the Coast Guard by reducing the hourly burden costs to process and approve the LOD. The following table provides a summary of the totals for the rule's costs, cost savings, and benefits.

TABLE 1—SUMMARY OF THE IMPACTS OF THE FINAL RULE

Category	Summary
Potentially Affected Population	An estimated 9,457 foreign-flagged vessels that are owned by 2,285 companies and 95 U.S.-flagged vessels that are owned by 40 businesses.
Costs (7% discount rate) (costs only accrue in the first year)	$13,072.
10-Year Total Quantified Cost Savings (7% discount rate)	$89,644.
10-Year Net Cost Savings (7% discount rate)	$76,572.
Annualized Net Savings (7% discount rate, 10 years)	$10,902.
Unquantified Benefits	* Improve effectiveness without compromising safety. * Prevent inappropriate use of autopilot and misunderstandings on when to use it. * Improved goodwill between regulated public and Coast Guard. * Enhance maritime safety, because the autopilots in question offer far greater precision and navigational safety than conventional autopilots, and arguably, even human steering.

This rule revises the existing regulations regarding navigation on tankers. It updates the regulations to lift the suspension on tanker use of autopilot systems that has been in place since 1993 and which is no longer needed. Also, this rule updates the performance standard for traditional autopilot systems referenced in 33 CFR 164.13(d). This rule removes an unnecessary regulatory restriction and results in an overall cost savings for the regulated public and the Coast Guard.

Affected Population

Based on the Coast Guard's MISLE database, we estimate that this rule affects approximately 9,457 foreign-flagged vessels and approximately 95 U.S.-flagged vessels. The vessels are owned by 2,285 foreign companies and 40 U.S. companies. No governmental jurisdictions will be impacted.

Costs

The Coast Guard expects this rule to result in one-time costs of $13,072 at a 7-percent discount or an undiscounted cost of $13,987. These costs are derived by regulated entities needing to communicate to their vessel staff information about the change—a regulatory familiarization cost. The Coast Guard estimates that approximately 4 minutes (0.067 hours, rounded) [7] are expended per company to do so; these communications are anticipated to be via electronic bulletin boards or mass distribution email. Labor costs are estimated at $89.79 per hour for an operations manager based on a mean wage rate of $58.70, fully loaded to account for the cost of employee benefits; this estimate is based on the Bureau of Labor Statistics (BLS) Occupational Employment Statistics, Occupational Employment and Wages data, for General and Operations Managers (11–1021, May 2016).[8] From there, the Coast Guard determined that the total cost of compensation per hour worked is $27.61. Of the $27.61, $18.05 is wages, resulting in a load factor of 1.5296399 ($27.61 ÷ $18.05) that the Coast Guard applied to determine the actual cost of employment to employers and industry. The Coast Guard rounded this factor to the nearest hundredth to

[7] The duration estimate is based on previous Coast Guard rules including the proposed rule for the Revision of Crane regulations (RIN 1625–AB78, USCG 2011–0992), which had an estimate of 3 minutes to complete a record. The Coast Guard also used ''49 CFR part 40—Procedures for Transportation Workplace Drug and Alcohol Testing Programs'' (OMB Control # 2105–0529), which had an estimate of 0.067 hours to write an electronic report. These estimates comport with duration estimates of the proposed and final rules for Vapor Control Systems (RIN 1625–AB37, USCG–1999–5150) for similar tasks. No public comments were received on the estimates during the proposed rule's comment period.

[8] The reader may review the source data at *http://www.bls.gov/oes/2016/may/oes111021.htm.* Also, please see *http://www.bls.gov/oes/2016/may/oes436014.htm* for the wage rate for an administrative assistant. After adding the load factor, the wage rate for an administrative assistant ($17.38) is estimated to be $26.59. The wage rate for an operations manager is estimated to be $89.59, which is derived from the product of the unloaded wage rate ($58.70) as found on the BLS website as noted in this footnote and the load factor (1.53 rounded). Unrounded numbers were used in calculations.

1.53 for presentation in this document.[9] As derived by the summation of the equations, the calculations appear as follows: [0.067 hours × $89.79 marine operations manager wage rate × (2,285 foreign-flagged vessel owners/operators + 40 U.S.-flagged vessel owners/operators)] × 7-percent discount rate. Unrounded numbers were used for the calculation. Table 2 presents the estimated cost of compliance with this rule.

TABLE 2—TOTAL ESTIMATED COST OF REGULATORY FAMILIARIZATION

	Discounted 7%	Discounted 3%	Undiscounted
Year 1	$13,072	$13,580	$13,987
Year 2	0	0	0
Year 3	0	0	0
Year 4	0	0	0
Year 5	0	0	0
Year 6	0	0	0
Year 7	0	0	0
Year 8	0	0	0
Year 9	0	0	0
Year 10	0	0	0
Total	13,072	13,580	13,987
Annualized	1,861	1,592	1,399

No public comments were received on the Coast Guard's estimated duration of tasks and on its estimated wage rates during the proposed rule's public comment period.

The Coast Guard has not estimated a cost to comply with the documents incorporated by reference (IEC's standards IEC 62065, 2014–02; IMO Resolution MSC.74(69), Annex 2.). The Coast Guard has not estimated a cost for these provisions because manufacturers participate in the development of the standards at IEC and are aware of the changes to standards. As a result, they have been producing equipment to meet the standard already. Typically, manufacturers begin to make manufacturing modifications even before such changes are formally adopted. This rule will not require owners and operators to acquire the standards; they will not need the standard in hand to be in compliance. Owners and operators need to only look for evidence from manufacturers that products meet or exceed the standard before purchase. Such evidence may include product documentation such as user guide and warranty information. For these reasons, the Coast Guard has not included a cost for these provisions.

No equipment is required by this rule. As well, some parts of the affected population will experience no cost increase due to this rule, since some vessels do not use autopilot under the conditions noted in this rule; therefore, they have no costs. No further action is required by these parties. Only 40 U.S.-flagged vessel owners and operators and approximately 2,285 foreign vessel owners and operators are impacted; for these owners and operators, they will incur a cost only if they need to communicate to staff the rule changes on the use of autopilots.

Cost Savings

The rule will result in cost savings for the regulated public and the Coast Guard. The rule will prevent unnecessary inquiries such as phone calls and emails to the Coast Guard regarding regulations and the filing and Coast Guard's processing of LODs. With regard to the first cost savings, the Coast Guard estimates that it spends a collective 20 hours annually at 1 hour per call on average fielding calls from the regulated public seeking clarification of the intent of the existing regulations. This rule will eliminate this labor cost for the regulated public and the Coast Guard.[10] This time would be better spent on other Coast Guard missions. To estimate these costs, the Coast Guard used publicly available data as found in the Commandant Instruction titled ''Reimbursable Standard Rates.'' [11] Labor costs are estimated for the Coast Guard at $92 for a Lieutenant Commander.[12] This figure represents a wage rate with a fully loaded labor factor of 1.85 for uniformed Coast Guard positions.[13] For the regulated public, the wage rate for a lead engineer is estimated to be $105.81 per hour, based on a load factor applied to the BLS wage data as noted earlier. The unloaded wage rate for an engineering manager is $69.17 and the load factor is 1.53 (rounded).[14] The total cost savings from the elimination of inquiries to Coast Guard is estimated at $1,840 per year and $2,116 annually for the regulated public.

Coast Guard Cost Savings: $92 Lieutenant Commander × 1 hour × 20 calls per year = $1,840.

Regulated Public Cost Savings: $105.81 engineering manager × 1 hour × 20 calls per year = $2,116.

In addition, this rule saves the regulated public and the Coast Guard labor costs associated with the filing and processing of annual LODs. This precludes the need for the regulated

[9] This load factor is calculated specifically for production, transportation, and material moving occupations, All Workers, Private Industry (Series ID: CMU2010000520000D, CMU2010000520000P and CMU2020000520000D, CMU2020000520000P), 2016, 1st Quarter. (Source: *http://www.bls.gov/ncs/ect/data.htm* as accessed on January 4, 2018 and May 3, 2017).

[10] Collectively, 20 hours annually multiplied by wage rate for lead engineer. The Government's cost is estimated by the equation 20 hours annually multiplied by the wage rate for Coast Guard Lieutenant Commander (O–4).

[11] The Instruction is dated March 29, 2017 and is numbered COMDTINST 7310.1R. Enclosure 2 lists the relevant data. The Instruction may be found on *https://www.uscg.mil/Portals/0/NPFC/docs/PDFs/urg/Ch2/2017-CI_7310_1R.pdf?ver=2017-08-15-124924-597*. For the proposed rule, a previous version of the Instruction numbered COMDTINST 7310.1P was used.

[12] See *https://www.uscg.mil/Portals/0/NPFC/docs/PDFs/urg/Ch2/2017-CI_7310_1R.pdf?ver=2017-08-15-124924-597*. See Enclosure 2 for in-government rate of an O–4 officer and a GS–11 employee.

[13] The load factor for uniformed positions was based on the Coast Guard's analysis of compensation and benefits of Coast Guard enlisted and commissioned personnel based on data found in *http://militarypay.defense.gov/Portals/3/Documents/ActiveDutyTables/2018%20Pay%20Table.pdf?ver=2018-02-02-160202-810* and Commandant Instruction R.

[14] This is the wage rate for 11–9041 Architectural and Engineering Managers as found at *http://www.bls.gov/oes/2016/may/oes119041.htm* and as accessed on May 1, 2017. As noted earlier, a load factor of 1.53 was applied.

public to file an LOD. In doing so, it also precludes the need for the Coast Guard to process the LOD and respond to it. The Coast Guard estimates that each LOD requires a given marine business to expend 1.7 hours of an engineering manager's time and 0.5 hour of an administrative assistant's time to prepare and submit the LOD. These precluded costs will be incurred annually and will be calculated by the sum of the products of the loaded wage rates and labor duration estimates times the number of requests per year (($89.79/hour operations manager's wage rate × 1.7 hours) + ($26.59/hour admin assistant's wage rate × 0.5 hours) × 35 submittals).[15]

In turn, we estimate that the Coast Guard spends 0.6 hours of a Lieutenant Commander's time; and 0.5 hour of an administrative assistant's time to process, review, and respond to each LOD request.[16] The loaded wage rates for these positions are: $92 per hour for a Lieutenant Commander (O–4); $61 per hour for an administrative assistant (GS–11). These wage rates may be found in Commandant Instruction 7310.1R, *Reimbursable Standard Rates,* (in-government rates found in enclosure 2). The wages for the regulated public were noted earlier in this section.

To estimate these cost savings, we requested data from Coast Guard sectors on their experience with processing LODs. Based on that review, we estimated the number of LOD requests to be approximately 35 annually,[17] which will be precluded by this rule. Coast Guard also reviewed previous Coast Guard regulatory analyses for the labor costs of the regulated public for filing waiver requests. Our estimated durations for labor for the regulated public and for the Coast Guard are based on Coast Guard experience with LOD requests as well as an existing information collection entitled ''Ports and Waterways Safety—Title 33 CFR Subchapter P'' (RIN 1625–0043, 1625–0043); the Coast Guard's proposed rule for cranes (RIN 1625–AB78, USCG–2011–0992); and the proposed and final rules for Vapor Control Systems (RIN 1625–AB37, USCG–1999–5150). We used the existing information collection 1625–0043 to obtain the estimates of existing tasks; we used the information collections for cranes and vapor control systems to estimate tasks that were not in 1625–0043, but were similar to the tasks of these information collections. Table 3 provides the details.

TABLE 3—SOURCE OF PAPERWORK REDUCTION ACT ESTIMATES

Task in final rule	Source	Task	Duration
Prepare paperwork and file an LOD.	1625–0043 Ports and Waterways Safety—Title 33 Subchapter P.	Same	1.7 hours.
Support by admin staff of preparation of LOD.	1625–0043 Ports and Waterways Safety—Title 33 Subchapter P.	Same	0.5 hour.
Prepare response to LOD request. (USCG).	1625–0043 Ports and Waterways Safety—Title 33 Subchapter P.	Same	0.6 hour.
Support by admin staff of LOD response. (USCG).	1625–0043 Ports and Waterways Safety—Title 33 Subchapter P.	Same	0.5 hour.
Write notification of regulatory change.	1625–AB37 Vapor Control Systems	Complete a record; document training.	0.12 hour; 0.03 hour.
Write notification of regulatory change.	1625–AB78 Cranes	Complete a record; record a test.	0.03 hour.
Write notification of regulatory change.	2105–0529 ''49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs''[18].	Write an electronic report; document testing record; write a release.	0.067 hour; 0.13 hour; 0.067 hour.
Write notification of regulatory change.	1625–AC02 Personal Flotation Devices Labeling and Standards.	Communicate regulatory change[19].	0.5 hour.
Make inquiries to USCG			1 hour.
Respond to public inquiries (USCG).			1 hour.

The Coast Guard estimates that the regulated public spends approximately 2.2 hours to prepare the paperwork and to file an LOD. This hourly total is calculated as follows:

35 waivers annually × [1.7 hours × wage rate for engineering manager + 0.5 hour × wage rate for an administrative assistant] = $5,808.

In addition, we estimate that the Coast Guard spends 1.1 hours in total for each LOD. This hourly total is calculated as follows:

35 waivers annually × [0.6 hour × wage rate for Lt. Commander + 0.5 hour × wage rate for Coast Guard administrative assistant] = $3,000.

We received no comments on these estimates during the proposed rule's comment period. The total cost savings from the elimination of the need for an LOD is estimated at $5,808 per year for the regulated public and $3,000 annually for Coast Guard. Adding the costs of preparing and filing an LOD to the costs of inquiries which were noted earlier, the total costs savings per year would be $4,840 for Coast Guard and $7,924 for the regulated public.

Table 4 presents the estimated cost savings of this final rule.

[15] Wage data may be found from the U.S. Bureau of Labor Statistics. (*http://www.bls.gov/oes/2016/may/oes111021.htm and http://www.bls.gov/oes/2016/may/oes436014.htm*). The load factor used was 1.53 (rounded). Unrounded numbers were used in the calculation. Please see previous discussion for more information on how the load factor was determined.

[16] The duration estimates are based on existing OMB approved information collection entitled Ports and Waterways Safety—Title 33 CFR Subchapter P (OMB Control number 1625–0043). No public comments were received on these estimates.

[17] This number comports with an estimate provided by the Chamber of Shipping of America to the docket. Readers should see *https://www.regulations.gov/document?D=USCG-2015-0926-0008* as verification.

[18] Title 49 CFR 40.33(b) through (e), 40.25(a), 40.25(f), 40.33(f).

[19] Preparing an email or electronic bulletin board notice.

TABLE 4—TOTAL COST SAVINGS BY YEAR

Year	Cost savings to the regulated public			Cost savings to the government			Total estimated cost savings		
	Annualized 7%	Annualized 3%	Undiscounted	Annualized 7%	Annualized 3%	Undiscounted	Annualized 7%	Annualized 3%	Undiscounted
1	−$7,405	−$7,693	−$7,924	−$4,523	−$4,699	−$4,840	−$11,928	−$12,392	−$12,763
2	−6,921	−7,469	−7,924	−4,227	−4,562	−4,840	−11,148	−12,031	−12,763
3	−6,468	−7,251	−7,924	−3,950	−4,429	−4,840	−10,419	−11,680	−12,763
4	−6,045	−7,040	−7,924	−3,692	−4,300	−4,840	−9,737	−11,340	−12,763
5	−5,650	−6,835	−7,924	−3,450	−4,175	−4,840	−9,100	−11,010	−12,763
6	−5,280	−6,636	−7,924	−3,225	−4,053	−4,840	−8,505	−10,689	−12,763
7	−4,935	−6,443	−7,924	−3,014	−3,935	−4,840	−7,948	−10,378	−12,763
8	−4,612	−6,255	−7,924	−2,817	−3,820	−4,840	−7,428	−10,075	−12,763
9	−4,310	−6,073	−7,924	−2,632	−3,709	−4,840	−6,942	−9,782	−12,763
10	−4,028	−5,896	−7,924	−2,460	−3,601	−4,840	−6,488	−9,497	−12,763
10-Year	−55,654	−67,592	−79,238	−33,991	−41,282	−48,395	−89,644	−108,874	−127,633
Annualized	−7,924	−7,924	−7,924	−4,840	−4,840	−4,840	−12,763	−12,763	−12,763

This rule results in a net cost savings of $76,572 (7-percent discount rate for a 10-year period) because the estimated cost savings exceed the costs of the rule. Costs are incurred only in Year 1. The net cost savings of this rule are calculated by subtracting the total cost of the rule ($13,072, 7-percent discount) from the total cost savings ($89,644, 7-percent discount). These cost savings result from precluded labor costs to the regulated public and to Coast Guard as noted earlier. Table 5 presents the net cost savings of this rule.

TABLE 5—ESTIMATED NET COST SAVINGS

	Discounted 7%	Discounted 3%	Undiscounted
Year 1	$1,144	$1,188	$1,224
Year 2	−11,148	−12,031	−12,763
Year 3	−10,419	−11,680	−12,763
Year 4	−9,737	−11,340	−12,763
Year 5	−9,100	−11,010	−12,763
Year 6	−8,505	−10,689	−12,763
Year 7	−7,948	−10,378	−12,763
Year 8	−7,428	−10,075	−12,763
Year 9	−6,942	−9,782	−12,763
Year 10	−6,488	−9,497	−12,763
Total	−76,572	−95,294	−113,646
Annualized	−10,902	−11,171	−11,365

Using a perpetual period of analysis, the total annualized discounted cost savings of this rule if it is implemented in 2019, would be $9,672 in 2016 dollars.

Benefits

This rule amends existing regulations to remove the requirements that prohibit tanker use of autopilot systems in waters subject to the shipping safety fairway or traffic separation controls. This rule also updates the performance standard for traditional autopilot systems. The Coast Guard pursued this amendment to existing standards in order to prevent inefficient use of labor and to add clarity to the current system. As noted in the cost savings discussion earlier, this rule prevents inefficient use of labor and adds clarity to the regulated public as to the need for safety precautions. The changes improve regulatory intent and keep regulations in step with existing technology without compromising the existing level of safety. This rule also promotes maritime safety by eliminating confusion associated with outdated regulations that have not kept pace with technology. Lastly, this rule enhances maritime safety, because the autopilots in question offer far greater precision and navigational safety than conventional autopilots or human steering.

Regulatory Alternatives Considered

In developing this rule, the Coast Guard considered the following alternatives:

(1) Take no action.

(2) Develop a different timetable for small entities.

(3) Provide an exemption for small entities (from this rule or any part thereof).

The first alternative is not preferred because it does not offer solutions to issues identified earlier in the preamble. It would perpetuate an inefficient use of labor on the part of the regulated public and the Coast Guard. The second alternative prevents small entities from benefiting from the efficiencies made possible by this regulation as soon as the larger companies; a delayed effective date for small entities would delay both costs and cost savings. The third alternative would prevent small entities from benefiting from improved efficiency altogether. Because this regulation reduces an unnecessary regulatory restriction, the Coast Guard does not want to restrict its applicability to small entities in any way.

Most entities are expected to experience no additional cost. For those who will incur a cost, the Coast Guard estimates costs to be approximately $6 per entity—as noted earlier, the cost to communicate information is calculated by the equation $89.79 wage rate × 0.067 hour. Cost savings accrue only to those covered by this rule and those who have not already applied for a waiver or who are not in compliance with the existing regulations. An exemption would preclude cost savings to those under the exemption; the Coast Guard estimates

that cost savings will be less than $170 per affected entity annually. Labor to make an inquiry is estimated by the following equation:

1.7 hours × $89.79 wage rate for operations manager + 0.5 hour × $26.59 wage rate for an administrative assistant.

For the reasons discussed earlier, we rejected these alternatives in favor of the preferred alternative. The preferred alternative—this rule—amends existing regulations to remove the requirements that prohibit tanker use of autopilot systems in waters subject to the shipping safety fairway or traffic separation controls. The preferred alternative also updates the performance standard for traditional autopilot systems.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

The Coast Guard expects this rule will not have a significant economic impact on small entities. As described in the ''Regulatory Planning and Review'' section, the Coast Guard expects this rule to result in net cost savings to regulated entities. An estimated 67 percent of the regulated entities (a total of 27 businesses) are considered small by the Small Business Administration (SBA) industry size standards. For any company for which we were not able to find SBA size data, we assumed it was a small entity. The compliance costs for this rule, which are only regulatory familiarization costs, will amount to less than 1 percent of revenue for all small entities ($6 per entity) and, therefore, do not represent a significant economic impact on a substantial number of small entities. Costs will be incurred only in the first year of this rule's promulgation. No additional costs for labor or equipment will be incurred in future years. Because the purpose of this rule is to remove an unnecessary regulatory restriction, it is expected to reduce labor costs. These cost savings are estimated to be less than 1 percent of revenue for all small entities. An estimated $170 per year is saved by a given entity that formerly had to perform the now deregulated tasks of the rule. No small governmental jurisdictions are impacted by this rule.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard received no public comments on the proposed rule's impact on small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Matthew J. Walter (*see* the **FOR FURTHER INFORMATION CONTACT** section of this preamble). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520; the rule does not add requirements for recording and recordkeeping to the existing collection titled, Ports and Waterways Safety—Title 33 CFR Subchapter P (OMB control number 1625–0043). However, this rule will revise this collection, reducing the burden of recordkeeping and submission for those 35 tankers granted an LOD. As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The rule does not require additional tasks by the regulated public but eliminates the need for the regulated public to file an LOD under conditions as specified by the rule. The Coast Guard estimates that there will be 35 fewer LODs filed annually because of the rule's changes.

The existing collection of information requires LODs to be submitted to the Coast Guard for various reasons; one of which is for tankers to use autopilot under conditions noted in this rule. Under this rule, Coast Guard no longer requires an LOD for tankers. The rule precludes the need for 35 or fewer LODs annually to be submitted to the Coast Guard for approval. It also precludes the need for the Coast Guard to process and approve those LODs. The collection of information aids the regulated public in assuring safe practices; however, the Coast Guard has concluded that this particular use of LODs is no longer warranted.

The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Ports and Waterways Safety—Title 33 CFR Subchapter P.

OMB Control Number: 1625–0043.

Summary of the Collection of Information: Certain vessels are subject to a variety of requirements in subchapter P of title 33 of the CFR. Under the existing OMB collection, such tasks includes the District 8 Hurricane Operations Plan and letters of deviation. The regulation allows any person directly affected by these regulations to request a deviation from any of the requirements by an LOD as long as the level of safety is not reduced. Under this rule, the Coast Guard no longer requires an LOD to be submitted under specific conditions as noted in the rule; LODs continue to be required for other existing reasons. The collection of information aids the regulated public in assuring safe practices.

Need for Information: The Coast Guard needs this information to determine whether an entity meets the regulatory requirements.

Use of Information: The Coast Guard uses this information to determine whether an entity request for deviation is justified.

Description of the Respondents: The respondents are owners and operators of vessels which travel in the regulated waterways as noted in the regulatory text.

Number of Respondents: The burden of this rule for this collection of information includes submittal of LODs. This collection of information applies to owners and operators of vessels that travel in the regulated waterways. We estimate the maximum number of respondents for the collection of

information to be 876, but there would be 35 fewer LODs per year.

Frequency of Responses: LOD under the conditions noted in this rule are filed once per year. This eliminates the need for this particular use of the LOD. The Coast Guard estimates that 35 fewer LODs will be filed annually because of this rule.

Burden of Response: The burden of response for each LOD is an estimated 2.2 hours.

Estimate of Total Annual Burden: This rule decreases burden hours by 77 hours from the previously approved burden estimate of 2,110 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we will submit a copy of this rule to OMB for its review of the collection of information.

We invited public comment on the collection of information during the proposed rule's comment period. We received no input to advise us on how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

You are not required to respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this rule, OMB would need to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has 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 various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000)). This rule is promulgated under Title II of the Ports and Waterways Safety Act [20] (PWSA) (46 U.S.C. 3703) and amends existing regulations for tank vessels regarding certain vessel equipment technical standards and operation. Under the principles discussed in *Locke,* States are foreclosed from regulating within this field. The Coast Guard acknowledges a State's right to set State pilotage requirements in accordance with 46 U.S.C. 8501, and we do not intend this rule to affect a State's ability to regulate State pilotage requirements. However, the Coast Guard does not believe that 46 U.S.C. 8501 can be used to avoid the application of the fundamental federalism principles explained in *Locke* by characterizing a vessel's navigation requirements as ''pilotage requirements.'' A State regulation covering a field—vessel navigation—that the Coast Guard would regulate under PWSA Title I is subject to a *Locke* conflict analysis. To be clear, the Coast Guard views a State prohibition of vessel automatic pilot system use in certain State waters, based on the peculiarities of those waters, to be akin to a regulated navigation area that the Coast Guard would regulate under PWSA Title I. This rule establishes vessel equipment requirements but does not intend to affect a State's ability to regulate vessel navigation requirements in particular State waters. Regardless of this rule, States may not establish navigation equipment standards or their general operational requirements.[21] Thus, this rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Tribal Governments

This rule does not have tribal implications under Executive Order 13175, (Consultation and Coordination with Indian Tribal Governments), because it would not have a substantial direct effect on one or more Tribal governments, on the relationship between the Federal Government and Tribal governments, or on the distribution of power and responsibilities between the Federal Government and Tribal governments.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under Executive Order 13211 because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise

[20] Public Law 92–340, 86 Stat. 424, as amended; codified at 33 U.S.C. 1221 *et seq.* 1232.

[21] *Locke,* 529 U.S. at 110—114 (confirming the validity of *Ray* v. *Atlantic Richfield Co.* and invalidating three State rules that were field preempted).

impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule uses the following voluntary consensus standards to track control and integrated navigation systems used in vessel automatic pilot systems:

(1) IEC 62065, First Edition, 2002–03, Maritime navigation and radiocommunication equipment and systems—Track control systems—Operational and performance requirements, methods of testing and required test results; and,

(2) IEC 62065, Edition 2.0, 2014–02, Maritime navigation and radiocommunication equipment and systems—Track control systems—Operational and performance requirements, methods of testing and required test results.

These standards provide parameters within which these systems must operate to ensure proper navigational control given the vessel's position, heading, speed, and other factors. The standards were developed by the IEC, an international voluntary consensus standards-setting organization, and the IMO. The sections that reference these standards and the locations where these standards are available are listed in § 164.03 of this rule below. Changes made in the 2014 edition of IEC 62065, while technical in nature, did not render systems conforming to the previous edition unsafe or obsolete. Since, there is no domestic or international requirement to carry this equipment, vessels may still be outfitted with serviceable equipment meeting the 2002 standard. Thus, the Coast Guard saw value in allowing equipment that met either the current or previous edition of IEC 62065.

The Director of the Federal Register has approved the material in § 164.03 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in § 164.03.

Consistent with 1 CFR part 51 incorporation by reference provisions, this material is reasonably available. Interested persons have access to it through their normal course of business, may purchase it from the organization identified in 46 CFR 136.112, or may view a copy by means we have identified in that section.

M. Environment

We have analyzed this rule under Department of Homeland Security Instruction Manual 023–01–001–01, Revision 1 (DHS Instruction Manual 023–01) and Commandant Instruction M16475.lD (COMDTINST M16475.1D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble. This rule involves regulations concerning tank vessel equipment approval and operation. Thus, this rule is categorically excluded under paragraphs L52, L57, L58 and L62 of Appendix A, Table 1 of DHS Instruction Manual 023–01.

List of Subjects

33 CFR Part 164

Marine, Navigation (water), Reporting and recordkeeping requirements, Waterways, Incorporation by reference.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 164 and 46 CFR part 35 as follows:

Title 33—Navigation and Navigable Waters

PART 164—NAVIGATION SAFETY REGULATIONS

■ 1. The authority citation for part 164 is revised to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703; and E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.46 also issued under 46 U.S.C. 70114 and Sec. 102 of Pub. L. 107–295. Sec. 164.61 also issued under 46 U.S.C. 6101. The Secretary's authority under these sections is delegated to the Coast Guard by Department of Homeland Security Delegation No. 0170.1, para. II (70), (92.a), (92.b), (92.d), (92.f), and (97.j).

■ 2. Amend § 164.03 as follows:

■ a. In paragraph (a), after the text ''Washington, DC 20593–7418,'', add the text ''telephone 202–372–1565,''.

■ b. Add paragraph (h) to read as follows:

§ 164.03 Incorporation by reference.

* * * * *

(h) International Electrotechnical Commission (IEC), 3, rue de Varembe, Geneva, Switzerland, +41 22 919 02 11, *http://www.iec.ch/*. Email: *info@iec.ch.*

(1) IEC 62065 (IEC 62065 2002–03), Maritime navigation and radiocommunication equipment and systems—Track control systems—Operational and performance requirements, methods of testing and required test results, First Edition, dated 2002, IBR approved for § 164.13(d).

(2) IEC 62065 (IEC 62065 2014–02), Maritime navigation and radiocommunication equipment and systems—Track control systems—Operational and performance requirements, methods of testing and required test results, Edition 2.0, dated 2014, IBR approved for § 164.13(d).

■ 3. Amend § 164.13 by removing paragraph (e) and revising paragraph (d) to read as follows:

§ 164.13 Navigation underway: Tankers.

* * * * *

(d) This paragraph (d) has preemptive effect over State or local regulation within the same field. A tanker may navigate using a heading or track control system only if:

(1) The tanker is at least one-half nautical mile (1,012 yards) beyond the territorial sea baseline, as defined in 33 CFR 2.20;

(i) Not within waters specified in 33 CFR part 110 (anchorages), or;

(ii) Not within waters specified as precautionary areas in 33 CFR part 167, and;

(2) There is a person, competent to steer the vessel, present to assume manual control of the steering station at all times including, but not limited to, the conditions listed in 46 CFR 35.20–45(a) through (c); and

(3) The system meets the heading or track control specifications of either IEC 62065 (2002–03) or IEC 62065 (2014–02) (incorporated by reference, see § 164.03).

Title 46—Shipping

PART 35—OPERATIONS

■ 4. The authority citation for part 35 continues to read as follows:

Authority: 33 U.S.C. 1225, 1231; 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. 5103, 5106; and E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 5. Amend § 35.20–45 by revising the introductory text to read as follows:

§ 35.20–40 Use of Auto Pilot—T/ALL.

When the automatic pilot is used in:

* * * * *

Dated: October 30, 2018.

J.P. Nadeau,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2018–24127 Filed 11–2–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–1007]

RIN 1625–AA87

Security Zone; Senior Government Official's Visit to Cleveland, Lake Erie, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for navigable waters on Lake Erie for a senior government official's visit to Cleveland, OH. The security zone is necessary to protect the official party, the public and surrounding waterways from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Buffalo or a designated representative.

DATES: This rule is effective from 8:00 a.m. until 8:00 p.m. on November 5, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–1007 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LTJG Sean Dolan, 716–843–9322, email *Sean.P.Dolan@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest due to sensitive security issues related to a Senior Government Official's visit to Cleveland, OH. Providing a public notice and comment period would be contrary to the security zone's intended objective of protecting the official party and the public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this temporary rule's effective date would be contrary to the public interest given the need to ensure the safety and security during a Senior Government Official's visit on November 5, 2018.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo has determined that potential security hazards are associated with this event in this area. These hazards include potential security threats, violent or disruptive public disorder, delivery of a weapon of mass destruction, launch of a stand-off attack weapon, or delivery of an armed assault force. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the security zone throughout the duration of the event.

IV. Discussion of the Rule

On November 5, 2018, a Senior Government Official is expected to visit Cleveland, Ohio. The venue will include locations near downtown Cleveland. The security zone will cover all navigable waters within portions of Lake Erie: 41°31′45″ N, 081°39′20″ W (just East of Forest City Yacht Club and West of Quay 55); then extending approximately 4,000 feet northwest to position 41°32′23″ N, 081°39′46″ W (about 900 feet past the east break wall); then extending approximately 13,000 feet to position 41°31′02″ N, 081°42′10″ W; then extending southwest to the shoreline at position 41°30′38″ N, 081°41′53″ W (near the northwest edge of Voinovich Park); then following the shoreline back to the point of origin, in the vicinity of the Burke Lakefront Airport.

The security zone is necessary to protect the official party, personnel, vessels, the public and surrounding waterways from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. No vessel or person will be permitted to enter the security zone without obtaining permission from the Captain of the Port (COTP) or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the fact that we anticipate that it will have a minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The security zone created by this rule will be relatively small and is designed to minimize its impact on navigable waters. Furthermore, the security zone has been designed to allow vessels to transit around it. Thus, restriction on vessel movement within that particular area are expected to be minimal.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–1007 to read as follows:

§ 165.T09–1007 Security Zone; Senior Government Official's Visit to Cleveland, Lake Erie, Cleveland, OH.

(a) *Location.* The security zone will encompass all waters of Cleveland Harbor (near the Burke Lakefront Airport) starting shoreline at position 41°31′ 45″ N, 081°39′ 20″ W (just East of Forest City Yacht Club and West of Quay 55); then extending approximately 4,000 feet northwest to position 41°32′ 23″ N, 081°39′ 46″ W (about 900 feet past the east break wall); then extending approximately 13,000 feet to position 41°31′ 02″ N, 081°42′ 10″ W; then extending southwest to the shoreline at position 41°30′ 38″ N, 081°41′ 53″ W (near the northwest edge of Voinovich Park); then following the shoreline back to the point of origin.

(b) *Enforcement Period.* This rule is effective from 8:00 a.m. until 8:00 p.m. on November 5, 2018.

(c) *Regulations.*

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

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

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

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

of the Port Buffalo, or his on-scene representative.

Dated: October 30, 2018.

Joseph S. Dufresne,

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

[FR Doc. 2018–24059 Filed 11–2–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0815]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, Miles 179 to 180, St. Louis, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Upper Mississippi River from mile marker (MM) 179 to MM 180. This action is necessary to provide for the safety of persons, vessels, and the marine environment on these navigable waters near St. Louis, MO, during a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective from 8 p.m. through 11:30 p.m. on November 8, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–0815 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. It is impracticable because we must establish this safety zone by November 8, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the scheduled date of the fireworks and compromise public safety.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with a fireworks display on the evening of November 8, 2018, will be a safety concern for persons and vessels on a one-mile stretch of the Upper Mississippi River. Hazards associated with firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is necessary to ensure the safety of persons, vessels, and the marine environment on these navigable waters before, during, and after the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 8 p.m. through 11:30 p.m. on November 8, 2018. The safety zone will cover all navigable waters of the Upper Mississippi River from mile 179 to mile 180, in St. Louis, Mo. The duration of the zone is intended to protect persons, vessels, and the marine environment in these navigable waters during the fireworks display.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. The safety zone impacts a one-mile stretch of the Upper Mississippi river for three and one half hours on one evening. Moreover, the Coast Guard will issue a BNM via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone prohibiting entry on a one-mile stretch of the Upper Mississippi River for three hours on one evening. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0815 to read as follows:

§ 165.T08–0815 Safety Zone; Upper Mississippi River, Miles 179 to 180, St. Louis, MO.

(a) *Location.* The following area is a safety zone: All waters of the Upper Mississippi River from mile marker (MM) 179 to MM180, from surface to bottom, Saint Louis, MO.

(b) *Effective period.* This section is effective from 8 p.m. through 11:30 p.m. on November 8, 2018.

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

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety

Information Bulletins (MSIBs) as appropriate.

Dated: October 30, 2018.

S.A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2018–24120 Filed 11–2–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R08–UST–2018–0169; FRL–9982–18–Region 8]

Utah: Final Approval of State Underground Storage Tank Program Revisions, Codification and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Utah's Underground Storage Tank (UST) program submitted by the State. The EPA has determined that these revisions satisfy all requirements needed for program approval. This action also codifies the EPA's approval of Utah's state program and incorporates by reference those provisions of the State's regulations that we have determined meet the requirements for approval. The State's federally-authorized and codified UST program, as revised pursuant to this action, will remain subject to the EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions.

DATES: This rule is effective January 4, 2019, unless the EPA receives adverse comment by December 5, 2018. If EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of January 4, 2019, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

2. *Email: langenfeld.matthew@epa.gov.*

3. *Mail:* Matthew Langenfeld, Region 8, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and Recovery Program, Office of Partnerships and Regulatory Assistance (8P–R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

4. *Hand Delivery or Courier:* Deliver your comments to Matthew Langenfeld, Region 8, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and Recovery Program, Office of Partnerships and Regulatory Assistance (8P–R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

Instructions: Direct your comments to Docket ID No. EPA–R08–UST–2018–0169. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or email. The federal *http://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy the documents that form the basis for this action and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone number (303) 312–6284. Interested persons wanting to examine these documents should make an appointment with the office at least 2 days in advance.

FOR FURTHER INFORMATION CONTACT: Matthew Langenfeld, (303) 312–6284, *Langenfeld.matthew@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Matthew Langenfeld at (303) 312–6284.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Utah's Underground Storage Tank Program

A. Why are revisions to state programs necessary?

States which have received final approval from the EPA under RCRA section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the federal underground storage tank program. When the EPA makes revisions to the regulations that govern the UST program, states must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their underground storage tank program and these changes must then be approved by the EPA.

B. What decisions has the EPA made in this rule?

On February 28, 2018, in accordance with 40 CFR 281.51(a), Utah submitted a complete program revision application seeking the EPA approval for its UST program revisions (State Application). Utah's revisions correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: A transmittal letter from the Governor requesting approval, a description of the program and operating procedures, a demonstration of the State's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant state statutes and regulations. We have reviewed the State Application and determined that the revisions to Utah's UST program are equivalent to, consistent with, and no less stringent

than the corresponding federal requirements in subpart C of 40 CFR part 281, and that the Utah program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Utah final approval to operate its UST program with the changes described in the program revision application, and as outlined below in Section I.G of this document.

C. What is the effect of this action on the regulated community?

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already in effect in the State of Utah, and are not changed by this action. This action merely approves the existing state regulations as meeting the federal requirements and renders them federally enforceable.

D. Why is EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and we anticipate no adverse comment. Utah did not receive any comments during its comment period when the rules and regulations being considered today were proposed at the state level.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final rule, the EPA is publishing a separate document in the ''Proposed Rules'' section of this **Federal Register** that serves as the proposal to approve the State's UST program revisions, and provides an opportunity for public comment. If EPA receives comments that oppose this approval, the EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before it becomes effective. The EPA will base any further decision on approval of the State Application after considering all comments received during the comment period. The EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Utah previously been approved?

On April 7, 1995, the EPA finalized a rule approving the UST program that Utah proposed to administer in lieu of the federal UST program. On December 5, 1995, the EPA codified the provisions of the approved Utah program that are part of the underground storage tank program under subtitle I of RCRA, and therefore are subject to the EPA's inspection and enforcement authorities under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions.

G. What changes are we approving with this action and what standards do we use for review?

In order to be approved, each state program application must meet the general requirements in 40 CFR 281.11, and specific requirements in 40 CFR Subpart B (Components of a Program Application); Subpart C (Criteria for No Less Stringent); and Subpart D (Adequate Enforcement of Compliance). This also is true for proposed revisions to approved state programs.

As more fully described below, the State has made the changes to its approved UST program to reflect the 2015 Federal Revisions. The EPA is approving the State's changes because they are equivalent to, consistent with, and no less stringent than the federal UST program and because the EPA has confirmed that the Utah UST program will continue to provide for adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, Subpart D after this approval.

The Utah Department of Environmental Quality (DEQ), Division of Environmental Response and Remediation (DERR) is the lead implementing agency for the UST program in Utah, except in Indian country.

The DERR continues to have broad statutory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases under Utah Statutes (2018), Title 19, Chapter 6, Part 4— Underground Storage Tank Act, Sections 401–429. The Utah UST Program gets its enforcement authority from the powers and duties of the DERR Director (Director) found in Title 19, Chapter 6, Part 4, Sections 404(f), 404(j) and 425(2). Under Title 19, Chapter 6, Part 4, Section 404(k) the Director is authorized to require an owner to furnish records, conduct monitoring or testing, and provide access to tanks. The Director is authorized to issue a Notice of Intent to Revoke and Order to Revoke Certificates of Compliance under Title 19, Chapter 6, Part 4, Section 414. Certificates of Compliance lapse automatically if annual registration fees are not paid under Title 19, Chapter 6, Part 4, Section 408(5)(c). Penalties for non-compliance with Utah's UST Act may be assessed under Title 19, Chapter 6, Part 4, Section 425(1). A delivery prohibition tag may be placed on a tank for failure to have a certificate of compliance, spill and overfill prevention, and required tank and/or piping leak detection or corrosion protection.

Specific authorities to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases are found under Utah Administrative Code (UAC), as amended effective January 1, 2017, R311–200 through R311–212, Underground Storage Tanks; Reporting and recordkeeping requirements are found under UAC R311–202–280.34; Environmental Quality Administrative Rules are found under UAC, as amended February 1, 2018, R305–1 through R305–9; and maintenance and management of records for individual sites and projects is required under Utah Statutes (2008), Title 63G, Chapter 2, Part 1 through Part 9. The aforementioned statutory sections and regulations satisfy the requirements of 40 CFR 281.40 and 281.41.

Through a Memorandum of Agreement between the State of Utah and the EPA, effective June 27, 2017, the State maintains procedures for receiving and ensuring proper consideration of information about violations submitted by the public. The State agrees to comply with public participation provisions contained in 40 CFR 281.42 including the provision that the State will not oppose intervention under Rule 24(a)(2) of the Utah Rules of Civil Procedure on the grounds that the applicant's interest is adequately represented by the State. Utah has met the public participation requirements found in 40 CFR 281.42.

To qualify for final approval, revisions to a state's program must be ''equivalent to, consistent with, and no less stringent'' than the 2015 Federal Revisions. In the 2015 Federal Revisions the EPA addressed UST systems deferred in the 1988 UST regulations, and added, among other things, new operation and maintenance requirements; secondary containment requirements for new and replaced tanks and piping; operator training requirements; and a requirement to ensure UST system compatibility before storing certain biofuel blends. In addition, the EPA removed past deferrals for emergency generator tanks, field constructed tanks, and airport hydrant systems. The EPA analyzes revisions to approved state programs pursuant to the criteria found in 40 CFR 281.30 through 281.39.

The DERR has revised its regulations to help ensure that the State's UST program revisions are equivalent to,

consistent with, and no less stringent than the 2015 Federal Revisions. In particular, the DERR has amended Utah Administrative Code R311–202–1 to incorporate by reference (into the Utah regulations) the requirements of 40 CFR part 280, including the requirements added by the 2015 Federal Revisions, except for 40 CFR Subpart J (Operator Training) and the definitions of Class A, B and C operators. (We note that R311–206–2(a)(2) also incorporates by reference the necessary requirements for financial responsibility for UST systems.) The State, therefore, has ensured that the criteria found in 40 CFR 281.30 through 281.38 are met.

Title 40 CFR 281.39 describes the state operator training requirements that must be met in order to be considered equivalent to, consistent with, and no less stringent than federal requirements. Utah did not incorporate by reference federal requirements for operator training, and has promulgated and is implementing its own operator training provisions under Utah Administrative Code R311–201–12. After a thorough review, the EPA has determined that Utah's operator training requirements are equivalent to, consistent with, and no less stringent than federal requirements.

As part of the State Application the Utah Attorney General certified that the State revisions meet the requirements ''equivalent to, consistent with, and no less stringent'' criteria in 40 CFR 281.30 through 281.39. The EPA is relying on this certification in addition to the analysis submitted by the State in making our determination.

For further information on the EPA's analysis of the State's application, see the chart in the Technical Support Document (TSD) contained in the docket for this rulemaking.

H. Where are the revised rules different from the Federal rules?

Broader in Scope Provisions

Where an approved state program has a greater scope of coverage than required by federal law, the additional coverage is not part of the federally-approved program and are not federally enforceable. (40 CFR 281.12(a)(3)(ii)) The following statutory and regulatory requirements are considered broader in coverage than the federal program as these state-only regulations are not required by federal regulation and are implemented by the State in addition to the federally approved program:

Utah Administrative Code R311–206–2(a)(1) and (b) allows owners and operators, meeting requirements for participation, to use the State-only Environmental Assurance Program to demonstrate financial assurance.

Under Utah Statutes, Title 19, Chapter 6, Part 4—Underground Storage Tank Act, Section 412(6), certificates of compliance are required to operate regulated UST systems and are issued by the State for facilities that are registered, have financial assurance, comply with federal and state rules, and meet tank testing requirements. Under Utah Statutes, Title 19, Chapter 6, Part 4—Underground Storage Tank Act, Section 411(7), the DERR Director shall issue certificates of compliance and the Waste Management and Radiation Control Board shall make rules for identifying USTs that do not qualify for a certificate of compliance.

Under Utah Administrative Code R311–201–2, Utah requires that UST consultants, inspectors, testers, installers, removers, and groundwater and soil samplers be certified by the State. Under Utah Administrative Code R311–201–2, Utah allows individuals to apply for certification, and under Utah Administrative Code R311–201–4, Utah lists eligibility requirements for certification of UST consultants, inspectors, testers, and installers. Under Utah Administrative Code R311–203–3, Utah requires certified installers to pay a permit fee for installation at facilities that do not qualify for a certificate of compliance and to notify the DERR Director of the completion of installation. Under Utah Administrative Code R311–201–5 through 10, Utah allows for renewal of certificates, provides standards of performance, gives the DERR Director the ability to deny certification, and allows for appeal, inactivation, revocation, and reciprocity.

Under Utah Administrative Code R311–203–3, Utah requires installers to provide notification to the State 10 days prior to installation of UST systems and components, and requires an UST installation permit fee. Under Utah Administrative Code R311–203–4, Utah requires UST registration fees.

More Stringent Provisions

Where an approved state program includes requirements that are considered more stringent than required by federal law, the more stringent requirements become part of the federally approved program. (40 CFR 281.12(a)(3)(ii))

The following statutory and regulatory requirements are considered more stringent than the federal program, and on approval, they become part of the federally approved program and are federally enforceable:

Under Utah Administrative Code R311–201–12(f), Utah requires third-party Class B operators to be certified as UST testers, installers, or meet the requirements of certified UST inspectors. Under Utah Administrative Code R311–203–5, Utah requires that UST testers report test results. Under Utah Administrative Code R311–203–7(a), Utah requires that walkthrough inspections conducted under 40 CFR 280.36 be conducted by or under the direction of a Class B Operator. Under Utah Administrative Code R311–203–7(c), Utah requires UST facilites with temporarily closed tanks to conduct annual operator inspections. Under Utah Administrative Code R311–211–12(h)(2) and (3), Utah requires Class A and B operators to submit a registration application to the DERR Director, documenting proper training with its renewal registration application prior to expiration of their existing certification.

I. How does this action affect Indian country (18 U.S.C. 1151) in Utah?

The EPA's approval of Utah's Program does not extend to Indian country as defined in 18 U.S.C. 1151. Indian country generally includes lands within the exterior boundaries of the following Indian reservations located within Utah: The Washakie Reservation (Northwestern Band of the Shoshone Nation), reservation lands of the Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes), the Skull Valley Indian Reservation, the Uintah & Ouray Reservation, the Goshute Reservation, and the Navajo Nation; any land held in trust by the United States for an Indian tribe; and any other areas that are ''Indian country'' within the meaning of 18 U.S.C. 1151. Any lands removed from an Indian reservation status by federal court action are not considered reservation lands even if located within the exterior boundaries of an Indian reservation. The EPA will retain responsibilities under RCRA for underground storage tanks in Indian country. Therefore, this action has no effect in Indian country. *See* 40 CFR 281.12(a)(2).

II. Codification

A. What is codification?

Codification is the process of placing a state's statutes and regulations that comprise the state's approved UST program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the federal program.

The EPA codifies its authorization of state programs in 40 CFR part 282 and incorporates by reference state regulations that the EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable statutory provisions. The incorporation by reference of state authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved state program and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each state.

B. What is the history of codification of Utah's UST program?

The EPA incorporated by reference and codified Utah's then-approved UST program in 40 CFR 282.94, effective April 7, 1995 (60 FR 12709; March 8, 1995). Through this action, the EPA is incorporating by reference and codifying Utah's state program in 40 CFR 282.94 to include the approved revisions.

C. What codification decisions have we made in this rule?

In this rule, we are finalizing the federal regulatory text that incorporates by reference the federally authorized Utah UST Program. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the Utah rules described in the amendments to 40 CFR part 282 set forth below. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 8 office (see the **ADDRESSES** section of this preamble for more information).

One purpose of this **Federal Register** document is to codify Utah's approved UST program. The codification reflects the State program that would be in effect at the time the EPA's approved revisions to the Utah UST program addressed in this direct final rule become final. If, however, the EPA receives substantive comment on the proposed rule then this codification will not take effect, and the State rules that are approved after the EPA considers public comment will be codified instead. By codifying the approved Utah program and by amending the Code of Federal Regulations (CFR), the public will more easily be able to discern the status of the federally-approved requirements of the Utah program.

The EPA is incorporating by reference the Utah approved UST program in 40 CFR 282.94. Section 282.94(d)(1)(ii)(B) incorporates by reference for enforcement purposes the State's regulations. Section 282.94 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the UST program under subtitle I of RCRA.

D. What is the effect of EPA's codification of the federally authorized State UST Program on enforcement?

The EPA retains the authority under sections 9003(h), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake corrective action, inspections, and enforcement actions, and to issue orders in approved States. If the EPA determines it will take such actions in Utah, the EPA will rely on federal sanctions, federal inspection authorities, and other federal procedures rather than the state analogs. Therefore, though the EPA has approved the State procedures listed in 40 CFR 282.94(d)(1)(ii), the EPA is not incorporating by reference Utah's procedural and enforcement authorities.

E. What State provisions are not part of the codification?

The public also needs to be aware that some provisions of the State's UST program are not part of the federally approved State program. Such provisions are not part of the RCRA Subtitle I program because they are ''broader in coverage'' than Subtitle I of RCRA. Title 40 CFR 281.12(a)(3)(ii) states that where an approved state program has provisions that are broader in coverage than the federal program, those provisions are not a part of the federally approved program. As a result, State provisions which are ''broader in coverage'' than the federal program are not incorporated by reference for purposes of enforcement in part 282. Title 40 CFR 282.94(d)(1)(iii) lists for reference and clarity the Utah statutory and regulatory provisions which are ''broader in coverage'' than the federal program and which are not, therefore, part of the approved program being codified today. Provisions that are ''broader in coverage'' cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order (E.O.) Reviews

This action only applies to Utah's UST Program requirements pursuant to RCRA Section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable EOs and statutory provisions as follows:

A. Executive Order 12866 Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and 13563 (76 FR 3821, Jan. 21, 2011). This action approves and codifies state requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by state law. Therefore, this action is not subject to review by OMB.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as this final approval of Utah's revised underground storage tank 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.*).

C. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Because this action approves and codifies pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this 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).

D. Executive Order 13132: Federalism

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, Aug. 10, 1999), because it merely approves and codifies state requirements as part of the State RCRA Underground Storage Tank Program

without altering the relationship or the distribution of power and responsibilities established by RCRA.

E. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action also is not subject to Executive Order 13045 (62 FR 19885, Apr. 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

F. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

G. National Technology Transfer and Advancement Act

Under RCRA section 9004(b), the EPA grants a state's application for approval 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 approval 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.

H. Executive Order 12988: Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this 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.

I. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

The EPA has complied with Executive Order 12630 (53 FR 8859, Mar. 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.

J. Paperwork Reduction Act

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.*). ''Burden'' is defined at 5 CFR 1320.3(b).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule approves pre-existing state rules which are at least equivalent to, consistent with, 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.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, 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. The EPA will submit a report containing this document 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 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). However, this action will be effective January 4, 2019 because it is a direct final rule.

Authority: This rule is issued under the authority of Sections 2002(a), 7004(b), and 9004, 9005 and 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), and 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by reference, State program approval, and Underground storage tanks.

Dated: October 26, 2018.

Douglas Benevento,

Regional Administrator, EPA Region 8.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Revise § 282.94 to read as follows:

§ 282.94 Utah State-Administered Program.

(a) *History of the approval of Utah's Program.* The State of Utah is approved to administer and enforce an underground storage tank program in lieu of the federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Utah Department of Environmental Quality (DEQ), Division of Environmental Response and Remediation (DERR), was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of final determination approving the Utah underground storage tank base program effective on April 7, 1995. A subsequent program revision application was approved by EPA and became effective on January 4, 2019.

(b) *Enforcement authority.* Utah has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h),6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Utah must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Utah obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Utah has final approval for the following elements of its program

application originally submitted to EPA and approved effective April 7, 1995, and the program revision application approved by EPA effective on January 4, 2019:

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The Utah provisions cited in this paragraph, and listed in Appendix A to part 282, are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Utah regulations that are incorporated by reference in this paragraph from Utah's Office of Administrative Rules, Office Coordinator, P.O. Box 141007, Salt Lake City, UT 84114–1007; Phone number: 801–538–3003; website: *https://rules.utah.gov/publications/utah-adm-code/.* You may inspect all approved material at the EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202 (Phone number (303) 312–6284 or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(A) Utah Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, October 2018.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include: Utah Code (May 8, 2018), Title 19, ''Environmental Quality Code,'' Chapter 6, ''Hazardous Substances,'' Part 4 ''Underground Storage Tank Act'': Sections 19–6–402 (14); 19–6–404(2)(f), (j), and (m); 19–6–407(2); 19–6–414; 19–6–416; 19–6–418; 19–6–420(2), (4)(a), (5)(b), (8), and (9)(b); 19–6–424.5; 19–6–425; 19–6–426(5) and (6); 19–6–427, and 19–5–429(1).

(B) The regulatory provisions include:

(*1*) *Utah Administrative Code (January 1, 2017), Title 311:* ''Environmental Quality, Environmental Response and Remediation'': Sections R311–206–7(a) and (f); R311–208–1 through R311–208–5.

(*2*) *Utah Administrative Code (January 1, 2017), Title 305:* ''Environmental Quality, Administrative Procedures'': Sections R305–7–101 through R305–7–113; R305–7–200 through R305–7–217; R305–7–301 through R305–7–320; R305–7–401 through R305–7–403; R305–7–501 through R305–7–503; and R305–7–601 through R305–7–623.

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Utah underground storage tank program that are broader in coverage than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes:

(A) *Utah Code (May 8, 2018), Title 19:* ''Environmental Quality Code,'' Chapter 6, ''Hazardous Substances,'' Part 4 ''Underground Storage Tank Act'': Sections 19–6–412(6); and 19–6–411(7).

(B) *Utah Administrative Code (January 1, 2017), Title 311:* ''Environmental Quality, Environmental Response and Remediation'': Sections R311–201–2; R311–201–4; R311–201–5 through 10; R311–203–3(b), (c) and (g); R311–203–4; R311–206–2(a)(1), (b) and (c); and R311–206–8(a)(1)—(4) and (f)(1)(A).

(2) *Statement of legal authority.* The Attorney General's Statements, signed by the Assistant Attorney General and Director of the Environment and Health Division of the Utah Attorney General's Office of the State of Utah on October 2, 2017, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application on February 28, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application on February 28, 2018, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 8 and the Utah Department of Environmental Quality, signed by the EPA Acting Regional Administrator on July 27, 2017, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Appendix A to part 282 is amended by revising the entry for Utah to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Utah

(a) The statutory provisions include: Utah Code, *Title 19:* ''Environmental Quality Code,'' Chapter 1, ''General Provisions, Part 2, Powers,'' (May 8, 1991) and Chapter 6, ''Hazardous Substances, Part 4, Underground Storage Tank Act'' (May 8, 2018):

Section 19–1–203, Representatives of department authorized to enter regulated premises.

Section 19–6–402, Definitions, except (3), (4), (8), (9), (11), (14), (15), (20), (23) and (26).

Section 19–6–402.5, Retroactive effect.

Section 19–6–403, Powers and duties of board, except (1)(a)(i), (1)(a)(vi) and (1)(a)(vii).

Section 19–6–404, Powers and duties of director, except 2(c), 2(f), 2(j) and 2(m).

Section 19–6–407, Underground storage tank registration—Change of ownership or operation—civil penalty, except (2) and (3).

Section 19–6–413, Tank tightness test—Action required after testing.

Section 19–6–420 Abatement actions—Corrective actions, except (1) through (3)(b), (4)(a), (5)(b) and (c), (6), and 9(b).

(b) Administrative Rules of the State of Utah, Title 311 Environmental Quality, Environmental Response and Remediation, Utah Administrative Code (April 1, 2018):

(1) Section R311–200–1, Underground Storage Tanks: Definitions, except (b)(2), (b)(5), (b)(6), (b)(7), (b)(10), (b)(11), (b)(12), (b)(13), (b)(20), (b)(22), (b)(28), (b)(34), (b)(38), (b)(44), (b)(45), (b)(49), (b)(51), (b)(55), (b)(56), (b)(58), and (b)(59).

Section R311–201–1, Underground Storage Tanks: Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–201–12, Underground Storage Tanks: Certification Programs and UST Operator Training, UST Operator Training and Registration, except (d)(2) and (f).

Section R311–202–1, Federal Underground Storage Tank Regulations, Incorporation by reference, except (a), (b), (c), and (d).

Section R311–203–1, Underground Storage Tanks: Technical Standards, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–203–2, Notification.

Section R311–203–3, New installations, permits, except (b), (c), and (g).

Section R311–203–5, UST testing requirements.

Section R311–203–6, Secondary containment and under-dispenser containment.

Section R311–203–7, Operator inspections.

Section R311–203–8, Unattended facilities.

Section R311–204–1, Underground Storage Tanks: Closure and Remediation, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–204–2, Underground Storage Tank Closure Plan.

Section R311–204–3, Disposal.

Section R311–204–4, Closure notice.

Section R311–205–1, Underground Storage Tanks: Site Assessment Protocol, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–205–2, Site assessment protocol.

Section R311–206–1, Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–206–2, Declaration of financial assurance mechanisms, except (a)(1), (b), and (c).

Section R311–206–3, Requirements for issuance of certificates of compliance, except (7) and (8).

Section R311–206–5, Requirements for owners and operators demonstrating financial assurance by other methods, except (b) and (b)(2).

Section R311–206–8, Delivery prohibition, except (a)(1)—(4) and (f)(1)(A).

(c) Copies of the Utah regulations that are incorporated by reference are available from the Utah's Office of Administrative Rules, Office Coordinator, P.O. Box 141007, Salt Lake City, UT 84114–1007; Phone number: 801–538–3003; website: *https://rules.utah.gov/publications/utah-adm-code/.*

[FR Doc. 2018–24062 Filed 11–2–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1710319998630–02]

RIN 0648–XG594

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2018 Commercial Accountability Measure and Closure for South Atlantic Red Snapper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for commercial red snapper in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings for red snapper will reach the commercial annual catch limit (ACL) for the 2018 fishing year. Therefore, NMFS is closing the commercial sector for red snapper in the South Atlantic EEZ on November 7, 2018. This closure is necessary to protect the red snapper resource.

DATES: This rule is effective 12:01 a.m., local time, November 7, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes red snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The 2018 commercial ACL for red snapper in the South Atlantic is 124,815 lb (56,615 kg), round weight, as specified in 50 CFR 622.193(y)(1).

Under 50 CFR 622.193(y)(1), NMFS is required to close the commercial sector for red snapper when the commercial ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for South Atlantic red snapper will be reached by November 7, 2018. Accordingly, the commercial sector for South Atlantic red snapper is closed effective 12:01 a.m., local time, November 7, 2018. For the 2019 fishing year, NMFS will announce the commercial season opening date in the **Federal Register**. Unless otherwise specified, the 2019 commercial season will begin on the second Monday in July (50 CFR 622.183(b)(5)(i)). NMFS notes that the red snapper recreational sector closed for the 2018 fishing year at 12:01 a.m., local time, August 20, 2018 (83 FR 35428; July 26, 2018). Therefore, as of the commercial closure effective date, all harvest and possession red snapper in the South Atlantic EEZ will be prohibited.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having red snapper onboard must have landed and bartered, traded, or sold such red snapper prior to 12:01 a.m., local time, November 7, 2018. On and after the effective date of the closure notification, all sale or purchase of red snapper is prohibited. This prohibition on the harvest, possession, sale/purchase apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested or possessed, *i.e.,* in state or Federal waters (50 CFR 622.193(y)(1) and 622.181(c)(2)).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of red snapper and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(y)(1) and is exempt from review under Executive Order 12866.

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

This action responds to the best scientific information available. The NOAA Assistant Administrator for Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for red snapper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing FMP Amendment 43, which established the commercial season and ACLs for red snapper, and the accountability measures has already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect red snapper since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial ACL.

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

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

Dated: October 31, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–24182 Filed 11–1–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 141107936–5399–02]

RIN 0648–XG592

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2018 Commercial Accountability Measure and Closure for South Atlantic Gray Triggerfish; July Through December Season

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for commercial gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS indicates that commercial landings for gray triggerfish are projected to reach the commercial annual catch limit (ACL)(commercial quota) for the period of July through December and commercial harvest should close to prevent the quota from being exceeded. Therefore, NMFS is closing the commercial sector for gray triggerfish in the South Atlantic EEZ on November 6, 2018. This closure is necessary to protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, November 6, 2018, until January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing Amendment 29 to the FMP divided the commercial ACL (commercial quota) for gray triggerfish in the South Atlantic into two 6-month commercial fishing seasons and allocated 50 percent of the total commercial quota of 312,324 lb (141,668 kg), round weight, to each fishing season, January 1 through June 30, and July 1 through December 31 (80 FR 30947; June 1, 2015), as specified in 50 CFR 622.190(a)(8). As a result, the commercial quota is divided into two equal seasonal quotas of 156,162 lb (70,834 kg), round weight.

Under 50 CFR 622.193(q)(1)(i), NMFS is required to close the commercial sector for gray triggerfish when the commercial quota specified in § 622.190(a)(8)(i) or (ii) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial quota for the July through December 2018 season for South Atlantic gray triggerfish will be reached and commercial harvest should close to prevent the quota from being exceeded. Accordingly, the commercial sector for South Atlantic gray triggerfish is closed effective 12:01 a.m., local time, November 6, 2018, until the start of the next commercial fishing season on January 1, 2019.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having gray triggerfish onboard must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, November 6, 2018. During the closure, the bag limit specified in 50 CFR 622.187(b)(8), and the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. Also, during the closure, the sale or purchase of gray triggerfish taken from the South Atlantic EEZ is prohibited. The prohibition on the sale or purchase does not apply to gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, November 6, 2018, and were held in cold storage by a dealer or processor.

For a person onboard a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and sale and purchase prohibitions applicable after the commercial quota closure for gray triggerfish apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1).

Classification

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

This action is taken under 50 CFR 622.193(q)(1)(i) and is exempt from review under Executive Order 12866.

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

This action responds to the best scientific information available. The NOAA Assistant Administrator for Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the split commercial seasons and quotas for gray triggerfish, and the accountability measures have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial.

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

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

Dated: October 31, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–24180 Filed 11–1–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 214
Monday, November 5, 2018

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0906; Product Identifier 2018–NM–122–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus SAS Model A310–304, –322, –324, and –325 airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain skin stringer joints are subject to widespread fatigue damage (WFD). This proposed AD would require a rototest inspection of the fastener holes in the affected areas and repair if necessary, and modifying the fastener holes. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 20, 2018.

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

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

For service information identified in this NPRM, 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.

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–2018–0906; 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 NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0906; Product Identifier 2018–NM–122–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as WFD. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information

development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

We are issuing this AD to address any cracking of the top wing skin stringer joints at rib 19, which could result in reduced structural integrity of the wing.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2018–0174, dated August 14, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A310–304, –322, –324, and –325 airplanes. The MCAI states:

> In response to US 14 CFR Part 26 concerning Widespread Fatigue Damage (WFD), Airbus assessed all wing structural items of the Airbus A310 design deemed potentially susceptible to WFD. The top [wing] skin stringer joints at rib 19 at level of the first fastener row were highlighted as an area of uniform stress distribution, indicating that cracks may develop in adjacent stringers at the same time, which is known as Multi Element Damage.
>
> This condition, if not corrected, could reduce the structural integrity of the wing.
>
> Prompted by the conclusion of WFD analysis, Airbus issued the [service bulletin] SB to provide modification instructions. The accomplishment of this modification at the specified time will extend the life of the fastener holes in the affected area in order to reach the Limit of Validity.
>
> For the reasons described above, this [EASA] AD requires a one-time inspection of the [fastener] holes in the affected area, accomplishment of applicable corrective action(s) [contacting the manufacturer], depending on findings, and modification.

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–2018–0906.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A310–57–2108, dated November 9, 2017. This service information describes procedures for accomplishing a rototest inspection of the fastener holes in the affected areas and repair if necessary, and modifying the fastener holes. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Explanation of Compliance Time

The compliance time for the replacement specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is replaced before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 14 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
43 work-hours × $85 per hour = 3,655	$0	$3,655	$51,170

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed 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 proposed 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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2018–0906; Product Identifier 2018–NM–122–AD.

(a) Comments Due Date

We must receive comments by December 20, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A310–304, –322, –324, and –325 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that top wing skin stringer joints at rib 19 are subject to widespread fatigue damage (WFD). We are issuing this AD to address any cracking of the top wing skin stringer joints, which could result in reduced structural integrity of the wing.

(f) Compliance

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

(g) Definitions

(1) The affected areas are defined as the top wing skin stringers, 9 to 15, at the stringer joints, outboard of rib 19, on both wings.

(2) The average flight time (AFT) is defined as flight hours divided by flight cycles accumulated by an individual airplane since the airplane's first flight, specified in hours and hundredths of an hour. Refer to the Airbus A310 Maintenance Review Board Report Section D2 for guidance to determine the AFT.

(h) Inspection

Within the applicable compliance times specified in figure 1 to paragraph (h) of this AD, accomplish a rototest inspection of the fastener holes in the affected areas in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2108, dated November 9, 2017.

Figure 1 to paragraph (h) of this AD – *Compliance Times for Rototest Inspection*

AFT (average flight time)	Compliance Time (flight cycles or flight hours, whichever occurs first since the airplane's first flight)
Special (long) Range: AFT > 4.0 flight hours/flight cycles	34,500 flight cycles or 172,600 flight hours
Normal (short) Range: AFT ≤ 4.0 flight hours/flight cycles	42,100 flight cycles or 117,800 flight hours

(i) Corrective Actions

If, during the inspection required by paragraph (h) of this AD, any discrepancy (*i.e.,* cracking or discrepant hole diameter) or existing repair is detected, before further flight, obtain corrective actions 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); and accomplish the corrective actions within the compliance time specified therein. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Modification

If, during the inspection required by paragraph (h) of this AD, no existing repair or discrepancy is detected, before further flight, modify the fastener holes in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2108, dated November 9, 2017.

(k) 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 (l)(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 EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2018–0174, dated August 14, 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–2018–0906.

(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) 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.* 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.

Issued in Des Moines, Washington, on October 24, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23817 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0905; Product Identifier 2018–NM–115–AD]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. This proposed AD was prompted by reports of corrosion and chromium layer chipping of the forward and aft pintle pins of the main landing gear (MLG) shock struts. This proposed AD would require repetitive inspections for discrepancies of affected forward and aft pintle pins of the MLG shock struts, and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 20, 2018.

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

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

For service information identified in this NPRM, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brazil; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; email: *distrib@embraer.com.br;* internet: *http://www.flyembraer.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.

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–2018–0905; 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 NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0905; Product Identifier 2018–NM–115–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2018–07–01, effective July 24, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. The MCAI states:

> This [Brazilian] AD was prompted by reports of corrosion and chromium layer chipping on the rearward and forward Pintle Pin of the Main Landing Gear (MLG) Shock Struts. We are issuing this [Brazilian] AD to detect and correct Pintle Pin[s] having [discrepancies including] corrosion or chromium layer chipping, which could cause the Pintle Pin[s] to shear under normal load and lead to collapse of the MLG during take-off or landing.

Corrective actions include repair or replacement of affected forward and aft pintle pins of the left- and right-hand MLG shock struts. 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–2018–0905.

Related Service Information Under 1 CFR Part 51

Embraer has issued Service Bulletin 190–32–0065, Revision 02, dated November 1, 2017. This service information describes procedures for repetitive inspections of affected forward and aft pintle pins of the MLG shock struts for discrepancies, and repair or replacement of any discrepant affected pintle pin.

Embraer has also issued Task 32–11–001–1034, ''MLG Shock Strut Pintle Pins—Internal,'' of the Embraer 190/195 Maintenance Review Board Report (MRBR) 1928, Revision 11, dated May 10, 2017. This service information describes procedures for the inspection of pintle pins of the MLG shock struts at areas covered by the MLG shock strut and trunnion.

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

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described

previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 96 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 22 work-hours × $85 per hour = Up to $1,870.	$0	Up to $1,870 per inspection cycle	Up to $179,520 per inspection cycle.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
6 work-hours × $85 per hour = $510 per MLG (replacement)	$1,750 per MLG	$2,260 per MLG.
6 work-hours × $85 per hour = $510 per MLG (repair)	$0	$510 per MLG.

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Embraer S.A.: Docket No. FAA–2018–0905; Product Identifier 2018–NM–115–AD.

(a) Comments Due Date

We must receive comments by December 20, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; certificated in any category; all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by reports of corrosion and chromium layer chipping of the forward and aft pintle pins of the main landing gear (MLG) shock struts. We are issuing this AD to address discrepancies of affected forward and aft pintle pins of the MLG shock struts, which could result in the pintle pin shearing under normal load and consequent collapse of the MLG during takeoff or landing.

(f) Compliance

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

(g) Repetitive Inspections

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Do a detailed inspection for discrepancies of affected forward and aft pintle pins of the

left- and right-hand MLG shock struts, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 190–32–0065, Revision 02, dated November 1, 2017. Repeat the inspection thereafter at intervals not to exceed 72 months.

(1) For airplanes on which any MLG pintle pin having part number (P/N) 2821–0067 or 2821–0025 has accumulated fewer than 17,000 total flight cycles since new: Before the accumulation of 17,750 total flight cycles.

(2) For airplanes on which any MLG pintle pin having P/N 2821–0067 or 2821–0025 has accumulated 17,000 or more total flight cycles since new: Within 750 flight cycles after the effective date of this AD.

(h) Corrective Actions

If any discrepancy of any pintle pin is found during any inspection required by paragraph (g) of this AD: Before further flight, repair the affected pintle pin or replace it with a new pintle pin, as applicable, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 190–32–0065, Revision 02, dated November 1, 2017.

(i) Credit for Previous Actions

This paragraph provides credit for the initial inspection required by paragraph (g) of this AD, if that inspection was performed before the effective date of this AD using the applicable service information identified in paragraphs (i)(1) through (i)(5) of this AD.

(1) Embraer 190/195 Maintenance Review Board Report (MRBR) 1928, Task 57–50–007–1247, Revision 11, dated May 10, 2017.

(2) Embraer 190/195 MRBR 1928, Task 32–11–00–001, Revision 11, dated May 10, 2017.

(3) Embraer Service Bulletin 190–32–0002, Revision 01, dated November 8, 2012.

(4) Embraer Service Bulletin 190–32–0065, dated August 31, 2016.

(5) Embraer Service Bulletin 190–32–0065, Revision 01, dated October 24, 2017.

(j) Equivalent Inspection

Performing a detailed inspection for discrepancies of affected forward and aft pintle pins of the left- and right-hand MLG shock struts, in accordance with Task 32–11–001–1034, ''MLG Shock Strut Pintle Pins—Internal,'' of the Embraer 190/195 MRBR 1928, Revision 11, dated May 10, 2017, at intervals not to exceed 72 months, is equivalent to an inspection required by paragraph (g) of this AD.

(k) 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 (l)(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 Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2018–07–01, effective July 24, 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–2018–0905.

(2) For more information about this AD, contact Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221.

(3) For service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brazil; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; email: *distrib@embraer.com.br;* internet: *http://www.flyembraer.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.

Issued in Des Moines, Washington, on October 22, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23691 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0903; Product Identifier 2018–NM–113–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2016–19–14, which applies to certain Airbus SAS Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2016–19–14 requires repetitive inspections for cracking of the 10VU rack fitting lugs, and repair of any cracking. Since we issued AD 2016–19–14, we have determined that the unsafe condition may exist on additional airplanes. This proposed AD continues to require repetitive inspections for cracking of the 10VU rack fitting lugs, and repair of any cracking. This proposed AD would also add airplanes to the applicability. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 20, 2018.

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

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

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EIAS, 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 referenced service

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

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–2018–0903; 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 NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0903; Product Identifier 2018–NM–113–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

We issued AD 2016–19–14, Amendment 39–18663 (81 FR 71602, October 18, 2016) (''AD 2016–19–14''), for certain Airbus SAS Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2016–19–14 requires repetitive inspections for cracking of the 10VU rack fitting lugs, and repair of any cracking. AD 2016–19–14 resulted from a report of cracks found during maintenance inspections on certain 10VU rack fitting lugs. We issued AD 2016–19–14 to address reading difficulties of flight-critical information displayed to the flightcrew during a critical phase of flight, such as an approach or takeoff, which could result in loss of airplane control at an altitude insufficient for recovery.

Actions Since AD 2016–19–14 Was Issued

AD 2016–19–14 applies to the identified airplane models on which Airbus Modification 35869 has not been embodied in production. Since we issued AD 2016–19–14, we have determined that the unsafe condition may also exist on airplanes in a post-Airbus Modification 35869 configuration.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0131, dated June 19, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A318 and A319 series airplanes; A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> During an unscheduled maintenance operation on an A330 aeroplane, the 10VU rack was removed for access and cracks were discovered on 10VU rack side fittings on lugs 1, 3 and 4. As a similar design is installed on A320 family aeroplanes, a sampling review was done to determine the possible fleet impact. The result showed that several aeroplanes had cracked or broken 10VU rack side fittings.
>
> This condition, if not detected and corrected, could lead to a high vibration level on the primary flight and navigation displays during critical flight phases (take-off and landing), possibly creating reading difficulties for the crew.
>
> Prompted by these findings, Airbus developed mod 35869 to reinforce the affected rack fitting lugs. For in-service aeroplanes, Airbus published SB [service bulletin] A320–92–1087 to provide detailed inspection (DET) and repair instructions. Consequently, EASA AD 2015–0170 [which corresponds to FAA AD 2016–19–14] was issued to require, for all pre mod 35869 aeroplanes, repetitive DET of the affected 10VU rack fitting lugs and, depending on findings, accomplishment of a repair.
>
> Since that [EASA] AD was issued, analysis confirmed the need to extend the inspection to post mod 35869 aeroplanes. Airbus issued SB A320–92–1119 providing instructions for DET and repair of those aeroplanes accordingly. Airbus developed mod 157335 to further reinforce and adjust the affected rack fitting lugs. Analysis is still ongoing to confirm mod 157335 as terminating action for the requirements of this [EASA] AD, and further AD action may follow.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2015–0170, which is superseded, expanding the Applicability to include post mod 35869 aeroplanes, and requiring, for all aeroplanes, repetitive DET of the affected 10VU rack fitting lugs and, depending on findings, accomplishment of a repair [and reporting positive and negative findings to Airbus].

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–2018–0903.

Model A320–216 Airplanes

The Airbus SAS Model A320–216 was type certificated on December 19, 2016. Before that date, any EASA ADs that affected Model A320–216 airplanes were included on the Required Airworthiness Actions List (RAAL). One or more Model A320–216 airplanes have subsequently been placed on the U.S. Register, and will now be included in FAA AD actions. For Model A320–216 airplanes, the requirements that correspond to AD 2014–20–04 were mandated by the MCAI via the RAAL. Although that RAAL requirement is still in effect, for continuity and clarity we have identified Model A320–216 airplanes in paragraph (c) of this AD; the requirements of paragraphs (g) through (i) in this proposed AD would therefore apply to those airplanes.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletins A320–92–1087, Revision 03, dated July 31, 2017; and A320–92–1119, dated July 28, 2017. This service information describes procedures for repetitive inspections for cracking of the 10VU rack fitting lugs, and repair of any cracking. These documents are distinct since they apply to airplanes in different configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would retain all of the requirements of AD 2016–19–14 and expand the applicability to include additional airplanes. This proposed AD would require accomplishing the actions specified in the service information described previously except as discussed under ''Differences Between this Proposed AD and the MCAI or Service Information.'' This proposed AD also would require sending the inspection results to Airbus SAS.

Differences Between This Proposed AD and the MCAI or Service Information

This proposed AD would not permit further flight if cracks are detected in any 10VU rack fitting lug, but the MCAI permits flight for a limited time if cracking is detected in a single 10VU rack fitting lug. We have determined that, because of the safety implications and consequences associated with that cracking, any cracked 10VU rack fitting lug must be repaired before further flight. This difference has been coordinated with the EASA.

Costs of Compliance

We estimate that this proposed AD affects 461 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$78,370

We estimate that it would take about 1 work-hour per product to comply with the reporting requirement in this proposed 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 $85 per product.

We estimate the following costs to do any necessary repairs 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 repairs:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
83 work-hours × $85 per hour = $7,055	$9,140	$16,195

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–19–14, Amendment 39–18663 (81 FR 71602, October 18, 2016), and adding the following new AD:

Airbus SAS: Docket No. FAA–2018–0903; Product Identifier 2018–NM–113–AD.

(a) Comments Due Date

We must receive comments by December 20, 2018.

(b) Affected ADs

This AD replaces AD 2016–19–14, Amendment 39–18663 (81 FR 71602, October 18, 2016) (''AD 2016–19–14'').

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, all manufacturer serial numbers.

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

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

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

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 92, Electric and Electronic Common Installation.

(e) Reason

This AD was prompted by a report of cracks found during maintenance inspections on certain 10VU rack fitting lugs. We are issuing this AD to address reading difficulties of flight-critical information displayed to the flightcrew during a critical phase of flight, such as an approach or takeoff, which could result in loss of airplane control at an altitude insufficient for recovery.

(f) Compliance

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

(g) Definitions

For the purpose of this AD, Group 1 airplanes are in a pre-Airbus Modification 35869 configuration, and Group 2 airplanes are in a post-Airbus Modification 35869 configuration.

(h) Repetitive Inspections

(1) For Group 1 airplanes: At the later of the times specified in table 1 to paragraph (h)(1) of this AD, and thereafter at intervals not to exceed 20,000 flight cycles or 40,000 flight hours, whichever occurs first, do a detailed inspection for cracking of the 10VU rack fitting lugs, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–92–1087, Revision 03, dated July 31, 2017.

TABLE 1 TO PARAGRAPH (h)(1) OF THIS AD—INITIAL INSPECTION COMPLIANCE TIME FOR GROUP 1 AIRPLANES

Compliance time (whichever occurs later, A or B)	
A	Prior to exceeding 30,000 total flight cycles or 60,000 total flight hours.
B	Within 24 months after November 22, 2016 (the effective date of AD 2016-19-14).

(2) For Group 2 airplanes: At the later of the times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD, and thereafter at intervals not to exceed 20,000 flight cycles or 40,000 flight hours, whichever occurs first, do a detailed inspection for cracking of the 10VU rack fitting lugs, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–92–1119, dated July 28, 2017.

(i) Prior to exceeding 30,000 total flight cycles or 60,000 total flight hours, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(i) Repair

If any crack is found during any inspection required by paragraph (h)(1) or (h)(2) of this AD: Before further flight, do a repair in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–92–1087, Revision 03, dated July 31, 2017 (for Group 1 airplanes); or Service Bulletin A320–92–1119, dated July 28, 2017 (for Group 2 airplanes); as applicable. Repair of a 10VU rack fitting lug does not terminate the repetitive inspections required by paragraphs (h)(1) and (h)(2) of this AD.

(j) Reporting

At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD: Submit a report of findings (positive and negative) of each inspection required by paragraph (h) 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 Airbus Service Bulletin A320–92–1087, Revision 03, dated July 31, 2017 (for Group 1 airplanes); or Service Bulletin A320–92–1119, dated July 28, 2017 (for Group 2 airplanes); as applicable. Where Figure A–FAAAA, Sheet 02, of Appendix 01, ''Inspection Report,'' of Airbus Service Bulletin A320–92–1087, Revision 03, dated July 31, 2017; and Figure A–FAAAA, Sheet 02, of Appendix 01, ''Inspection Report,'' of Service Bulletin A320–92–1119, dated July 28, 2017; specifies sending removed lugs to Airbus for investigation, this AD does not include that requirement.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (h)(1) and (i) of this AD if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–92–1087, Revision 02, dated November 25, 2014.

(l) Paperwork Reduction Act Burden Statement

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

(m) Other FAA AD Provisions

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

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

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

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2018–0131, dated June 19, 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–2018–0903.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EIAS, 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.

Issued in Des Moines, Washington, on October 22, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23689 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0904; Product Identifier 2018–NM–108–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus SAS Model A330–200 Freighter series, Model A330–200 series, Model A330–300 series, Model A340–200 series, Model A340–300 series, Model A340–500 series, and Model A340–600 series airplanes. This proposed AD was prompted by a report that certain sensor struts, in the case of down drive element disconnection, would be unable to provide failure detection information. This proposed AD would require repetitive inspections of certain drive station elements and sensor struts; an inspection of certain other drive station elements if necessary; and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 20, 2018.

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

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

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; phone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@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.

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–2018–0904; 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 NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3229.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0904; Product Identifier 2018–NM–108–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0151, dated July 16, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–200 Freighter series, Model A330–200 series, Model A330–300 series, Model A340–200 series, Model A340–300 series, Model A340–500 series, and Model A340–600 series airplanes. The MCAI states:

Design features of the track station 4 sensor struts, respectively installed on the right

hand (RH) and left hand (LH) wings of an aeroplane, ensure detection of any abnormal flap movement in case of a mechanical DSE [drive station element] disconnection at the level of the flap track station 4 or flap track station 5. Evidence was collected revealing that the track station 4 sensor strut, in case of a down drive element disconnection, would be unable to provide failure detection information.

This condition, if not detected and corrected, in the case of an additional failure on the remaining flap drive station, could lead to a complete flap disconnection, possibly resulting in loss of control of the aeroplane.

To address this potential unsafe condition, Airbus published the applicable SB [Airbus Service Bulletin A330–27–3226, dated April 5, 2018; Airbus Service Bulletin A340–27–4206, dated April 3, 2018; or Airbus Service Bulletin A340–27–5071, dated April 3, 2018; as applicable] to provide inspection instructions of the track station 4 and track station 5 DSE and sensor struts of the LH and RH wings.

For the reasons described above, this [EASA] AD requires repetitive [detailed] inspections of the LH and RH track station 4 [DSE, repetitive general visual inspections of the LH and RH track station 4 sensor struts,] and [for certain airplanes, a one-time detailed inspection of the LH or RH, as applicable] track station 5 DSE * * * and, depending on findings, accomplishment of applicable corrective action(s).

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–2018–0904.

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued the following service information.

- Airbus Service Bulletin A330–27–3226, dated April 5, 2018.
- Airbus Service Bulletin A340–27–4206, dated April 3, 2018.
- Airbus Service Bulletin A340–27–5071, dated April 3, 2018.

The service information describes procedures for repetitive detailed inspections of the LH and RH track station 4 drive station elements; repetitive general visual inspections of the LH and RH track station 4 sensor struts; a detailed inspection of the track station 5 drive station elements if any discrepancy is found during a general visual inspection; and corrective actions (*i.e.,* replacement of affected parts). These documents are distinct since they apply to different models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously. This proposed AD also would require sending the inspection results to Airbus SAS.

Costs of Compliance

We estimate that this proposed AD affects 105 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
7 work-hours × $85 per hour = $595	$0	$595	$62,475

* Table does not include estimated costs for reporting.

We estimate that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed 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 $8,925, 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 proposed AD.

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this NPRM is 2120–0056. The paperwork cost associated with this NPRM 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 NPRM 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 proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is

normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2018–0904; Product Identifier 2018–NM–108–AD.

(a) Comments Due Date

We must receive comments by December 20, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(7) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A340–211, –212, and –213 airplanes.

(5) Model A340–311, –312, and –313 airplanes.

(6) Model A340–541 airplanes.

(7) Model A340–642 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a report that the right-hand (RH) and left-hand (LH) track station 4 sensor struts, in the case of down drive element disconnection, would be unable to provide failure detection information. We are issuing this AD to address abnormal flap movement due to mechanical drive station element disconnection at flap track station 4 or station 5 which could lead to undetected down drive shaft disconnection. Such a condition could result in complete flap disconnection in the case of additional failure on the remaining flap drive station, and could ultimately result in loss of control of the airplane.

(f) Compliance

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

(g) Definitions

For the purpose of this AD, the drive station elements are defined as the down drive, down drive shaft, geared rotary actuator (gearbox), geared rotary actuator (output lever and fork end), and drive strut.

(h) Detailed and General Visual Inspections

(1) At the applicable times specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD, and thereafter not to exceed the applicable intervals specified in table 1 to paragraph (h)(1) of this AD, do a detailed inspection of the LH and RH track station 4 drive station elements for corrosion or ruptured, loose, or missing components (including any attached bolts and nuts that are loose, broken, or missing) and a general visual inspection of the LH and RH track station 4 sensor struts for corrosion or ruptured, loose, or missing components (including any attached bolts that are loose, broken, or missing), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3226, dated April 5, 2018; Airbus Service Bulletin A340–27–4206, dated April 3, 2018; or Airbus Service Bulletin A340–27–5071, dated April 3, 2018; as applicable.

Table 1 to paragraph (h)(1) of this AD - *Inspection Intervals*

Airplanes	Compliance Time (whichever occurs first)
A330, A340-200 and A340-300	3,300 flight cycles or 24 months
A340-500 and A340-600	1,600 flight cycles or 24 months

(i) For airplanes that, as of the effective date of this AD, have accumulated less than 1,000 flight cycles since first flight: Before exceeding 24 months since first flight or within 18 months after the effective date of this AD, whichever occurs later, but without exceeding 2,300 flight cycles since first flight.

(ii) For airplanes that, as of the effective date of this AD, have accumulated 1,000 or more flight cycles since first flight: Within 1,000 flight cycles or 12 months, whichever occurs first after the effective date of this AD.

(2) If, during any general visual inspection required by paragraph (h)(1) of this AD, any corrosion is detected or any ruptured, loose, or missing components (including any attached bolts that are loose, broken, or missing) are detected, before further flight, accomplish a detailed inspection of the applicable LH or RH track station 5 drive station elements for corrosion or ruptured, loose, or missing components (including any attached bolts and nuts that are loose, broken, or missing) in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3226, dated April 5, 2018; Airbus Service Bulletin A340–27–4206, dated April 3, 2018; or Airbus Service Bulletin A340–27–5071, dated April 3, 2018; as applicable.

(i) Corrective Actions

(1) If, during any detailed inspection required by paragraph (h)(1) of this AD, any corrosion is detected or any ruptured, loose, or missing components (including any

attached bolts and nuts that are loose, broken, or missing) are detected, before further flight, replace each affected part with a serviceable part in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3226, dated April 5, 2018; Airbus Service Bulletin A340–27–4206, dated April 3, 2018; or Airbus Service Bulletin A340–27–5071, dated April 3, 2018; as applicable, or 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.

(2) If, during any general visual inspection required by paragraph (h)(1) of this AD, any corrosion is detected or any ruptured, loose, or missing components (including any attached bolts that are loose, broken, or missing) are detected, before further flight, replace each affected part with a serviceable part in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3226, dated April 5, 2018; Airbus Service Bulletin A340–27–4206, dated April 3, 2018; or Airbus Service Bulletin A340–27–5071, dated April 3, 2018; as applicable, or 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) If, during any detailed inspection required by paragraph (h)(2) of this AD, any corrosion is detected or any ruptured, loose, or missing components (including any attached bolts and nuts that are loose, broken, or missing) are detected, before further flight, replace each affected part with a serviceable part in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3226, dated April 5, 2018; Airbus Service Bulletin A340–27–4206, dated April 3, 2018; or Airbus Service Bulletin A340–27–5071, dated April 3, 2018; as applicable, or 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.

(j) Reporting

At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD: Report the results (positive or negative) of each inspection required by paragraphs (h)(1) and (h)(2) 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 Airbus Service Bulletin A330–27–3226, dated April 5, 2018; Airbus Service Bulletin A340–27–4206, dated April 3, 2018; or Airbus Service Bulletin A340–27–5071, dated April 3, 2018.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0151, dated July 16, 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–2018–0904.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3229.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; phone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@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.

Issued in Des Moines, Washington, on October 19, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23692 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0917; Airspace Docket No. 18–ASW–14]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; Beeville-Chase Field, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E airspace extending upward from 700 feet above the surface at Chase Field Industrial Airport, Beeville-Chase Field, TX. The FAA is proposing this action due to the cancellation of the standard instrument approach procedures at the airport making the airspace no longer necessary.

DATES: Comments must be received on or before December 20, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0917; Airspace Docket No. 18–ASW–14,

at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove Class E airspace extending upward from 700 feet above the surface at Chase Field Industrial Airport, Beeville-Chase Field, TX, that is no longer required.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0917/Airspace Docket No. 18–ASW–14.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by removing Class E airspace extending upward from 700 feet above the surface at Chase Field Industrial Airport, Beeville-Chase Field, TX.

The FAA is proposing this action due to the cancellation of the standard instrument approach procedures at the airport making the airspace no longer necessary.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

ASW TX E5 Beeville-Chase Field, TX [Removed]

Issued in Fort Worth, Texas, on October 25, 2018.

Walter Tweedy,

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

[FR Doc. 2018–23893 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0713; Airspace Docket No. 18–AWP–10]

RIN 2120–AA66

Proposed Amendment of Air Traffic Service (ATS) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend two jet routes (J–65 and J–110), and three domestic VOR Federal airways (V–23, V–165, and V–230) in the western United States. These modifications are necessary due to the planned decommissioning of the Clovis, CA, VHF Omnidirectional Range (VOR) portion of the VOR/tactical air navigation (VORTAC) navigation aid (NAVAID), which provides navigation guidance for portions of the affected air traffic service (ATS) routes. The Clovis, CA, VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before December 20, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2018–0713; Airspace Docket No. 18–AWP–10 at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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

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

FOR FURTHER INFORMATION CONTACT: Kenneth Ready, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would support the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers (FAA Docket No. FAA–2018–0713; Airspace Docket No. 18–AWP–10) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2018–0713; Airspace Docket No. 18–AWP–10.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations

Support Group, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

The FAA is planning decommissioning activities for the Clovis, CA, VOR in 2019 as one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082. Although the VOR portion of the Clovis, CA, VORTAC NAVAID is planned for decommissioning, the tactical air navigation (TACAN) portion is being retained. The ATS routes effected by the Clovis VOR decommissioning are VOR Federal airways V–23, V–165, V–230 and jet routes J–65 and J–110.

With the planned decommissioning of the Clovis VOR, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of the affected airways. As such, proposed modifications to V–23, J–65, and J–110 would result in gaps in the route structures.

To overcome the gap in V–23, instrument flight rules (IFR) traffic could use adjacent VOR Federal airways V–113 and V–107 between the Modesto VOR/DME through Panoche VORTAC down to Avenal VOR/DME to the west and V–459 between Linden VOR/DME and Shafter VORTAC further east.

To overcome the gap in J–65, IFR traffic could use VOR Federal airways J–189 between the Linden VOR/DME and Avenal VOR/DME.

To overcome the loss of a portion of J–110, IFR traffic could file point to point from Oakland and then use Q–160 and Q–158 between the Clovis, VORTAC, decommissioned area and the Boulder City VORTAC area. Additionally, IFR traffic could file point to point through the affected area using fixes that will remain in place, or receive air traffic control (ATC) radar vectors through the area. Visual flight rules pilots who elect to navigate via the airways through the affected area could also take advantage of the adjacent VOR Federal airways or ATC services previously listed.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying jet routes (J–65 and J–110) and domestic VOR Federal airways (V–23, V–165 and V–230). The proposed route changes are outlined below.

J–65: J–65 currently extends between the San Antonio TX, VORTAC to the Seattle WA, VORTAC. The FAA would remove the segments between the Shafter, CA, VORTAC and the Sacramento, CA, VORTAC causing a gap in the route. The new route would stop at the Shafter, CA, VORTAC and resume at the Sacramento, CA, VORTAC. The unaffected portion of the existing route would remain as charted.

J–110: J–110 currently extends between the Oakland, CA, VOR/DME to the Coyle, NJ, VORTAC. The FAA would remove the segments between the Oakland, CA, VOR/DME and the Boulder City, NV, VORTAC. The route would now begin at the Boulder City, NV, VORTAC. The unaffected portion of the existing route would remain as charted.

V–23: V–23 currently extends between the Mission Bay CA, VORTAC and the Whatcom WA, VORTAC, and then to the Canadian border (approximately 7 miles northwest of the Whatcom WA, VORTAC). The FAA would amend the segment between the Shafter, CA, VORTAC and the Linden, CA, VOR/DME. The new route would stop at the FRAME intersection (INT Shafter 338°(T) 324°(M) and Panoche 096°(T) 080°(M) radials) and resume at the EBTUW intersection (INT Panoche 035°(T) 019°(M) and Linden 141°(T) 124°(M) radials) causing a gap in the route. The unaffected portion of the existing route would remain as charted.

V–165: V–165 currently extends between the Mission Bay, CA, VORTAC and the Whatcom WA, VORTAC. The FAA would amend the segment between the Tule, CA, VOR/DME and the Mustang, NV, VORTAC. The new route follows V–459 from the Tule, CA, VOR/DME to the Friant VORTAC and then to the DARBY intersection (INT Linden, CA 077°(T) 060°(M) and Mustang, NV, 183°(T) 167°(M) radials) which rejoins the original V–165 enroute to Mustang, NV, VORTAC. The unaffected portion of the existing route would remain as charted.

V–230: V–230 currently extends between the intersection of the Big Sur, CA, VORTAC 325° and the Salinas, CA, VORTAC 281° radials to the Mina, NV, VORTAC. The FAA will amend the segment between the Panoche, CA, VORTAC and the Friant, CA, VORTAC. The new route proceeds from the Panoche CA, VORTAC to the BLEAR intersection (Panoche 077°(T) 061°(M) and Friant 239°(T) 222°(M) radials) to the Friant VORTAC. The unaffected portion of the existing route would remain as charted.

Jet routes are published in paragraph 2004 and domestic VOR Federal airways in paragraph 6010 of FAA Order 7400.11C dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The jet routes and Domestic VOR Federal airways listed in this document will be subsequently published in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018 and effective September 15, 2018, is amended as follows:

Paragraph 2004 Jet Routes

J–65 [Amended]

From San Antonio, TX, INT San Antonio 323°(T) 315°(M) and Abilene, TX, 180°(T) 170°(M) radials; Abilene; Chisum, NM; Truth or Consequences, NM; Phoenix, AZ; INT Phoenix 272°(T) 259°(M) and Blythe, CA, 096°(T) 082°(M) radials; Blythe; Palmdale, CA; INT Palmdale 310°(T) 295°(M) and Shafter, CA, 140°(T) 126°(M) radials; to Shafter, CA. From Sacramento, CA; Red Bluff, CA; Klamath Falls, OR; to Seattle, WA.

* * * * *

J–110 [Amended]

From Boulder City, NV; Rattlesnake, NM; Alamosa, CO; Garden City, KS; Butler, MO; St. Louis, MO; Brickyard, IN; Bellaire, OH; to Coyle, NJ.

* * * * *

Paragraph 6010 Domestic VOR Federal Airways

V–23 [Amended]

From Mission Bay, CA; Oceanside, CA; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal Beach 287°(T) 272°(M) and Los Angeles, 138°(T) 123 °(M) radials; Los Angeles; Gorman, CA; Shafter, CA; to INT Shafter 338°(T) 324°(M) and Panoche 096°(T) 080°(M) radials. From INT Panoche 035°(T) 019°(M) and Linden 141°(T) 124°(M) radials; Linden, CA; Sacramento, CA; INT Sacramento 346°(T) 329°(M) and Red Bluff, CA, 158°(T) 140°(M) radials; Red Bluff; 58 miles, 95 MSL, Fort Jones, CA; Rogue Valley, OR; Eugene, OR; Battle Ground, WA; INT Battle Ground 350°(T) 329°(M) and Seattle, WA, 197°(T) 178°(M) radials; 21 miles, 45 MSL, Seattle; Paine, WA; Whatcom, WA; via INT Whatcom 290°(T) 270°(M) radial to the United States/Canadian border.

* * * * *

V–165 [Amended]

From Mission Bay, CA; INT Mission Bay 270°(T) 255°(M) and Oceanside, CA, 177°(T) 162°(M) radials; Oceanside; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal Beach 287°(T) 272°(M) ° and Los Angeles, CA, 138°(T) 123 (°M) radials; Los Angeles; INT Los Angeles 357°(T) 342°(M), and Lake Hughes, CA, 154°(T) 139°(M) radials; Lake Hughes; INT Lake Hughes 344°(T) 329°(M) and Shafter, CA, 137°(T) 123°(M) radials; Shafter; Tule, CA; Friant, CA; INT Linden, CA, 077°(T) 060°(M) and Mustang, NV, 183°(T) 167°(M) radials ; 72 miles, 50 miles, 131 MSL, Mustang, NV; 40 miles, 7 miles, 115 MSL, 54 miles, 135 MSL, 81 miles, Lakeview, OR; 5 miles, 72 miles, 90 MSL, Deschutes, OR; 16 miles, 19 miles, 95 MSL, 24 miles, 75 MSL, 12 miles, 65 MSL, Newberg, OR; 32 miles, 45 MSL, INT Newberg 355°(T) 334°(M) and Olympia, WA, 195°(T) 176°(M) radials; Olympia; Penn Cove, WA; to Whatcom, WA.

* * * * *

V–230 [Amended]

From INT Big Sur, CA, 325°(T) 309°(M) and Salinas, CA, 281°(T) 264°(M) radials; Salinas; Panoche, CA; INT Panoche 077°(T) 061°(M) and Friant 239°(T) 222°(M) radials; Friant, CA; to Mina, NV. The portion outside the United States has no upper limit.

Issued in Washington, DC, on October 29, 2018.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2018–23891 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0250; Airspace Docket No. 17–AGL–3]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Williston, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Williston Basin International Airport, Williston, ND. Controlled airspace is necessary to accommodate new standard instrument approach procedures developed at Williston Basin International Airport, for the safety and management of instrument flight rules (IFR) operations.

DATES: Comments must be received on or before December 20, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0250; Airspace Docket No. 17–AGL–3, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Williston Basin International Airport, in support of IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0250; Airspace Docket No. 17–AGL–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace area extending upward from 700 feet above the surface to within a 6.7-mile radius of Williston Basin International Airport, Williston, ND, to accommodate new standard instrument approach procedures. This action would enhance safety and the management of IFR operations at the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

AGL ND E5 Williston, ND [New]

Williston Basin International Airport, ND
(Lat. 48°15′35″ N, long. 103°45′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Williston Basin International Airport.

Issued in Fort Worth, Texas, on October 25, 2018.

Walter Tweedy,

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

[FR Doc. 2018–23900 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 620

RIN 1205–AB81

Federal-State Unemployment Compensation Program; Establishing Appropriate Occupations for Drug Testing of Unemployment Compensation Applicants Under the Middle Class Tax Relief and Job Creation Act of 2012

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking

SUMMARY: This Notice of Proposed Rulemaking (NPRM) sets forth the Department of Labor's proposal to permit States to drug test unemployment compensation (UC) applicants, including a proposed list of occupations which the Department of Labor (''Department'' or ''DOL'') has determined regularly conduct drug testing.

DATES: Comments must be submitted, in writing, on or before January 4, 2019.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1205–AB81, by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the website instructions for submitting comments.

Mail and hand delivery/courier: Written comments, disk, and CD–ROM submissions may be mailed to Adele Gagliardi, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210.

Instructions: Label all submissions with ''RIN 1205–AB81.''

Please submit your comments by only one method. Please be advised that the Department will post all comments received that relate to this NPRM on *http://www.regulations.gov* without making any change to the comments or redacting any information. The *http://www.regulations.gov* website is the Federal e-rulemaking portal, and all comments posted there are available and accessible to the public. Therefore, the Department recommends that commenters remove personal information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses included in their comments, as such information may become easily available to the public via the *http://www.regulations.gov* website. It is the responsibility of the commenter to safeguard personal information.

Also, please note that, due to security concerns, postal mail delivery in Washington, DC may be delayed. Therefore, the Department encourages the public to submit comments on *http://www.regulations.gov.*

Docket: All comments on this proposed Rule will be available on the *http://www.regulations.gov* website, and can be found using RIN 1205–AB81. The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide appropriate aids, such as readers or print magnifiers. The Department will make copies of this proposed Rule available, upon request, in large print and electronic file on computer disk. To schedule an appointment to review the comments and/or obtain the proposed Rule in an alternative format, contact the Office of Policy Development and Research at (202) 693–3700 (this is not a toll-free number). You may also contact this office at the address listed below.

FOR FURTHER INFORMATION CONTACT: Adele Gagliardi, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210; telephone (202) 693–3700 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

President Obama signed the Middle Class Tax Relief and Job Creation Act of 2012 (the Act), Public Law 112–96, on February 22, 2012. Title II of the Act amended 42 U.S.C. 503, to add a new subsection (l) permitting States to enact legislation to require drug testing of UC applicants as a condition of UC eligibility under two specific circumstances. The first circumstance is if the applicant was terminated from employment with the applicant's most recent employer because of the unlawful use of a controlled substance. *See* 42 U.S.C. 503(l)(1)(A)(i). The second circumstance is if the only available suitable work (as defined in the law of the State providing the UC) for an individual is ''in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary).'' *See* 42 U.S.C. 503(l)(1)(A)(ii). States are not required to drug test in either circumstance; the law merely makes it permissible for States to enact legislation to do so when one of the two circumstances is present. A State may deny UC to an applicant who tests positive for drug use under either of these circumstances. *See* 42 U.S.C. 503(l)(1)(B).

On October 9, 2014, the Department published an NPRM determining occupations that regularly conduct drug testing for the purposes of 42 U.S.C. 503(l)(1)(A)(2). *See* 79 FR 61013 (Oct. 9, 2014). After reviewing the comments received, the Rule, as proposed in the NPRM, was modified, and on August 1, 2016, the Secretary of Labor (Secretary) published a regulation determining each occupation ''that regularly conducts drug testing'' in the **Federal Register** as 20 CFR part 620. It became effective on September 30, 2016.

The 2016 Rule included several components. It identified seven specific occupations that regularly conduct drug testing: An occupation that requires the employee to carry a firearm, along with six specific occupational categories identified in Federal regulations in which the employee must be tested. The Rule also included within its determination any occupation specifically identified in a State or Federal law as requiring an employee to be tested for controlled substances. Finally, the Rule defined key terms as used in the Act. At the same time the Department published its previous NPRM, it issued guidance to States in Unemployment Insurance Program Letter No. 01–15 to address other issues related to the implementation of drug testing under 42 U.S.C. 503(l). On March 31, 2017, President Trump signed a resolution of disapproval under the Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*) as Public Law 115–17. The joint resolution was enacted under the authority of 5 U.S.C. 801(b), enacted by the CRA, Public Law 104–121. Section 801(b) provides that a disapproved rule can not take effect, and that such a rule cannot be reissued in substantially the same form unless authorized by Congress. Consistent with this law, the Department published the notice of revocation of the regulation in the **Federal Register** at 82 FR 21916 (May 11, 2017).

Because the statute was not repealed or amended following the resolution of disapproval, the statute continues to require the Secretary to issue regulations to enable the determination of occupations in which drug testing regularly occurs. But the CRA prohibits the Department from reissuing the rule ''in substantially the same form'' or issuing ''a new rule that is substantially the same'' as the old rule. 5 U.S.C. 801(b). To comply with both the mandate to issue regulations to enable the determination of occupations in which drug testing regularly occurs, and the CRA prohibition on reissuing the rule ''in substantially the same form,'' the Department has carefully considered the Act, the 2016 Rule, and the congressional notice of disapproval.

In this NPRM, the Department now proposes a substantially different and more flexible approach to the statutory requirements than the 2016 Rule, enabling States to enact legislation to require drug testing for a far larger group of UC applicants than the previous Rule permitted. This flexibility is intended to respect the diversity of States' economies and the different roles played by employment drug testing in those economies. The Department recognizes that imposing a nationally uniform list—like the one-size-fits-all approach that the Department attempted in the disapproved 2016 rule—may not

fully effectuate Congress' intent, as expressed in 42 U.S.C. 503(l)(1)(A)(ii), that States be permitted to drug test when the only suitable work for an applicant is in an occupation that regularly conducts such tests. Employers exercise a variety of approaches and practices in conducting drug testing of employees. Some States have laws that impose very minimal restrictions on employer drug testing of employees while other States have very detailed and proscriptive requirements about what actions the employer can take. That diversity of State treatment also renders an exhaustive list of such occupations impractical. The proposed Rule therefore lays out a flexible standard that States can individually meet under the facts of their specific economies and practices. In the Departments' view, the Rule's substantially different scope and fundamentally different approach satisfies the requirements of the CRA, at least where, as here, the Department is under a continuing statutory obligation to propose regulations in this space.

This proposed Rule is not expected to be subject to the requirements of Executive Order (E.O.) 13771 because this proposed rule is expected to result in no more than *de minimis* costs.

When developing the previous proposed Rule published in 2014, the Department consulted with a number of Federal agencies with expertise in drug testing to inform the proposed regulation. Specifically, the Department consulted with the Substance Abuse and Mental Health Services Administration (SAMHSA) in the U.S. Department of Health and Human Services (HHS); the U.S. Department of Transportation (DOT); the U.S. Department of Defense (DOD); the U.S. Department of Homeland Security (DHS); DOL's Bureau of Labor Statistics (BLS); and DOL's Occupational Safety and Health Administration (OSHA). The Department consulted these agencies because they have experience with required drug testing. DOD and DHS deferred to SAMHSA for interpretation of the drug testing requirements, and the Department gave due consideration to the SAMHSA guidance when developing the 2014 proposed Rule.

In revisiting these regulations, the Department determined that these consultations with Federal agencies are sufficient, although it took steps to ensure that the information provided remains current.

Review of State Drug Testing Laws

As it did in developing the previous Rule, the Department has canvassed State laws to develop an understanding of what occupations require regular drug testing at the State level. In particular, the Department reviewed all current State legislation implementing 42 U.S.C. 503(l), as part of developing this proposal.

Reflecting their diverse needs and workforces, States vary widely in their drug testing requirements. Some State laws identify specific classes of positions for which drug testing of applicants and/or employees is required. For example, State laws commonly require employers to drug test employees in occupations where public safety is involved. States may require private employers to conduct at least some drug testing of employees and/or job applicants who work as drivers of school transportation vehicles and commercial motor vehicles (similar to federal law requirements), or who work for nursing homes and home health agencies, residential childcare facilities, public works projects contractors, corrections facilities, and nuclear and radioactive storage and transfer facilities.

Other States have enacted laws that permit and encourage, but do not require, employers to conduct drug testing of applicants and/or employees. Some State laws identify types of positions for which employers may conduct drug testing, such as individuals employed in safety-sensitive positions or in an occupation which has been designated as a high-risk or safety-sensitive occupation. At least one State permits testing of individuals who ''participate in activities upon which pari-mutuel wagering is authorized.'' [1] Most States allow a private employer to decide whether and when to drug test job applicants and employees, often in accordance with a written policy created by the employer according to State law. In some instances, State law specifies that the employer may test job applicants and current employees for any job-related purpose consistent with business necessity and the terms of the employer's written policy.

When States provide restrictions on workplace drug testing, they commonly provide more protection to current employees than to job applicants. For example, a State's law may permit employers to require all job applicants with conditional offers of employment to take drug tests, but permit an employer to require an employee to submit to a drug test only if the employer has reasonable suspicion that use of drugs is impairing the employee's job performance, or has probable cause to believe that the employee, while on the job, is using or is under the influence of drugs.

At least six States also provide various discounts and credits to employers that adopt drug-free workplace programs. Some States' programs require drug testing of applicants and/or employees as part of these programs, while others do not. Some States that require participating employers to test job applicants nevertheless allow the employers to limit such testing based on reasonable classifications of job positions. Employer sponsorship of a drug-free workplace program is usually voluntary, but may be required for State contractors.

DOL's research of Federal and State laws related to drug testing found that these laws often refer to classes of positions with similar functions and duties that are required to be drug tested (*e.g.,* positions requiring an employee to carry a firearm, or positions involving the operation of motor vehicles carrying members of the public).

Since 42 U.S.C. 503 was amended to add subsection 503(l) in 2012, three States, Mississippi, Texas, and Wisconsin, have enacted laws specifically addressing drug testing of unemployment compensation applicants that directly refer to drug testing under 42 U.S.C. 503(l)(1)(A)(ii).[2]

Summary of the Proposed Rule

The proposed Rule implements the statutory requirement that the Secretary issue regulations determining how to identify ''an occupation that regularly conducts drug testing'' for the purposes of requiring an applicant for UC benefits, for whom the only suitable work is in an occupation that regularly drug tests, to pass a drug test to be eligible for UC benefits.

The proposed new Rule takes a fundamentally different approach to identifying these occupations than did the Department's earlier rule. The 2016 Rule limited the list of occupations that ''regularly'' conduct drug testing to certain specifically listed occupations and those in which drug testing is required by Federal or State law. The Department has reconsidered that list in light of the congressional disapproval of the 2016 Rule. The Department now acknowledges that the list did not adequately account for the significant

[1] Conn. Gen. Stat. § 31–51y(c).

[2] The State enactments in each of these States refer to the Federal law and note that the occupations that regularly conduct drug testing are those designated under regulations developed by the Secretary of Labor, which are the regulations proposed in this NPRM. *See* Miss. Code Ann. § 71–5–513(A)(3)(c), Tex. Lab. Code Ann. § 207.021(b–1), and Wis. Stat. § 108.133(1)(c)(ii).

variation in State practices with respect to drug testing. An occupation that is regularly drug tested in one State may not be regularly tested in another, making a national one-size-fits-all list inappropriate. This variation also makes developing a nationally applicable and exhaustive list of occupations that ''regularly'' conduct drug testing wholly impractical. Therefore, the Secretary has determined in this proposed Rule to include in the list of occupations that regularly conduct drug testing those occupations for which a State has a factual basis for finding that employers in that State conduct drug testing as a standard eligibility requirement for employing or retaining employees. This new addition provides substantially more flexibility to States and recognizes the reality that, in some States, drug testing is regularly conducted in many more occupations than were initially listed in the 2016 Rule.

This proposed regulation also provides definitions of key terms. It identifies positions or classes of positions with similar functions or duties as ''occupations,'' for the purposes of determining ''occupations'' that regularly test for drugs in this proposed Rule. While the Department considered adopting a specific taxonomy of occupations, such as the Standard Occupational Classification (SOC) System, the proposed Rule does not do so, in order to provide flexibility to States to choose a system that matches its workforce best. Due to the wide variation in State economies and practices, a one-size-fits-all taxonomy imposed by the Federal government could not be tailored to each State's situation and would thus be impracticable. States may utilize the SOC system, the O*NET system developed under a grant by the Department by the North Carolina State Department of Commerce, or another system of the State's choosing.

The Department, in proposing this new Rule, adopts the finding in the 2016 Rule that any occupation for which Federal or State law requires drug testing is among those that are drug tested ''regularly.'' The Department recognizes that Federal and State laws may evolve in identifying which positions or occupations are required to drug test. Thus, the new proposed Rule allows for occupations identified in future Federal or State laws as requiring drug testing to be occupations that States will be able to consider for drug testing of UC applicants.

Finally, the proposed Rule includes a section on conformity and substantial compliance.

The Department seeks comments on the entirety of the proposed Rule, and, in the section-by-section description of the proposed Rule, highlights areas where comments would be particularly helpful.

II. Section-by-Section Review

What is the purpose of the proposed regulation? (§ 620.1)

Proposed § 620.1 explains that the purpose of the NPRM is to implement 42 U.S.C. 503(l)(A)(ii), permitting drug testing of UC applicants for the use of controlled substances, where suitable work (as defined under the State's UC law) is only available in an occupation for which drug testing is regularly conducted (as determined under this part 620).

What definitions apply to this part? (§ 620.2)

''Applicant'' means an individual who files an initial claim for UC under State law. ''Applicant'' excludes an individual already found initially eligible and filing a continued claim. The Department came to this conclusion based on how the word ''applicant'' is used elsewhere in 42 U.S.C. 503 and the Social Security Act. Specifically, in enacting 42 U.S.C. 503(l), Congress also enacted 42 U.S.C. 503(a)(11), which describes in different language those seeking continued eligibility. Paragraph (a)(11) provides that a State unemployment law must include ''[a] requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actually seeking work.'' Thus, Congress distinguished ''applicants'' and ''claimants'' in the Act. This distinction appears elsewhere in Section 503. Paragraphs (d)(2)(A) and (e)(2)(A) both refer to ''new applicants'' in the context of individuals whose UC eligibility has yet to be determined. In contrast, paragraph (j)(1) refers to ''new claimants'' in the context of individuals who have been found eligible for UC. Likewise, 42 U.S.C. 503(h)(3)(B) and (i)(1)(A)(ii), which require UC information disclosures to HHS and the Department of Housing and Urban Development, both refer to an individual who ''is receiving, has received, or has made application for'' UC. There as well, the Act, distinguishes an individual making ''application for'' UC benefits from one who ''is receiving'' or ''has received'' UC. This distinction between applicants and recipients is similar to that found elsewhere in the Social Security Act. *See, e.g.,* 42 U.S.C. 1396w(b)(1)(A) (''applicant for, or recipient of, medical assistance''); *id.* § 1320b–6(j)(1)(A) (''applicant for, or recipient of, benefits''); § 1396a(a)(4) (''services to applicants and recipients'').

''Controlled substance,'' as defined by 42 U.S.C. 503(l)(2)(B), has the same meaning given such term in Sec. 102 of the Controlled Substances Act (Pub. L. 91–513, 21 U.S.C. 802). ''Controlled substance'' means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of 21 U.S.C. 801 *et seq.* The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

''Occupation'' means a position or class of positions with similar functions and duties. As discussed above, Federal and State drug testing laws do not generally specify or refer to ''occupations'' requiring drug testing, but rather identify classes or categories of positions, in descriptive terms—such as, for example, positions requiring the carrying of a firearm, or positions that use motor vehicles to carry members of the public. These types of position descriptions identify a crucial aspect, function, or duty of these positions (*e.g.,* driving a motor vehicle, or carrying a firearm) that is the basis for the drug testing requirement. This definition gives States flexibility to identify occupations based on their own systems for classifying occupations. The Department considered and rejected mandating the use of the Standard Occupational Classification (SOC) system. While the SOC system provides a methodology for classifying workers into occupational categories for the purpose of data collection and statistical analysis, it may not provide the best mechanism to support states in identifying the occupations in which employers regularly drug test. To assist states in identifying additional occupations that regularly drug test, the definition of ''occupation,'' for purposes of this rule, clarifies that the positions or classes of positions identified as occupations must have similar functions and duties, a change from the 2016 Final Rule. As noted previously, employer drug testing, whether mandated by law or not, tends to focus on positions where employees are carrying out specific functions and duties such as jobs in which the worker carries a firearm, transports the public, or handles financial transactions. States remain free to choose to use the SOC system, but are not required to use it.

''Suitable Work'' means suitable work as defined under the UC law of the State

against which the claim is filed. This is the same definition of ''suitable work'' under that State's law as the State otherwise uses for determining UC eligibility based on seeking work or refusing work.

''Unemployment Compensation'' is defined in Sec. 303(l)(2)(A) of the Social Security Act (SSA), to have the same meaning given to the term in 42 U.S.C. 503(d)(2)(A), which states the term unemployment compensation means any unemployment compensation payable under State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law.)

Section 3306(h) of the Federal Unemployment Tax Act (26 U.S.C. 3306(h)) defines compensation to mean cash benefits payable to individuals with respect to their unemployment.

What are the occupations for which drug testing is regularly conducted for purposes of this Part 620? (§ 620.3)

In this proposed Rule, the Department recognizes both the historic Federal-State partnership that is a key hallmark of the UC program as well as the wide variation among States' economies and practices. The proposed rule thus recognizes the need for States' participation in identifying which, and whether additional, occupations regularly conduct drug testing in each State. Proposed § 620.3 describes a number of different occupations that the Department has determined regularly drug test. States may use this list, in addition to the broader criterion, in identifying occupations for which drug testing is regularly conducted based on the criteria set by the Secretary under these regulations.

Proposed subsection 620.3(a) includes the class of positions that requires the employee to carry a firearm as an ''occupation'' that regularly drug tests.

Proposed subsections 620.3(b)–(g) include various specific occupations that were listed in the previous Rule as ones that regularly drug test, since various Federal laws require drug testing of employees in each of these occupations. The proposed Rule identifies in subsections 620.3(b)–(g) six specific sections of regulations issued by several agencies of DOT and the Coast Guard that identify the classes of positions that are subject to drug testing. Any position with a Federal legal requirement for drug testing unquestionably constitutes an occupation that regularly drug tests.

Proposed subsections 620.3(h) and (i) include in the list of occupations that regularly drug test any occupation that is required to be drug tested under any future Federal law or under the law of the State seeking to drug test UC applicants in that occupation. As with the previous six sections, any position with a legal requirement for drug testing unquestionably constitutes an occupation that regularly drug tests.

Proposed subsection 620.3(j) adds to the list of occupations that regularly drug test a significant provision not contained in the previous Final Rule that fundamentally transforms the regulatory approach and scope of the proposed regulation, and thus satisfies the requirements of the CRA, at least where, as here, the Department is under a continuing statutory obligation to propose regulations in this space. Proposed subsection 620.3(j) provides that a State may identify additional occupations in that State where employers require pre-hire or post-hire drug testing as a standard eligibility requirement and consider those occupations as regularly conducting drug testing. This provision reflects the Secretary's determination that, because there is wide variation among State economies and employment practices, it is not practicable to exhaustively list all occupations that ''regularly conduct[ ] drug testing.'' Instead, the Department sets out a Federal standard by which it is possible to assess—under Federal, not State, law—whether a State has a sufficient basis to require drug testing of a particular class of UC applicants. That proposed Federal standard is as follows: When identifying an occupation that regularly conducts drug testing, the State must identify a factual basis for its finding that employers conduct pre-employment or post-hire drug testing as a standard eligibility requirement for obtaining or maintaining employment in the identified occupation. Factual bases may include, but are not limited to: Labor market surveys; reports of trade and professional organizations; and academic, government, or other studies. This proposed standard effectuates the plain meaning of the Act's authorization of drug testing where suitable work ''is only available in an occupation that *regularly* conducts drug testing.'' Section 303(l)(1)(A)(ii) (emphasis added). If this rule were enacted as proposed, the Department would review States' factual bases through reports authorized under 42 U.S.C. 503(a)(6) and 20 CFR 601.3; these reports are currently made through States' submissions of Form MA–8–7.

DOL seeks comments on whether it should instead impose a heightened standard of evidence to demonstrate that an occupation is one that regularly conducts drug tests and therefore can be considered an occupation for which drug testing is a standard eligibility requirement. If so, what heightened level of evidence of drug testing would be appropriate?

DOL also seeks comments on any suggested additions, deletions, or edits to the list and descriptions of occupations that regularly conduct drug testing, or on the scope of the latitude accorded to States in the approach proposed here. DOL likewise seeks comments on its determination that it is impracticable to develop a nationally uniform list of occupations that regularly drug test, given the wide variations in regional economies and in State law.

Finally, DOL seeks comments on its planned approach of using submissions through Form MA–8–7 as the method for reviewing States' factual bases for finding that employers conduct pre-employment or post-hire drug testing as a standard eligibility requirement for obtaining or maintaining employment in the identified occupation.

What are the parameters for the testing of applicants for the unlawful use of a controlled substance? (§ 620.4)

Proposed § 620.4, consistent with 42 U.S.C. 503(l), provides that a State may require applicants to take and pass a test for the illegal use of controlled substances as a condition of initial eligibility for UC under specified conditions, and that applicants may be denied UC based on the results of these tests. States are not required to drug test as a condition of UC eligibility based on any of the occupations set out under this proposed Rule. States may choose to do so based on some or all of the identified occupations, however, States may not, except as permitted by 42 U.S.C. 503(l)(1)(A)(i) (governing drug testing of individuals terminated for the unlawful use of a controlled substance), drug test based on any occupation that does not meet the definition in § 620.3 for purposes of determining UC eligibility.

Proposed subsection 620.4(a) provides that an applicant, as defined in proposed § 620.2, may be tested for the unlawful use of one or more controlled substances, also as defined in proposed § 620.2, as an eligibility condition for UC, if the individual is one for whom suitable work, as defined by that State's UC law, is only available in an occupation that regularly conducts drug testing, as determined under proposed § 620.3. As discussed in the Summary of the proposed Rule, the term ''applicant'' means that only an individual who is filing an initial UC claim, not a claimant filing a continued claim, may be subject to drug testing.

Proposed subsection 620.4(b) provides that a State choosing to require drug testing as a condition of UC eligibility may apply drug testing based on one or more of the occupations under § 620.3. This flexibility is consistent with the statute, which permits, but does not require, drug testing, and the partnership nature of the Federal-State UC system.

Proposed subsection 620.4(c) provides that no State would be required to drug test UC applicants under this part 620. This provision was not in the 2016 Final Rule, but again reflects the partnership nature of the Federal-State UC system and the Department's understanding that the Act permitted, but did not require, States to drug test UC applicants under the identified circumstances.

While 42 U.S.C. 503(l) requires the Secretary to issue regulations determining the occupations that regularly conduct drug testing, the Secretary may address other issues relating to 42 U.S.C. 503(l) in guidance, such as program letters and other issuances, and may issue additional guidance as needed.

What are the consequences of implementing a drug testing program that is not in accordance with these regulations? (§ 620.5)

Proposed subsection 620.5(a) explains that implementation of drug testing of UC applicants as authorized under State laws must be in conformity with these regulations for States to be certified as eligible to receive Federal grants for the administration of its UC program under 42 U.S.C. 502. The procedures for resolving issues of conformity or compliance with the requirements of the proposed Rule, and the remedies for failure to conform or comply, are found in 20 CFR 601.5.

III. Administrative Information

Executive Orders 12866 and 13563: Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. For a ''significant regulatory action,'' E.O. 12866 asks agencies to describe the need for the regulatory action and explain how the regulatory action will meet that need, as well as assess the costs and benefits of the regulation.[3] This regulation is necessary because of the statutory requirement contained in 42 U.S.C. 503(l)(1)(A)(ii), which requires the Secretary to determine the occupations that regularly conduct drug testing for the purpose of determining which applicants may be drug tested when applying for State unemployment compensation. The Department considers this proposed Rule to be a ''significant regulatory action,'' as defined in Sec. 3(f) of E.O. 12866, because it raises novel legal or policy issues arising out of legal mandates. Before the amendment of Federal law to add the new 42 U.S.C. 503(l)(1), drug testing of applicants for UC as a condition of eligibility was prohibited.

The proposed Rule is entirely voluntary on the part of the States, and the Department does not yet have sufficient data to predict how many States will establish a drug testing program. Before the enactment of the Federal law in 2012, States were not permitted to condition eligibility for UC on drug testing. The unsettled federal regulatory landscape since that time may have chilled States' interest in pursuing drug testing, and it is uncertain to what extent States' costs in administering drug testing would be offset by savings in their UC programs. Whatever the reason, to date, only three States have enacted State laws to pursue drug testing of UC applicants under this statutory provision.

There are limited data on which to base estimates of the cost associated with establishing a testing program, or the offsetting savings that a testing program could realize. Only one of the three States that have enacted conforming drug testing laws issued a fiscal estimate. That State, Texas, estimated that the 5-year cost of administering the program would be $1,175,954, taking into account both one-time technology personnel services to program the system and ongoing administrative costs for personnel. The Texas analysis estimated a potential savings to the Unemployment Trust Fund of $13,700,580 over the 5-year period, resulting in a net savings of approximately $12.5 million. The Department believes it would be inappropriate to extrapolate the Texas analysis to all States, in part because of differences in the Texas law and the requirements in this proposed Rule. The Department has included this information about Texas for illustrative purposes only and emphasizes that by doing so, it is not commenting on or endorsing the methodology or assumptions in the Texas analysis.

The Department requests comments from interested stakeholders on the costs of establishing and administering a State-wide testing program; the number of applicants for unemployment compensation that fit the criteria established in the law; estimates of the number of individuals who would subsequently be denied unemployment compensation due to a failed drug test; and the offsetting savings that could result.

In the absence of such data, the Department is unable to quantify the administrative costs States will incur if they choose to implement drug testing pursuant to this proposed Rule. No additional funding has been appropriated for this purpose, and current Federal funding for the administration of State unemployment compensation programs may be insufficient to support the additional costs of establishing and administering a drug testing program, which would include the cost of the drug tests, staff for administration of the drug testing function, and technology to track drug testing outcomes. States would also incur ramp up costs to implement the processes necessary for determining whether an applicant is one for whom drug testing is legally permissible; referring and tracking applicants referred for drug testing; and conducting and processing the drug tests. States would also have to factor in increased costs of adjudication and appeals of both the determination that an individual is subject to drug testing and resulting determinations of benefit eligibility based on the test results.

Paperwork Reduction Act

The Department has determined that this proposed Rule does not contain a ''collection of information,'' as the term is defined. *See* 5 CFR 1320.3(c). DOL expressly seeks comments on this determination.

Executive Order 13132: Federalism

Section 6 of E.O. 13132 requires Federal agencies to consult with State entities when a regulation or policy may have a substantial direct effect on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government, within the meaning of the E.O. Section 3(b) of the E.O. further provides that Federal agencies must implement regulations that have a substantial direct effect only if statutory authority permits the

[3] Exec. Order No. 12866, § 6(a)(3)(B).

regulation and it is of national significance.

This proposed Rule does not have a substantial direct effect on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of Government, within the meaning of the E.O. This is because drug testing authorized by the regulation is voluntary on the part of the State—it is not required.

Unfunded Mandates Reform Act of 1995

This regulatory action has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (the Reform Act). Under the Reform Act, a Federal agency must determine whether a regulation proposes a Federal mandate that would result in the increased expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any single year. The Department has determined that, since States have the option to drug test UC applicants and can elect not to do so, this proposed Rule does not include any Federal mandate that could result in increased expenditure by State, local, and tribal governments. Drug testing under this proposed Rule is purely voluntary, so any increased cost to the States is not the result of a mandate. Accordingly, it is unnecessary for the Department to prepare a budgetary impact statement.

Plain Language

The Department drafted this proposed Rule in plain language.

Effect on Family Life

The Department certifies that this proposed Rule has been assessed according to Sec. 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681) for its effect on family well-being. The Department certifies that this proposed Rule does not adversely impact family well-being as discussed under Sec. 654 of the Treasury and General Government Appropriations Act of 1999.

Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act (RFA), at 5 U.S.C. 603(a), requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis, which describes the impact of the proposed Rule on small entities. Section 605 of the RFA allows an agency to certify a Rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. This proposed Rule does not affect small entities as defined in the RFA. Therefore, the proposed Rule will not have a significant economic impact on a substantial number of these small entities. The Department has certified this to the Chief Counsel for Advocacy, Small Business Administration, pursuant to the RFA.

List of Subjects in 20 CFR Part 620

Unemployment compensation.

■ For the reasons stated in the preamble, the Department proposes to amend 20 CFR chapter V by adding part 620 to read as follows:

PART 620—DRUG TESTING FOR STATE UNEMPLOYMENT COMPENSATION ELIGIBILITY DETERMINATION PURPOSES

Sec.

620.1 Purpose.
620.2 Definitions.
620.3 Occupations that Regularly Conduct Drug Testing For Purposes of Determining Which Applicants May Be Drug Tested When Applying for State Unemployment Compensation.
620.4 Testing of Unemployment Compensation Applicants for the Unlawful Use of a Controlled Substance.
620.5 Conformity and substantial compliance.

Authority: 42 U.S.C. 1302(a); 42 U.S.C. 503(l)(1)(ii)

§ 620.1 Purpose.

The regulations in this part implement 42 U.S.C. 503(l). 42 U.S.C. 503(l) permits States to enact legislation to provide for State-conducted testing of an unemployment compensation applicant for the unlawful use of controlled substances, as a condition of unemployment compensation eligibility, if the applicant was discharged for unlawful use of controlled substances by his or her most recent employer, or if suitable work (as defined under the State unemployment compensation law) is only available in an occupation for which drug testing is regularly conducted (as determined under this part 620). 42 U.S.C. 503(l)(1)(A)(ii) provides that the occupations that regularly conduct drug testing will be determined under regulations issued by the Secretary of Labor.

§ 620.2 Definitions.

As used in this part—

Applicant means an individual who files an initial claim for unemployment compensation under State law. *Applicant* excludes an individual already found initially eligible and filing a continued claim.

Controlled substance means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of 21 U.S.C. 801 *et seq.,* as defined in Sec. 102 of the Controlled Substances Act (21 U.S.C. 802). The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

Occupation means a position or class of positions with similar functions and duties. Federal and State laws governing drug testing refer to classes of positions that are required to be drug tested. Other taxonomies of occupations, such as those in the Standard Occupational Classification (SOC) system, may be used by States in determining the boundaries of a position or class of positions with similar functions and duties under § 620.3. Use of the SOC codes, however, is not required, and States may use other taxonomies to identify a position or class of positions with similar functions and duties.

Suitable Work means suitable work as defined by the unemployment compensation law of a State against which the claim is filed. It must be the same definition the State law otherwise uses for determining the type of work an individual must seek, given the individual's education, experience, and previous level of remuneration.

Unemployment Compensation means any cash benefits payable to an individual with respect to the individual's unemployment under the State law (including amounts payable under an agreement under a Federal unemployment compensation law).

§ 620.3 Occupations that regularly conduct drug testing for purposes of determining which applicants may be drug tested when applying for State unemployment compensation.

In electing to test applicants for unemployment compensation under this part, States may require drug testing for applicants for whom the only suitable work is in one or more of the following occupations that regularly conduct drug testing, for purposes of § 620.4:

(a) An occupation that requires the employee to carry a firearm;

(b) An occupation identified in 14 CFR 120.105 by the Federal Aviation Administration, in which the employee

must be tested (Aviation flight crew members and air traffic controllers);

(c) An occupation identified in 49 CFR 382.103 by the Federal Motor Carrier Safety Administration, in which the employee must be tested (Commercial drivers);

(d) An occupation identified in 49 CFR 219.3 by the Federal Railroad Administration, in which the employee must be tested (Railroad operating crew members);

(e) An occupation identified in 49 CFR 655.3 by the Federal Transit Administration, in which the employee must be tested (Public transportation operators);

(f) An occupation identified in 49 CFR 199.2 by the Pipeline and Hazardous Materials Safety Administration, in which the employee must be tested (Pipeline operation and maintenance crew members);

(g) An occupation identified in 46 CFR 16.201 by the United States Coast Guard, in which the employee must be tested (Crewmembers and maritime credential holders on a commercial vessel);

(h) An occupation specifically identified in Federal law as requiring an employee to be tested for controlled substances;

(i) An occupation specifically identified in the State law of that State as requiring an employee to be tested for controlled substances; and

(j) An occupation where the State has a factual basis for finding that employers hiring employees in that occupation conduct pre- or post-hire drug testing as a standard eligibility requirement for obtaining or maintaining employment in the occupation.

§ 620.4 Testing of unemployment compensation applicants for the unlawful use of a controlled substance.

(a) States may require drug testing for unemployment compensation applicants, as defined in § 620.2, for the unlawful use of one or more controlled substances, as defined in § 620.2, as a condition of eligibility for unemployment compensation, if the individual is one for whom suitable work, as defined in State law, as defined in § 620.2 of, is only available in an occupation that regularly conducts drug testing as identified under § 620.3.

(b) A State conducting drug testing as a condition of unemployment compensation eligibility, as provided in paragraph (a) of this section, may only elect to require drug testing of applicants for whom the only suitable work is available in one or more of the occupations listed under § 620.3. States are not required to apply drug testing to any applicants for whom the only suitable work is available in any or all of the occupations listed.

(c) No State is required to drug test UC applicants under this part 620.

§ 620.5 Conformity and substantial compliance.

(a) *In general.* A State law implementing the drug testing of applicants for unemployment compensation must conform with—and the law's administration must substantially comply with—the requirements of this part 620 for purposes of certification under 42 U.S.C. 502(a), governing State eligibility to receive Federal grants for the administration of its UC program.

(b) *Resolving Issues of Conformity and Substantial Compliance.* For the purposes of resolving issues of conformity and substantial compliance with the requirements of this part 620, the provisions of 20 CFR 601.5 apply.

Molly E. Conway,

Acting Assistant Secretary for Employment and Training, Labor .

[FR Doc. 2018–23952 Filed 11–2–18; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA–2018–N–3952]

Eliminating Youth Electronic Cigarette and Other Tobacco Product Use: The Role for Drug Therapies; Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing a public hearing to discuss its efforts to eliminate youth electronic cigarette (e-cigarette) use as well as other tobacco product use, with a focus on the potential role of drug therapies to support youth e-cigarette cessation and the issues impacting the development of such therapies.

DATES: The public hearing will be held on December 5, 2018, from 9 a.m. to 5 p.m. The public hearing may be extended or may end early depending on the level of public participation. Persons seeking to present at the public hearing must register by Friday, November 23, 2018. Persons seeking to attend, but not present at, the public hearing must register by Monday, December 3, 2018. Section II provides attendance and registration information. Electronic or written comments will be accepted after the public hearing until Wednesday, January 2, 2019.

ADDRESSES: The public hearing will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room A, Silver Spring, MD 20993–0002. Entrance for public hearing participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before Wednesday, January 2, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of Wednesday, January 2, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date. You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the

manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked, and identified as confidential if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3952 for ''Eliminating Youth Electronic Cigarette and Other Tobacco Product Use: The Role for Drug Therapies; Public Hearing; Request for Comments.'' 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.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the received electronic and written/paper comments, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Theresa Wells, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 1202, Silver Spring, MD 20993, 703–380–3900, *Theresa.wells@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Nearly all tobacco product use begins during youth and young adulthood (Ref. 1). While the current use of any tobacco product among U.S. middle and high school students has decreased from 2011–2017, there has been an alarming increase in e-cigarette use over this time. In fact, since 2014, e-cigarettes [1] have been the most commonly used tobacco products among youth, used by 1.73 million (11.7 percent) high school students and 390,000 (3.3 percent) middle school students in 2017 (Ref. 2). Youth e-cigarette use raises a number of health concerns including risk of addiction to nicotine early on in life, potential harm to the developing adolescent brain, and exposure to chemicals including carbonyl compounds and volatile organic compounds known to have adverse health effects; the full range of possible health effects is not yet completely understood (Ref. 3).

On April 24, 2018, FDA announced its Youth Tobacco Prevention Plan. This plan focuses on three key strategies: Prevention of youth access to tobacco products, curbing the marketing of tobacco products aimed at youth, and educating teens about the dangers of using any tobacco products.[2] FDA recently launched an expansion of its ''The Real Cost'' campaign to educate youth on the dangers of e-cigarette use [3] and increased enforcement actions to address this critically important public health concern.[4]

In addition to the prevention of initiation, which will be the cornerstone of any successful effort to curb youth e-cigarette use, FDA is also exploring additional approaches to address youth e-cigarette use. One such approach may be the development of drug therapies, as part of multimodal treatment strategies, including behavioral interventions, to support tobacco product cessation. To date, research on youth tobacco product cessation has been limited and focused on smoking (*i.e.,* combustible products) cessation. One recent review found a paucity of data on either behavioral or drug therapies for smoking cessation in young people (age less than 20 years) and concluded that ''there continues to be a need for well-designed, adequately powered, randomized controlled trials of interventions for this population of smokers'' (Ref. 4). FDA is not aware of any research examining either drug or behavioral interventions for the cessation of youth or adult e-cigarette use. In contrast, there is a large body of research on adult smoking cessation, and multiple drugs for smoking cessation are approved for the adult population, including a variety of prescription and over-the-counter nicotine replacement therapy (NRT) products, as well as the prescription drugs varenicline and bupropion hydrochloride sustained release (see Appendix A).

II. Purpose and Scope of the Public Hearing

FDA is holding a public hearing to obtain the public's perspectives on the potential role drug therapies may play in the broader effort to eliminate youth e-cigarette and other tobacco product use, as well as the appropriate methods and study designs for evaluating youth e-cigarette cessation therapies and the safety and efficacy of such therapies. The Agency has determined that a public hearing is the most appropriate way to ensure public engagement on this issue, which is of great importance to the public health. FDA believes it is critical to obtain input across the medical and research fields, the pharmaceutical and tobacco industries, and among public health stakeholders (including adolescents) regarding approaches to eliminate youth e-cigarette and other tobacco product use, including exploring whether there is a need for drug therapies to support youth e-cigarette cessation, and if so, how FDA

[1] An e-cigarette is one type of electronic nicotine delivery system, which also includes e-cigars, e-hookah, vape pens, personal vaporizers, and electronic pipes. See *https://www.fda.gov/TobaccoProducts/Labeling/ProductsIngredientsComponents/ucm456610.htm* and Ref. 2.

[2] *https://www.fda.gov/TobaccoProducts/PublicHealthEducation/ProtectingKidsfromTobacco/ucm608433.htm.*

[3] *https://www.fda.gov/tobaccoproducts/publichealtheducation/publiceducationcampaigns/therealcostcampaign/default.htm.*

[4] *https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620788.htm.*

can support the development of such therapies.

Questions for Commenters To Address

Considering the broad range of activities focused on this public health issue, FDA is interested in the public's view on approaches to eliminating e-cigarette and other tobacco product use among youth. Although FDA welcomes all feedback on any public health, scientific, regulatory or legal considerations relating to this topic, we particularly encourage commenters to consider the following questions as they prepare their comments or statements. Responses to questions should include supporting scientific justification.

1. FDA notes that the factors driving e-cigarette use among youth likely differ from those in the adult population. How might such differences impact the need for, or use of, drug therapies for e-cigarette cessation among youth?

2. FDA is interested in whether there is a population of youth e-cigarette users who would be likely to benefit from the use of drug therapies for e-cigarette cessation. What age groups (older adolescent vs. younger adolescent), patterns in tobacco use (duration and frequency of use), and clinical features (level of addiction, presence/absence of comorbidities including psychiatric disease) might characterize this population? What types of products (NRT vs. non-NRT; prescription vs. over-the-counter) might be useful?

3. Describe the scientific, clinical, and societal factors that could either encourage or impede the conduct of clinical trials designed to evaluate drugs intended for youth e-cigarette cessation. What approaches could be used to encourage research and overcome barriers to research?

4. What methods and study designs are appropriate for assessing drug therapies for youth e-cigarette cessation? What are the appropriate control groups? What are the most informative endpoints and the best assessment tools to evaluate these endpoints?

5. Acknowledging that to date research has been limited, are there data available from the adult experience with smoking cessation that could potentially be leveraged in the effort to develop drug therapies for youth e-cigarette cessation? Have any drug therapies demonstrated potential to help adults discontinue e-cigarette use? Are there differences between adolescents and adults that impact the ability to extrapolate efficacy findings from the adult population to the adolescent population? Could existing NRT products be useful for youth e-cigarette cessation?

6. While this hearing is focused on the topic of e-cigarette use among youth, as e-cigarettes are currently the most commonly used form of tobacco in this population, FDA also welcomes comments regarding the potential need for drug therapies to support cessation of other tobacco products, including combustible products (*i.e.,* cigarettes or cigars) and smokeless tobacco products, among youth and the issues impacting the development of such therapies.

Registration and Requests for Oral Presentations: The FDA Conference Center at the White Oak location is a Federal facility with security procedures and limited seating. Attendance will be free and on a first-come, first-served basis. For those interested in presenting at the meeting, either with a formal oral presentation or as a speaker in the open public hearing session, please register by Friday, November 23, 2018, at *https://www.eventbrite.com/e/fda-pediatric-tobacco-cessation-part-15-public-hearing-tickets-50167147288.* If you wish to attend either in person or by Webcast (see *Streaming Webcast of the Public Hearing*), please register for the hearing by Monday December 3, 2018, at *https://www.eventbrite.com/e/fda-pediatric-tobacco-cessation-part-15-public-hearing-tickets-50167147288.* Those without internet or email access can register and/or request to participate as an open public hearing speaker or a formal presenter by contacting Theresa Wells by the above dates (see **FOR FURTHER INFORMATION CONTACT**).

FDA will try to accommodate all persons who wish to make a presentation. Formal oral presenters may use an accompanying slide deck, while those participating in the Open Public Hearing will have less allotted time than formal oral presenters and will deliver oral testimony only (no accompanying slide deck). Individuals wishing to present should identify the number of the specific question, or questions, they wish to address. This will help FDA organize the presentations. Individuals and organizations with common interests should consolidate or coordinate their presentations and request time for a joint presentation. Individual organizations are limited to a single presentation slot. FDA will notify registered presenters of their scheduled presentation times. The time allotted for each presentation will depend on the number of individuals who wish to speak. Registered presenters making a formal oral presentation are encouraged to submit an electronic copy of their presentation (PowerPoint or PDF) to *OMPTFeedback@fda.hhs.gov* with the subject line ''Eliminating Youth Electronic Cigarette and Other Tobacco Product Use: The Role for Drug Therapies'' on or before Wednesday, November 28, 2018. Persons registered to present are encouraged to arrive at the hearing room early and check in at the onsite registration table to confirm their designated presentation time. Actual presentation times, however, may vary based on how the meeting progresses in real-time. An agenda for the hearing and any other background materials will be made available 5 days before the hearing at *https://www.fda.gov/NewsEvents/MeetingsConferencesWorkshops/ucm620744.htm.*

If you need special accommodations because of a disability, please contact Theresa Wells (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the hearing.

Streaming Webcast of the Public Hearing: For those unable to attend in person, FDA will provide a live Webcast of the hearing. To join the hearing via the Webcast, please go to *https://collaboration.fda.gov/ptc120518.*

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see *Comments*). A transcript will also be available in either hard copy or on CD–ROM, after submission of a Freedom of Information request. The Freedom of Information office address is available on the Agency's website at *https://www.fda.gov.*

III. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with 21 CFR part 15. The hearing will be conducted by a presiding officer, who will be accompanied by FDA senior management from the Office of the Commissioner, the Center for Drug Evaluation and Research, and the Center for Tobacco Products. Under § 15.30(f), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members can pose questions; they can question any person during or at the conclusion of each presentation. Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (21 CFR part 10, subpart C). Under § 10.205, representatives of the media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public

administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b) (see *Transcripts*). To the extent that the conditions for the hearing, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

IV. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1.* U.S. Department of Health and Human Services (2014). ''The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General.'' Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health available at: *https://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html.*

2.* Wang T.W., A. Gentzke, S. Sharapova, et al. (2018). ''Tobacco Product Use Among Middle and High School Students—United States, 2011–2017.'' *Morbidity and Mortality Weekly Report (MMWR)* 67:629–633, available at *https://www.cdc.gov/mmwr/volumes/67/wr/mm6722a3.htm*).

3.* U.S. Department of Health and Human Services (2016). ''E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General.'' Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health available at: *https://e-cigarettes.surgeongeneral.gov/documents/2016_sgr_full_report_non-508.pdf.*

4. Fanshawe T.R., W. Halliwell, N. Lindson, et al. (2017). ''Tobacco Cessation Interventions for Young People.'' Cochrane Database of Systematic Reviews, Rev.11:CD003289, available at *https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD003289.pub6/epdf/full.*

BILLING CODE 4164–01–P

Appendix A: Summary of FDA-Approved Active NDAs of NRTs and non-NRTs Indicated for Smoking Cessation (October 5, 2018)

Product Name (NDA #; holder)	OTC or Rx (Date approved; Date Rx→OTC)	Route (Doses)	Indication	Adult Treatment Duration and Schedule	Pediatric Labeling
NRT Therapies					
Nicorette gum (nicotine polacrilex) (NDA 018612 for 2 mg, NDA 020066 for 4 mg; GSK)	Approved as prescription on 1/13/84 for 2 mg; 6/8/92 for 4 mg; Rx→OTC for both on 2/9/96.	Oral (2, 4 mg gum)	Reduces withdrawal symptoms, including nicotine craving, associated with quitting smoking.	12 weeks (for longer use, talk to health care provider): • Wk 1-6: 1 per 1-2 hr • Wk 7-9: 1 per 2-4 hr • Wk 10-12: 1 per 4-8 hr If smoke 1st cigarette within 30 min of waking up, use 4 mg; if more than 30 min, use 2 mg.	If you are under 18 years of age ask a doctor before use.
NicoDerm CQ (nicotine) (NDA 020165; Sanofi Aventis)	Approved as prescription on 11/7/91; Rx→OTC on 8/2/96.	Patch (7, 14, 21 mg)	Same as above	10 weeks and 8 weeks (for longer use, talk to health care provider): If > 10 cigarettes/day: • Wk 1-6: one 21 mg/day • Wk 7-8: one 14 mg/day • Wk 9-10: one 7 mg/day If ≤ 10 cigarettes/day: • Wk 1-6: one 14 mg/day Wk 7-8: one 7 mg/day	Same as above
Habitrol (nicotine) (NDA 020076; Dr. Reddy's)	Approved as prescription on 11/27/91; Rx→OTC on 11/12/99.	Patch (7, 14, 21 mg)	Same as above	8 weeks (for longer use, talk to health care provider): If > 10 cigarettes/day: • Wk 1-4: one 21 mg/day • Wk 5-6: one 14 mg/day • Wk 7-8: one 7 mg/day If ≤ 10 cigarettes/day: • Wk 1-6: one 14 mg/day • Wk 7-8: one 7 mg/day	Same as above

Product Name (NDA #; holder)	OTC or Rx (Date approved, Date Rx→OTC)	Route (Doses)	Indication	Adult Treatment Duration and Schedule	Pediatric Labeling
Nicotrol NS (nicotine) (NDA 020385; Pfizer)	Prescription (3/22/96; N/A)	Nasal spray (50 microliter spray delivering 0.5 mg)	• Indicated as an aid to smoking cessation for the relief of nicotine withdrawal symptoms • Should be used as a part of a comprehensive behavioral smoking cessation program	2 sprays (one per nostril) = 1 dose • Starting dose: 1-2 doses/hour • Maximum doses/hour: 5 • Maximum doses/day: 40 Maximum recommended duration of treatment: 3 months The safety and efficacy of the continued use of Nicotrol NS for periods longer than 6 months have not been adequately studied and such use is not recommended.	Under Pediatric Use: Not recommended for use in the pediatric population because its safety and effectiveness in children and adolescents who smoke have not been evaluated.
Nicotrol Inhaler (nicotine) (NDA 020714; Pharmacia and Upjohn)	Prescription (5/2/97; N/A)	Inhalant (10 mg cartridge; 4 mg delivered)	• Indicated as an aid to smoking cessation for the relief of nicotine withdrawal symptoms • Recommended for use as part of a comprehensive behavioral smoking cessation program.	The recommended duration of treatment is 3 months, after which patients may be weaned from the inhaler by gradual reduction of the daily dose over the following 6 to 12 weeks. The safety and efficacy of the continued use of Nicotrol Inhaler for periods longer than 6 months have not been studied and such use is not recommended.	Safety and effectiveness in pediatric and adolescent patients below the age of 18 years have not been established for any nicotine replacement product. However, no specific medical risk is known or expected in nicotine dependent adolescents. NICOTROL Inhaler should be used for the treatment of tobacco dependence in the older adolescent only if the potential benefit justifies the potential risk.

Product Name (NDA #; holder)	OTC or Rx (Date approved; Date Rx→OTC)	Route (Doses)	Indication	Adult Treatment Duration and Schedule	Pediatric Labeling
Nicorette lozenge (nicotine polacrilex) (NDA 021330; GSK)	OTC (10/31/02; N/A)	Oral (2, 4 mg)	Reduces withdrawal symptoms, including nicotine craving, associated with quitting smoking.	12 weeks (for longer use, talk to health care provider): • Wk 1-6: 1 per 1-2 hr • Wk 7-9: 1 per 2-4 hr • Wk 10-12: 1 per 4-8 hr If smoke 1st cigarette within 30 min of waking up, use 4 mg; if more than 30 min, use 2 mg.	If you are under 18 years of age ask a doctor before use. No studies have been done to show if this product will work for you.
Nicorette mini lozenge (nicotine polacrilex) (NDA 022360; GSK)	OTC (5/18/09; N/A)	Oral (2, 4 mg)	Same as above	Same as above	Same as above
Non-NRT Therapies					
Zyban (bupropion hydrochloride sustained release) (NDA 020711; GSK)	Prescription (5/14/97; N/A)	Oral (150 mg)	• Indicated as an aid to smoking cessation treatment	7-12 weeks: • Start at one 150-mg tablet per day for 3 days • Can increase to 300 mg per day given as one 150-mg tablet twice each day, with 8 hours between Patient may benefit from ongoing treatment.	Safety and effectiveness in the pediatric population have not been established. Boxed Warning for suicidality in children, adolescents, and young adults in setting of bupropion use as an antidepressant.

Dated: October 30, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24126 Filed 11–2–18; 8:45 am]

BILLING CODE 4164–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2018–D–1459]

Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One Eating Occasion, Reference Amounts Customarily Consumed, Serving Size-Related Issues, Dual-Column Labeling, and Miscellaneous Topics; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion, Reference Amounts Customarily Consumed, Serving Size-Related Issues, Dual-Column Labeling, and Miscellaneous Topics.'' The draft guidance, when finalized, will provide questions and answers on topics related primarily to implementing two final rules, one entitled ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments,'' and the other entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels.'' This draft guidance also discusses formatting issues for dual-column labeling, products that have limited space for nutrition labeling, and additional issues dealing with compliance.

DATES: Submit either electronic or written comments on the draft guidance by January 4, 2019 to ensure that we consider your comment on the draft guidance before we begin work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–1459 for ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion, Reference Amounts Customarily Consumed, Serving Size-Related Issues, Dual-Column Labeling, and Miscellaneous Topics; 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.'' We will review this copy, including the claimed confidential information, in our 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 Office of Nutrition and Food Labeling, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Jillonne Kevala, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1450.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a draft guidance for industry entitled ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion, Reference Amounts Customarily Consumed, Serving Size-Related Issues, Dual-

Column Labeling, and Miscellaneous Topics.'' We are issuing the draft guidance consistent with our good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

The draft guidance, when finalized, will provide questions and answers on topics related primarily to implementing two final rules: (1) ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments'' (81 FR 34000 (May 27, 2016)) and (2) ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' (81 FR 33742 (May 27, 2016)). This draft guidance also discusses formatting issues for dual-column labeling, products that have limited space for nutrition labeling, and additional issues dealing with compliance.

II. The Paperwork Reduction Act

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 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 101 have been approved under OMB control number 0910–0381.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/FoodGuidances* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: October 30, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24124 Filed 11–2–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–114540–18]

RIN 1545–BO88

Amount Determined Under Section 956 for Corporate United States Shareholders

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that reduce the amount determined under section 956 of the Internal Revenue Code with respect to certain domestic corporations. The proposed regulations affect certain domestic corporations that own (or are treated as owning) stock in foreign corporations.

DATES: Written or electronic comments and requests for a public hearing must be received by December 5, 2018.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–114540–18), Internal Revenue Service, Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–114540–18), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–114540–18).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Rose E. Jenkins, (202) 317–6934; concerning submissions of comments or requests for a public hearing, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

I. Section 956

The Revenue Act of 1962 (the ''1962 Act''), Pub. L. 87–834, sec. 12, 76 Stat. at 1006, enacted sections 951 and 956 as part of subpart F of part III, subchapter N, chapter 1 of the 1954 Internal Revenue Code (''subpart F''), as amended. Subpart F was enacted in order to limit the use of low-tax jurisdictions for the purposes of obtaining indefinite deferral of U.S. tax on certain earnings that would otherwise be subject to U.S. federal income tax. H.R. Rep. No. 1447 at 57 (1962). Congress enacted subpart F in part to address taxpayers who had ''taken advantage of the multiplicity of foreign tax systems to avoid taxation by the United States on what could ordinarily be expected to be U.S. source income.'' *Id.* at 58.

Before the 1962 Act, United States shareholders (as defined in section 951(b)) (''U.S. shareholders'') of controlled foreign corporations (as defined in section 957) (''CFCs'') were not subject to U.S. tax on earnings of the foreign corporations unless and until earnings of the foreign corporations were distributed to the shareholders as a dividend. S. Rep. No. 1881 at 78 (1962). The subpart F regime eliminated deferral for certain—generally passive or highly mobile—earnings of CFCs by subjecting those earnings to immediate U.S. taxation regardless of whether there was an actual distribution. *Id.* at 80. Earnings that were not subject to immediate U.S. taxation under the subpart F regime were generally taxable only upon repatriation, as those earnings did not present the same concerns regarding indefinite tax deferral compared to earnings subject to subpart F.

Section 956 was enacted alongside the subpart F regime in the 1962 Act to ensure that a CFC's earnings not subject to immediate tax when earned (under the subpart F regime) would be taxed when repatriated, either through a dividend or an effective repatriation. Recognizing that repatriation of foreign earnings was possible through means other than a taxable distribution, Congress enacted section 956 ''to prevent the repatriation of income to the United States in a manner which does not subject it to U.S. taxation.'' H.R. Rep. No. 1447 at 58. Congress determined that the investment by a CFC of its earnings in United States property, including obligations of a U.S. person, ''is substantially the equivalent of a dividend.'' *See* S. Rep. No. 1881 at 88 (1962). *See also* S. Rep. No. 94–938 at 226 (1976) (''[S]ince the investment . . . in the stock or debt obligations of a related U.S. person or its domestic affiliates makes funds available for use by the U.S. shareholders, it constitutes an effective repatriation of earnings which should be taxed.''). Accordingly, Congress enacted section 956 as an anti-abuse measure to tax a CFC's investment of earnings in United States property in the same manner as if it had distributed those earnings to the United States. *See* JCS–10–87 at 1081–82 (1987) (''In general, two kinds of transactions are repatriations that end deferral and trigger tax. First, an actual dividend payment ends deferral. . . . Second, in

the case of a controlled foreign corporation, an investment in U.S. property, such as a loan to the lender's U.S. parent or the purchase of U.S. real estate, is also a repatriation that ends deferral (Code sec. 956).''). Failure to tax CFC investments in United States property would have allowed taxpayers to circumvent the U.S. system of deferral by effectively repatriating earnings without paying U.S. tax on the substantial equivalent of a taxable dividend. Section 956 was thus designed to ensure symmetry between the tax treatment of repatriations through dividends and effective repatriations. *See generally* Notice 2014–52, 2014–42 I.R.B. 712 (''In the absence of section 956, a U.S. shareholder of a CFC could access the CFC's funds (untaxed earnings and profits) in a variety of ways other than by the payment of an actual taxable dividend, such that there would be no reason for the U.S. shareholder to incur the dividend tax. Section 956 eliminates this disincentive to pay a dividend by ensuring parity of treatment for different ways that CFC earnings can be made available for use in the United States or for use by the U.S. shareholder.'').

Section 951(a)(1)(B) requires a U.S. shareholder of a CFC to include in gross income the amount determined under section 956 (the ''section 956 amount'') with respect to the CFC to the extent not excluded from gross income under section 959(a)(2) (the inclusion, a ''section 956 inclusion''). *See* sections 951(a)(1)(B), 959(a)(2), and 959(f)(1). Section 951(b) defines a U.S. shareholder as a United States person that owns within the meaning of section 958(a), or is considered as owning by reason of the constructive ownership rules of section 958(b), 10 percent or more of the voting power or value of a foreign corporation. A U.S. shareholder's section 956 amount with respect to a CFC for a taxable year is the lesser of (1) the excess (if any) of such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the CFC as of the close of each quarter of such taxable year, over the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or (2) such shareholder's pro rata share of the applicable earnings of the CFC. *See* section 956(a). Applicable earnings are defined as the sum of accumulated earnings and profits (not including deficits) described in section 316(a)(1) and current earnings and profits described in section 316(a)(2), reduced by distributions made during the year and earnings and profits described in section 959(c)(1). *See* section 956(b)(1). Under section 956(c), United States property includes tangible property located in the United States, stock of a domestic corporation, an obligation of a United States person, and any right to use in the United States certain intangible property. Enacted as part of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, sec. 13232(b), 107 Stat. 312, section 956(e) grants the Secretary of the Department of Treasury (the ''Secretary'') the authority to prescribe ''such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisions of this section through reorganizations or otherwise.''

This regulatory authority is not limited to the adoption of anti-avoidance rules, but rather permits the Secretary to ensure that the application of section 956 is consistent with the ''purposes of this section''—chief among them, to ensure symmetry between the treatment of actual dividends and payments which are ''substantially the equivalent of a dividend.'' S. Rep. No. 1881 at 88 (1962). Consistent with this understanding, the Department of Treasury (the ''Treasury Department'') and the IRS have exercised this regulatory authority to tailor the application of section 956 to the abuse that motivated its adoption, ensuring that the provision applies to the transactions Congress sought to tax, but does not extend to transactions the taxation of which would be inconsistent with the purpose of section 956.[1] For example, in 1964, shortly after section 956 was first enacted, the Treasury Department and the IRS issued regulations containing Treas. Reg. section 1.956–2(d)(2)(ii), providing that any debt collected within one year from the time incurred did not constitute an obligation that could be United States property. *See* T.D. 6704, 29 FR 2599, 2603. This short-term loan exception was removed when the Treasury Department and the IRS issued regulations in 1988 regarding the treatment of factoring receivables as United States property. *See* T.D. 8209, 53 FR 22163, 22169. A one-year debt exception would have been inconsistent with Congress's expansion of section 956 in 1984 to reach factoring receivables, which are often outstanding for less than one year.

Alongside the removal of the 1964 short-term loan exception in the 1988 regulations, the Treasury Department and the IRS issued Notice 88–108, 1988–2 C.B. 466, which indicated that regulations would be issued providing a narrower exception from the definition of obligation for purposes of section 956 for obligations collected within 30 days from the time incurred (the ''30-day rule''). However, the notice provided that the exception would not apply to a CFC that holds for 60 or more calendar days during the taxable year obligations which, without regard to the 30-day rule, would constitute United States property. The 30-day rule was expanded to 60 days in order to facilitate the flow of funds from foreign subsidiaries during a financial crisis beginning in 2008, which expansion was also extended to 2009 and 2010. *See* Notice 2008–91, 2008–43 I.R.B. 1001; Notice 2009–10, 2009–5 I.R.B. 419; Notice 2010–12, 2010–4 I.R.B. 326. The 30 day rule was ultimately adopted in final regulations issued on July 12, 2018, as Treas. Reg. section 1.956–2(d)(2)(iv). *See* T.D. 9834, 83 FR 32524, 32537–38.

Since 1964, Congress has modified section 956 several times without addressing Treasury's short-term debt exception; indeed, since then Congress adopted section 956(e) as a positive grant of regulatory authority in 1993, and explicitly validated the short-term debt exception in its legislative history. *See* H.R. Rep. 103–111 at 701 (1993) (''The bill is not intended to change the measurement of U.S. property that may apply, for example, in the case of certain short-term obligations, as provided in IRS Notice 88–108 (1988–2 C.B. 445), interpreting present law.'').

Conversely, the Treasury Department and the IRS have at times expanded the scope of section 956 by regulation to ensure that the provision reaches the type of transactions intended by Congress. *See, e.g.,* T.D. 9402, 73 FR 35580, 35582 (adding rules modifying the basis of property transferred to a CFC in certain non-recognition transactions solely for the purposes of

[1] In addition to authorizing regulations by the Treasury Department and the IRS, Congress has acted on occasion to both expand and contract the scope of section 956 based on an evolving understanding of the potential means by which taxpayers could achieve the abusive results that gave rise to its enactment (that is, the tax-free effective repatriation of earnings through transactions that are economically equivalent to a taxable dividend). Thus, for example, Congress contracted the scope of section 956 in 1976, exempting investments in the stock of unrelated (tested using a 25 percent ownership threshold) U.S. corporations from the definition of United States property. *See* Pub. L. 94–455, sec. 1021, 90 Stat. 1520. Conversely, Congress expanded the scope of section 956 in the Deficit Reduction Act of 1984, Pub. L. 98–369, sec. 123(b), 98 Stat. 494, by adding certain factoring receivables as a type of United States property because it recognized that certain ''corporations based in the United States are using foreign subsidiaries to factor receivables as a device for repatriating foreign earnings tax-free.'' H.R. Rep. No. 98–432 at 1305 (1984).

section 956 and providing that ''[t]he purpose of this [rule] is to prevent the effective repatriation of earnings and profits of a controlled foreign corporation that acquires United States property in connection with an exchange to which this [rule] applies without a corresponding income inclusion under section 951(a)(1)(B) by claiming a basis in the United States property less than the amount of earnings and profits effectively repatriated''). *See also* T.D. 9834, 83 FR 32524.

II. Adoption of Participation Exemption System

On December 22, 2017, Congress enacted the Tax Cuts and Jobs Act, Public Law 115–97 (the ''Act''), which established a participation exemption system for the taxation of certain foreign income. Under section 245A(a), in the case of any dividend received from a specified 10-percent owned foreign corporation by a domestic corporation which is a U.S. shareholder with respect to such foreign corporation, there is allowed as a deduction an amount equal to the foreign-source portion of such dividend. A specified 10-percent owned foreign corporation is defined in section 245A(b) as any foreign corporation (other than certain passive foreign investment companies) with respect to which a domestic corporation is a U.S. shareholder. Section 245A(g) grants the Secretary authority to prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of section 245A, including regulations for the treatment of U.S. shareholders owning stock of a specified 10-percent owned foreign corporation through a partnership.

Under section 246(c)(1) and (5), a domestic corporation that is a U.S. shareholder is not permitted a section 245A deduction in respect of any dividend on any share of stock of a specified 10-percent owned foreign corporation that the domestic corporation holds for 365 days or less during the 731-day period beginning on the date that is 365 days before the date on which the share becomes ex-dividend with respect to the dividend. Under section 246(c)(1)(B), a section 245A deduction is also not allowed to the extent the domestic corporation is under an obligation to make related payments with respect to positions in substantially similar or related property.

Explanation of Provisions

The Treasury Department and the IRS have determined that as a result of the enactment of the participation exemption system, the current broad application of section 956 to corporate U.S. shareholders would be inconsistent with the purposes of section 956 and the scope of transactions it is intended to address. Congress determined that certain investments by a CFC of its earnings in United States property are ''substantially the equivalent of a dividend'' and enacted section 956 to provide similar treatment for dividends and certain investments in United States property constituting effective repatriations. S. Rep. No. 1881 at 88. Before the Act, section 956 applied appropriately to domestic corporations because both dividends from, and investments in United States property by, CFCs were included in income by such domestic corporations. As noted, the purpose of section 956 is generally to create symmetry between the taxation of actual repatriations and the taxation of effective repatriations, by subjecting effective repatriations to tax in the same manner as actual repatriations. Under the participation exemption system, however, earnings of a CFC that are repatriated to a corporate U.S. shareholder as a dividend are typically effectively exempt from tax because the shareholder is generally afforded an equal and offsetting dividends received deduction under section 245A. A section 956 inclusion of a corporate U.S. shareholder, on the other hand, is not eligible for the dividends received deduction under section 245A (because it is not a dividend). As a result, the application of section 956 after the Act to corporate U.S. shareholders of CFCs that would qualify for section 245A deductions would result in disparate treatment of actual dividends and amounts ''substantially the equivalent of a dividend''—a result directly at odds with the manifest purpose of section 956.

Accordingly, the proposed regulations continue the Treasury Department and the IRS's longstanding practice of conforming the application of section 956 to its purpose. The proposed regulations exclude corporate U.S. shareholders from the application of section 956 to the extent necessary to maintain symmetry between the taxation of actual repatriations and the taxation of effective repatriations. In general, under section 245A and the proposed regulations, respectively, neither an actual dividend to a corporate U.S. shareholder, nor such a shareholder's amount determined under section 956, will result in additional U.S. tax.

To achieve this result, the proposed regulations provide that the amount otherwise determined under section 956 with respect to a U.S. shareholder for a taxable year of a CFC is reduced to the extent that the U.S. shareholder would be allowed a deduction under section 245A if the U.S. shareholder had received a distribution from the CFC in an amount equal to the amount otherwise determined under section 956. The proposed regulations provide special rules with respect to indirect ownership. Due to the broad applicability of section 245A, in many cases a corporate U.S. shareholder will not have a section 956 inclusion as a result of a CFC holding U.S. property under the proposed regulations.

Section 956 will continue to apply without modification to U.S. shareholders other than corporate U.S. shareholders, such as individuals, to ensure that, consistent with the purposes of section 956, amounts that are substantially the equivalent of a dividend will be treated similarly to actual dividends. This treatment will apply to individuals regardless of whether they make an election under section 962. Because individuals are not eligible for a dividends received deduction under section 245A even if they make an election under section 962, the current application of section 956 to individuals is still necessary to ensure substantial equivalence between an actual repatriation and a deemed repatriation. Similarly, section 956 will continue to apply without reduction to regulated investment companies and real estate investment trusts because they are not allowed the dividends received deduction under section 245A. *See* sections 852(b)(2)(C) and 857(b)(2)(A).

In addition to carrying out the purposes of section 956, the proposed regulations would significantly reduce complexity, costs, and compliance burdens for corporate U.S. shareholders of CFCs. Absent the proposed regulations, corporate U.S. shareholders would need to continue to carefully monitor the application of section 956 to their operations, including provisions related to loans, guarantees, and pledges, to ensure that earnings were repatriated only through actual dividends, and therefore allowed a participation exemption, rather than through a deemed repatriation under section 956 subject to additional U.S. tax. Similarly, in the absence of the proposed regulations, a U.S.-parented group in many cases would need to engage in complex and costly restructuring upon the acquisition of a foreign corporation that owns domestic subsidiaries (since the foreign corporation becomes a CFC and the stock of its domestic subsidiaries represents United States property)

solely to avoid a section 956 inclusion. Absent the proposed regulations, section 956 could also serve as a ''trap for the unwary'' for domestic corporations that fail to recognize that, even though they are entitled to the deduction under section 245A for actual dividends, their section 956 inclusions would continue to be fully subject to U.S. tax.

The proposed regulations also add, in proposed § 1.956–1(g)(5), the effective date for § 1.956–1(e)(6) that was inadvertently deleted in TD 9792, published in the **Federal Register** on November 3, 2016 (81 FR 76497, as corrected at 81 FR 95470 and 95471).

Conforming Amendments

The Treasury Department and the IRS intend to make conforming amendments to the examples throughout the regulations under section 956 upon finalization of the proposed regulations.

Applicability Date

These changes are proposed to apply to taxable years of a CFC beginning on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register** (the ''finalization date''), and to taxable years of a U.S. shareholder in which or with which such taxable years of the CFC end. With respect to taxable years of a CFC beginning before the finalization date, a taxpayer may rely on the proposed regulations for taxable years of a CFC beginning after December 31, 2017, and for taxable years of a U.S. shareholder in which or with which such taxable years of the CFC end, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply the proposed regulations with respect to all CFCs in which they are U.S. shareholders.

Special Analyses

The Administrator of the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, has waived review of this proposed rule in accordance with section 6(a)(3)(A) of Executive Order 12866. OIRA will subsequently make a significance determination of the final rule, pursuant to section 3(f) of Executive Order (E.O.) 12866 and the April 11, 2018, Memorandum of Agreement between the Department of Treasury and the Office of Management and Budget (OMB).

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation, if adopted, will not have a significant economic impact on a substantial number of small entities, although some small entities that are domestic corporations could be affected by the regulation and comments are requested on the application of the regulation to domestic partnerships. However, even if a substantial number of small entities were to be affected by this regulation, the Treasury Department and the IRS estimate that the economic impact on such small entities would not be significant as the regulation is expected to marginally reduce compliance costs for smaller entities. This is because the Treasury Department and the IRS believe that the cost-saving benefits of the proposed regulations with respect to complex third-party borrowing arrangements, internal financial management structures, and restructurings of worldwide operations will generally be available only to large U.S. multinational corporations with 20 or more CFCs. The Treasury Department and the IRS believe that U.S. multinational corporations with less than 20 CFCs generally will not have the types of arrangements in place that would otherwise need to be structured and monitored to avoid section 956. The proposed regulations, if adopted, generally will not affect small entities that are not domestic corporations. The Treasury Department and the IRS invite comments on the impact of this rule on small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. In particular, comments are requested as to the appropriate application of the proposed regulations to U.S. shareholders that are domestic partnerships, which may have partners that are a combination of domestic corporations, U.S. individuals, or other persons. For example, one approach could be to reduce the amount otherwise determined under section 956 with respect to a domestic partnership to the extent that a domestic corporate partner would be entitled to a section 245A deduction if the partnership received the amount as a distribution. An alternative could be to determine a domestic partnership's section 956 amount and section 956 inclusion without regard to the status of its partners, but then provide that a corporate U.S. shareholder partner's distributive share of the section 956 inclusion is not taxable. Comments are also requested with respect to the maintenance of previously taxed earnings and profits accounts under section 959 and basis adjustments under section 961. Additionally, comments are requested on the interaction between the proposed regulations and section 245A(e). All comments will be available at *http://www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Joshua G. Rabon, formerly of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.956–1 also issued under 26 U.S.C. 245A(g) and 956(e).

* * * * *

Par. 2. Section 1.956–1 is amended by:

1. Revising paragraph (a).
2. In the first sentence of paragraph (g)(1), removing the language ''Paragraph (a)'' and adding in its place ''Paragraph (a)(1)''.
3. Adding paragraphs (g)(4) and (5).

The revisions and additions read as follows:

§ 1.956–1 Shareholder's pro rata share of the average of the amounts of United States property held by a controlled foreign corporation.

(a) *Overview and scope*—(1) *In general.* Subject to the provisions of

section 951(a) and the regulations thereunder, a United States shareholder of a controlled foreign corporation is required to include in gross income the amount determined under section 956 with respect to the shareholder for the taxable year but only to the extent not excluded from gross income under section 959(a)(2) and the regulations thereunder.

(2) *Reduction for certain United States shareholders*—(i) *In general.* For a taxable year of a controlled foreign corporation, the amount determined under section 956 with respect to each share of stock of the controlled foreign corporation owned (within the meaning of section 958(a)) by a United States shareholder is the amount that would be determined under section 956 with respect to such share for the taxable year, absent the application of this paragraph (a)(2) for the taxable year (such amount, the *tentative section 956 amount,* and in the aggregate with respect to all shares owned (within the meaning of section 958(a)) by the United States shareholder, the *aggregate tentative section 956 amount*), reduced by the amount of the deduction under section 245A that the shareholder would be allowed if the shareholder received as a distribution from the controlled foreign corporation an amount equal to the tentative section 956 amount with respect to such share on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation (*hypothetical distribution*).

(ii) *Determination of the amount of the deduction that would be allowed under section 245A with respect to a hypothetical distribution.* For purposes of determining the amount of the deduction under section 245A that a United States shareholder would be allowed with respect to a share of stock of a controlled foreign corporation by reason of a hypothetical distribution, the following rules apply—

(A) If a United States shareholder owns a share of stock of a controlled foreign corporation indirectly (within the meaning of section 958(a)(2)), then—

(*1*) Sections 245A(a) through (d), 246(a), and 959 apply to the hypothetical distribution as if the United States shareholder directly owned (within the meaning of section 958(a)(1)(A)) the share;

(*2*) Section 245A(e) applies to the hypothetical distribution as if the distribution were made to the United States shareholder through each entity by reason of which the United States shareholder indirectly owns such share and pro rata with respect to the equity that gives rise to such indirect ownership;

(*3*) To the extent that a distribution treated as made to a controlled foreign corporation pursuant to the hypothetical distribution by reason of paragraph (a)(2)(ii)(A)(*2*) of this section would be subject to section 245A(e)(2), the United States shareholder is treated as not being allowed a deduction under section 245A by reason of the hypothetical distribution; and

(*4*) Section 246(c) applies to the hypothetical distribution by substituting the phrase ''owned (within the meaning of section 958(a))'' for the term ''held'' each place it appears in section 246(c); and

(B) Section 246(c) applies to the hypothetical distribution by substituting ''the last day during the taxable year on which the foreign corporation is a controlled foreign corporation'' for the phrase ''the date on which such share becomes ex-dividend with respect to such dividend'' in section 246(c)(1)(A).

(3) *Examples.* The following examples illustrate the application of paragraph (a)(2) of this section.

(i) *Example 1.* (A) *Facts.* (*1*) USP, a domestic corporation, owns all of the single class of stock of CFC1, which is treated as equity for U.S. income tax purposes and under the laws of the jurisdiction in which CFC1 is organized and liable to tax as a resident. The stock of CFC1 consists of 100 shares, and USP satisfies the holding period requirement of section 246(c) (as modified by paragraph (a)(2)(ii)(B) of this section) with respect to each share of CFC1 stock. CFC1 owns all of the stock of USS, a domestic corporation. CFC1's adjusted basis in the stock of USS is $0x.

(2) The functional currency of CFC1 is the U.S. dollar. CFC1 has $100x of undistributed earnings as defined in section 245A(c)(2), $90x of which constitute undistributed foreign earnings as defined in section 245A(c)(3), and $10x of which are described in section 245(a)(5)(B) (that is, earnings attributable to a dividend that CFC1 received from USS). CFC1 would not receive a deduction or other tax benefit with respect to any income, war profits, or excess profits taxes on a distribution. None of the earnings and profits of CFC1 are described in section 959(c)(1) or (2) or are earnings and profits attributable to income excluded from subpart F income under section 952(b). CFC1's applicable earnings (as defined in section 956(b)(1)) are $100x. CFC1 also has held an obligation of USP with an adjusted basis of $120x on every day during the taxable year that was acquired while all of its stock was owned by USP.

(B) *Analysis.* Because USP directly owns all of the stock of CFC1 at the end of CFC1's taxable year, USP's aggregate tentative section 956 amount with respect to CFC1 is $100x, the lesser of USP's pro rata share of the average amounts of United States property held by CFC1 ($120x) and its pro rata share of CFC1's applicable earnings ($100x). Under paragraph (a)(2)(i) of this section, USP's section 956 amount with respect to CFC1 is its aggregate tentative section 956 amount with respect to CFC1 reduced by the deduction under section 245A that USP would be allowed if USP received an amount equal to its aggregate tentative section 956 amount as a distribution with respect to the CFC1 stock. With respect to the tentative distribution from CFC1 to USP, USP would be allowed a $90x deduction under section 245A with respect to the foreign-source portion of the $100x hypothetical distribution (that is, an amount of the dividend that bears the same ratio to the dividend as the $90x of undistributed foreign earnings bears to the $100x of undistributed earnings). Accordingly, USP's section 956 amount with respect to CFC1 is $10x, its aggregate tentative section 956 amount ($100x) with respect to CFC1 reduced by the amount of the deduction that USP would have been allowed under section 245A with respect to the hypothetical distribution ($90x).

(ii) *Example 2.* (*A*) *Facts.* The facts are the same as in paragraph (A) of *Example 1* in paragraph (a)(3)(i) of this section, except that all $100x of CFC1's undistributed earnings are described in section 959(c)(2).

(B) *Analysis.* As in paragraph (B) of *Example 1* in this paragraph (a)(3)(i) of this section, USP's aggregate tentative section 956 amount with respect to CFC1 is $100x, the lesser of USP's pro rata share of the average amounts of United States property held by CFC1 ($120x) and its pro rata share of CFC1's applicable earnings ($100x). However, paragraph (a)(2) of this section does not reduce USP's section 956 amount, because USP would not be allowed any deduction under section 245A with respect to the $100x hypothetical distribution by reason of section 959(a) and (d). Accordingly, USP's section 956 amount is $100x. However, under sections 959(a)(2) and 959(f)(1), USP's inclusion under section 951(a)(1)(B) with respect to CFC1 is $0, because USP's section 956 amount with respect to CFC1 does not exceed the earnings and profits of CFC1 described in section 959(c)(2) with respect to USP. The $100x of earnings and profits of CFC1

described in section 959(c)(2) are reclassified as earnings and profits described in section 959(c)(1).

(iii) *Example 3.* (A) *Facts.* (*1*) USP, a domestic corporation, owns all of the single class of stock of CFC1, and has held such stock for five years. CFC1 has held 70% of the single class of stock of CFC2 for three years. The other 30% of the CFC2 stock has been held by a foreign individual unrelated to USP or CFC1 since CFC2's formation. All of the stock of each of CFC1 and CFC2 is treated as equity for U.S. income tax purposes and under the laws of the jurisdiction in which each respective corporation is organized and liable to tax as a resident. CFC2 has a calendar taxable year. On December 1, Year 1, CFC1 acquires the remaining 30% of the stock of CFC2 for cash. On June 30, Year 2, CFC1 sells to a third party the 30% of CFC2 stock acquired in Year 1 at no gain. CFC2 made no distributions during Year 1.

(2) The functional currency of CFC1 and CFC2 is the U.S. dollar. CFC2 has $120x of undistributed earnings as defined in section 245A(c)(2), all of which constitute undistributed foreign earnings. Neither CFC1 nor CFC2 would receive a deduction or other tax benefit with respect to any income, war profits, or excess profits taxes on a distribution. None of the earnings and profits of CFC2 are described in section 959(c)(1) or (2) or are earnings and profits attributable to income excluded from subpart F income under section 952(b). CFC2's applicable earnings (as defined in section 956(b)(1)) are $120x. CFC2 has held an obligation of USP with an adjusted basis of $100x on every day of Year 1 that was acquired while USP owned all of the stock of CFC1 and CFC1 held 70% of the single class of stock of CFC2.

(B) *Analysis.* Because USP indirectly owns (within the meaning of section 958(a)) all of the stock of CFC2 at the end of Year 1, USP's aggregate tentative section 956 amount with respect to CFC2 for Year 1 is $100x, the lesser of USP's pro rata share of the average amounts of United States property held by CFC2 ($100x) and its pro rata share of CFC2's applicable earnings ($120x). Under paragraph (a)(2)(i) of this section, USP's section 956 amount with respect to CFC2 for Year 1 is its aggregate tentative section 956 amount with respect to CFC2 reduced by the deduction under section 245A that USP would be allowed if USP received an amount equal to its aggregate tentative section 956 amount as a distribution with respect to the CFC2 stock that USP owns indirectly within the meaning of section 958(a)(2). For purposes of determining the consequences of this hypothetical distribution, under paragraph (a)(2)(ii)(A)(*1*) of this section, USP is treated as owning the CFC2 stock directly. In addition, under paragraph (a)(2)(ii)(A)(*4*) of this section, the holding period requirement of section 246(c) is applied by reference to the period during which USP owned (within the meaning of section 958(a)) the stock of CFC2. Therefore, with respect to the hypothetical distribution from CFC2 to USP, USP would satisfy the holding period requirement under section 246(c) with respect to the 70% of the CFC2 stock that USP indirectly owned for three years through CFC1, but not with respect to the 30% of the CFC2 stock that USP indirectly owned through CFC1 for a period of less than 365 days. Accordingly, USP's section 956 amount with respect to CFC2 for Year 1 is $30x, its aggregate tentative section 956 amount ($100x) reduced by the amount of the deduction that USP would have been allowed under section 245A with respect to the hypothetical distribution ($70x).

* * * * *

(g) * * *

(4) Paragraphs (a)(2) and (3) of this section apply to taxable years of controlled foreign corporations beginning on or after the date of publication of the Treasury decision adopting paragraphs (a)(2) and (3) of this section as final regulations in the **Federal Register**, and to taxable years of a United States shareholder in which or with which such taxable years of the controlled foreign corporation end.

(5) Paragraph (e)(6) of this section applies to property acquired in exchanges occurring on or after June 24, 2011.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2018–24140 Filed 11–1–18; 4:15 pm]

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NATIONAL LABOR RELATIONS BOARD

29 CFR Chapter I

RIN 3142–AA13

The Standard for Determining Joint-Employer Status

AGENCY: National Labor Relations Board

ACTION: Proposed rulemaking; extension of comment period.

SUMMARY: The National Labor Relations Board (the Board) published a Notice of Proposed Rulemaking in the **Federal Register** of September 14, 2018, seeking comments from the public concerning the standard for determining joint-employer status under the National Labor Relations Act. The date to submit responses to the Notice is extended for 30 days.

DATES: The comment period for the notice of proposed rulemaking published at 83 FR 46681 is extended. Comments must be received by the Board on or before December 13, 2018. Comments replying to the comments submitted during the initial comment period must be received by the Board on or before December 20, 2018.

Dated: October 31, 2018.

Farah Z. Qureshi,

Associate Executive Secretary.

[FR Doc. 2018–24134 Filed 11–2–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 111

[Docket ID: DOD–2016–OS–0116]

RIN 0790–AI99

Transitional Compensation (TC) for Abused Dependents

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Proposed rule.

SUMMARY: Transitional compensation is one of the many resources available to victims of domestic abuse. The Transitional Compensation for Abused Dependents program is a congressionally-authorized program which provides temporary monetary payments and military benefits to dependents of Service members, when the member has been separated from the military due to a dependent-abuse or child abuse offense. If adopted as final, this rulemaking would establish requirements and describes authorized benefits for an abused spouse and/or abused children affected by the separation or forfeiture of pay and allowances of a military Service member.

DATES: Comments must be received by January 4, 2019.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: CDR David T. Clark, 703–693–1068.

SUPPLEMENTARY INFORMATION:

Legal Authority for This Program

This program was established by Congress for abused dependents of military personnel based on (Pub. L. 103–160) in 1994. This rule consolidates and clarifies existing procedural requirements established by the Act and currently found in internal DOD guidance.

The legislation authorized temporary payments for families in which the active duty soldier had been court-martialed with a qualifying sentence (forfeiture of all pay and allowances, or bad conduct discharge, or dishonorable discharge, or in the instance of officers and commissioned warrant officers, dismissal from the Service) or was being administratively separated from the military as a result of a dependent-abuse offense. DOD began authorizing payments in August 1995 in accordance with DoD Instruction (DoDI) 1342.24, Transitional Compensation for Abused Dependents which was last updated in January 1997 and can be found at *http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/134224p.pdf.*

Eligibility Requirements for the Program

To be eligible for the benefit a family member (spouse or dependent child) must have been living in the home of the Service member. The Service member must have been administratively separated for a dependent-abuse offense; or convicted of a dependent-abuse offense and either separated under a court-martial sentence or sentenced to a forfeiture of all pay and allowances.

A dependent-abuse offense must be the basis for the administrative separation or conviction, although it does not have to be the primary reason. Active duty victims of dependent-abuse are also eligible for transitional compensation, when the offender is also active duty.

Summary of Benefits Under This Program

• *Amount of the benefit:* The compensation amount is based on the Dependency and Indemnity Compensation, which changes annually. Current amounts can be found at the Department of Veterans Affairs Dependency and Indemnity Compensation website at *https://benefits.va.gov/compensation/types-dependency_and_indemnity.asp.*

• *Length of the benefit:* The transitional compensation is available for the longer of 12 months or the unserved portion of the Service member's obligated active service. Compensation will not extend beyond 36 months.

• *Maintaining eligibility:* Individuals become ineligible for compensation and benefits if they remarry or move back in with the former Service member while receiving benefits.

• *Recertifying eligibility:* If compensation is available for more than 12 months, recertification is required annually to ensure eligibility for transitional compensation.

• *Other benefits:* As part of the Transitional Compensation Program, individuals may be eligible for other benefits including medical care, exchange privileges and commissary privileges.

Transitional compensation is one of the many resources available to military families. Each installation's Family Advocacy Program or legal assistance office can help a family apply for transitional compensation as well as other means of assistance.

Per DoD's Financial Management Regulation at *https://comptroller.defense.gov/Portals/45/documents/fmr/current/07b/07b_60.pdf,* transitional compensation payments are not taxable. Transitional compensation recipients should not expect to receive a Form 1099 for tax purposes. Also, recipients need not report transitional compensation payments on their tax return.

According to DoD Policy, transitional compensation for a dependent spouse or former spouse is at the same rate as defined in 38 U.S.C. 1311—Dependency & Indemnity Compensation to a Surviving Spouse. There is also an additional amount for children under this section. For children without a mil-spouse parent, the amount is the same as the rate defined in 38 U.S.C. 1313—Dependency & Indemnity Compensation to Children. You can find annual updates to these payments on the DoD Comptroller's website at *https://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07b.pdf.*

Expected Impact of the Proposed Rule

The intent of this program is to encourage victims of dependent-abuse to come forward and report abuse, provide assistance to victims to separate from the abuser, inform the victims of resources available to them as a victim of dependent-abuse, ensure the safety and well-being of the victims, and ensure the Department of Defense does not leave a spouse and family financially destitute when the abusing Service member is discharged from the military for a dependent-abuse offense. In accordance with statute, the rate of payment varies based on the rank of the Service member, but it is designed to cover living expenses such as food, clothing and housing. The Department spends approximately $17M each fiscal year in transitional compensation payments. This proposed rule publishes instructions internal to DoD without any changes to the policies already in place, and therefore will not result in any changes to the number of TC recipients or the amount they are paid.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute 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. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs''

This proposed rule is not expected to by subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017)

because this proposed rule is expected be related to agency organization, management, or personnel.

2 U.S.C. Ch. 25, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Ch. 6)

The Department of Defense certifies that this proposed rule is not subject to the Regulatory Flexibility Act because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

Section 111.6(f)(1) of this proposed rule contains information collection requirements. These reporting requirements have been approved by the Office of Management and Budget and assigned OMB Control Number 0704–0578, ''Transitional Compensation for Abused Dependents (TCAD).''

The applicable Systems of Records Notice (SORN) is T7347b, Defense Military Retiree and Annuity Pay System Records (January 7, 2009, 74 FR 696), *http://dpcld.defense.gov/Privacy/SORNsIndex/DOD-wide-SORN-Article-View/Article/570196/t7347b/.* The Privacy Impact Assessment (PIA) is available at *https://www.dfas.mil/dam/jcr:5cf8a068-89c7-47eb-b844-1e2020ed5f73/Defense%20Retiree%20and%20Annuitant%20Pay%20System%20(DRAS)%202016.pdf;* or *https://www.dfas.mil/dfas/foia/privacyimpactassessments.html.*

Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 111

Abuse, Dependent children, Transitional compensation.

■ Accordingly, 32 CFR part 111 is proposed to be added to read as follows:

PART 111—TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENTS

Sec.

111.1 Purpose.
111.2 Applicability.
111.3 Definitions.
111.4 Policy.
111.5 Responsibilities.
111.6 Procedures.

Authority: 10 U.S.C. 1059.

PART 111—TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENTS

§ 111.1 Purpose.

This part establishes policy, assigns responsibilities, and prescribes procedures for the payment of monthly Transitional Compensation (TC) to dependents of Service members separated for dependent abuse.

§ 111.2 Applicability.

This part applies to The Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense (DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities in the DoD.

§ 111.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purposes of this part.

Dependent abuse offense. Conduct by an individual while a Military Service member on active duty for a period of more than 30 days that involves abuse of a then-current spouse or a dependent child of the Service member and that is a criminal offense, under the Uniform Code of Military Justice, or another criminal code applicable to the jurisdiction where the act of abuse is committed. The term ''involves abuse of the then-current spouse or a dependent child'' means that the criminal offense is against the person of that spouse or a dependent child. Crimes that may qualify as dependent-abuse offenses include sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. (This is not an exhaustive or exclusive listing of dependent-abuse offenses, but is provided for illustrative purposes only. The facts and circumstances of a particular case should always be interpreted in a manner most favorable to the spouse or a dependent child of the member when determining whether the conduct constitutes a ''dependent abuse offense.'')

Dependent child. As defined in 10 U.S.C. 1059.

Exchange stores. The Army and Air Force Exchange Service, the Navy Exchange, the Marine Corps Exchange, and the Coast Guard Exchange.

Parent. The natural father or mother, or father or mother through adoption. For purposes of TC, parent does not include persons who have stood ''in loco parentis'' to a dependent child.

Secretary concerned. Includes the Secretary of the Military Departments and the Secretary of the Department of Homeland Security, when applicable.

Service member. Includes former Service members, where appropriate.

Spouse. An individual married to a Service member, but does not include a domestic partner.

§ 111.4 Policy.

The DoD will make monthly TC payments and provide other benefits described in this part for spouses or dependents of Service members who meet the eligibility requirements of 10 U.S.C. 1059 and this part.

§ 111.5 Responsibilities.

(a) The Under Secretary of Defense for Personnel and Readiness (USD(P&R)):

(1) Establishes and prescribes procedures for the payment of TC to dependents of Service members separated for dependent abuse.

(2) Oversees compliance with this part.

(b) The Secretaries of the Military Departments and the Secretary of the Department of Homeland Security, when applicable:

(1) Appoint representatives to coordinate requests for TC, approve requests (except exceptional eligibility requests), and forward those requests for payment in accordance with Chapter 60, Volume 7B of DoD 7000.14–R, ''Department of Defense Financial Management Regulations (FMRs): Military Pay Policy—Retired Pay'' (available at *http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07b.pdf*).

(2) Review and approve or disapprove requests for TC benefits in accordance with the exceptional eligibility authority in accordance with 10 U.S.C. 1059. This responsibility may not be delegated.

(3) Ensure dependents who are victims of a dependent-abuse offense are aware of their eligibility to apply for TC.

(4) Establish departmental guidance to implement this part.

§ 111.6 Procedures.

(a) *Recipients of payment.* The Secretary concerned makes TC payments to Service member dependents, former dependents, or court-appointed guardians as described by 10 U.S.C. 1059. If a recipient is incapable of handling his or her own affairs, payments may be made only to a court-appointed guardian.

(b) *Payments.*

(1) Payments begin in accordance with 10 U.S.C. 1059.

(2) Payments must continue for at least 12 months and no more than 36 months, as prescribed by the applicable Secretary of the Military Department. When the unserved portion of the Service member's obligated active duty service, as of the starting date of payment, is greater than 12 months and less than or equal to 36 months, payments continue for no less than the unserved portion.

(i) For enlisted Service members, obligated active duty service is the time remaining on their terms of enlistment.

(ii) For officers, obligated active duty service is indefinite unless an officer has a date of separation established. In that case, it is the time remaining until the date of separation.

(3) The amount of payment will be in accordance with 10 U.S.C. 1059. Partial month entitlements are pro-rated. If a recipient dies, arrears of payments are not paid.

(4) Payments will be stopped in accordance with 10 U.S.C. 1059.

(i) Payments will end on the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that the payment of TC will stop.

(ii) Recipients are not required to repay amounts of TC received before the effective date payment is stopped, in accordance with paragraph (b)(4)(i) of this section; however, TC may be recouped for erroneous payments or payments made based on false information provided.

(c) *Forfeiture provisions.* In addition to 10 U.S.C. 1059, the following requirements apply:

(1) The former spouse receiving TC must notify the Defense Finance Accounting Services (DFAS) within 30 days of remarriage or if the spouse or former spouse begins residing in the same household as the spouse or former spouse.

(2) If a Service member's dependent child is not living in the same household as the spouse or former spouse who forfeits TC, payments are made to each dependent child or his or her court-appointed guardian.

(3) In order to continue benefits, the spouse or former spouse must annually certify to DFAS that he or she is not remarried or is not cohabitating with the Service member separated for the abuse. DFAS will provide a form for recertification of benefits.

(d) *Coordination of benefits.* A spouse or former spouse may not concurrently receive TC payments and retired pay payments pursuant to 10 U.S.C. 1059 and 1408(h), respectively. If a spouse or former spouse is eligible for both TC payments and retired pay payments, the spouse or former spouse chooses which of the two payments to receive. If the spouse or former spouse receives TC payments and later receives payments from a Service member's retired pay, any TC received concurrently with retired pay must be recouped.

(e) *Source of funds.* TC must be paid from operations and maintenance funds of the Department of the Service member.

(f) *Application of procedures.* An individual must initiate a request for TC through a Service-appointed representative. The Service-appointed representative:

(1) Collects data and validates the claim using DD Form 2698 (available at *http://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd2698.pdf*).

(2) Approves payment and forwards the application to DFAS unless otherwise submitted by the Secretary concerned in accordance with 10 U.S.C. 1059.

(g) Commissary and exchange benefits

(1) A recipient of TC is entitled to use commissary and exchange stores while receiving payments.

(2) If a recipient entitled to use commissary and exchange stores is also entitled to use commissary and exchange stores under another provision of law, the entitlement is determined under the other provision of law and not paragraph (g)(1).

(h) *Medical benefits.*

(1) The Secretary concerned will determine appropriate medical and dental care eligibility for TC recipients and affected dependents. At a minimum, an abused dependent who is receiving TC in accordance with paragraph (a) of this part may receive medical and dental care, including mental health services, in facilities of the military services or through the TRICARE program as outlined in 10 U.S.C. 1076 and 1077.

(2) Dental care may be provided on a space-available basis in facilities of the military services.

(3) Eligible dependents of a member who is retirement eligible, but who loses eligibility for retirement pay because of dependent-abuse misconduct, may receive medical and dental care in accordance with 10 U.S.C. 1408(h).

Dated: October 29, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–23964 Filed 11–2–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0999]

RIN 1625–AA00

Safety Zone for Fireworks Display, Upper Potomac River, Washington Channel, DC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for certain waters of the Upper Potomac River. This action is necessary to provide for the safety of life on these navigable waters of the Washington Channel adjacent to The Wharf DC, Washington, DC, during a fireworks display on December 1, 2018. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 19, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0999 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ron Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On October 10, 2018, Pyrotecnico, Inc., of New Castle, PA, notified the Coast Guard that it will be conducting a fireworks display from 7:45 p.m. to 8 p.m. on December 1, 2018, sponsored by The Wharf DC. The fireworks are to be launched from a barge in the Washington Channel, adjacent to The Wharf DC in Washington, DC. Additional details were received on October 18, 2018. Hazards from the fireworks display include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within 200 feet of the fireworks barge.

The purpose of this rulemaking is to ensure the safety of vessels on the navigable waters within 200 feet of the fireworks barge on the Washington Channel before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

Because of when final details of the event were provided to the Coast Guard, the Coast Guard does not have time to provide a full 30 day comment period and publish a final rule. Instead, the Coast Guard is providing 14 day comment period. The Coast Guard believes that 14 days will provide adequate time for interested individuals to review and provide meaningful comment on the proposal.

III. Discussion of Proposed Rule

The COTP proposes to establish a temporary safety zone in the Washington Channel from 7 p.m. to 9 p.m. on December 1, 2018. The safety zone would cover all navigable waters within 200 feet of the fireworks barge in the Washington Channel located within an area bounded on the south by latitude 38°52′30″ W, and bounded on the north by the Francis Case (I–395) Memorial Bridge, located at Washington, DC. The duration of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone. Although vessel traffic will not be able to safely transit around this safety zone, the impact would be for 2 hours during the evening when vessel traffic in Washington Channel is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 2 hours that would prohibit entry within a portion of the Washington Channel. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0999 to read as follows:

§ 165.T05–0999 Safety Zone for Fireworks Display, Upper Potomac River, Washington Channel, Washington, DC.

(a) *Location.* The following area is a safety zone: All navigable waters of the Washington Channel within 200 feet of the fireworks barge located within an area bounded on the south by latitude 38°52′30″ W, and bounded on the north by the southern extent of the Francis Case (I–395) Memorial Bridge, located at Washington, DC. All coordinates refer to datum NAD 1983.

(b) *Definitions.* As used in this section:

(1) *Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

(2) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative. All vessels underway within this safety zone at the time it is activated are to depart the zone.

(2) To seek permission to enter, contact the COTP or the COTP's designated representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

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

(e) Enforcement period. This section will be enforced from 7 p.m. to 9 p.m. on December 1, 2018.

Dated: October 30, 2018.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2018–24121 Filed 11–2–18; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Chapter III

[Docket No. 18–CRB–0012–RM]

Modification and Amendment of Regulations To Conform to the MMA

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notification of inquiry.

SUMMARY: The Copyright Royalty Judges (Judges) publish a notice of inquiry regarding necessary and appropriate modifications and amendments to agency regulations following enactment of a new law regarding the music industry.

DATES: Comments and proposals, if any, are due no later than November 26, 2018.

ADDRESSES: You may submit comments and proposals, identified by docket number 18–CRB–0012–RM, by any of the following methods:

CRB's electronic filing application: Submit comments and proposals online in eCRB at *https://app.crb.gov/.*

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or *Overnight service (only USPS Express Mail is acceptable):* Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE, Washington, DC 20559–6000. *Deliver to:* Congressional Courier Acceptance Site, 2nd Street NE and D Street NE, Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE, Washington, DC 20559–6000.

Instructions: Unless submitting online, commenters must submit an original, two paper copies, and an electronic version on a CD. All submissions must include a reference to the CRB and this docket number. All submissions will be posted without change to eCRB at *https://app.crb.gov/* including any personal information provided.

Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at *https://app.crb.gov/* and search for docket number 18–CRB–0012–RM.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, CRB Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Orrin G. Hatch-Bob Goodlatte Music Modernization Act, Public Law 115–264, 132 Stat. 3676 (Oct. 11, 2018) (MMA), implements changes in administration of copyright royalties relating to the music industry. The most sweeping changes relate to the copyrights of songwriters and publishers of nondramatic musical works. Prior to enactment of the MMA, section 115 of title 17 (Copyright Act) detailed procedures for administration of the compulsory license (also known as the ''mechanical'' compulsory license) to reproduce and distribute, including by digital transmissions, phonorecords embodying copyrighted musical works.

Chapter 8 of the Copyright Act requires the Copyright Royalty Judges (Judges) to conduct proceedings every five years to determine the rates and terms for the section 115 license. *See* 17 U.S.C. 801(b)(1), 804(b)(4). In the MMA, Congress authorized designation of an entity, the Mechanical License Collective (MLC) to serve as a clearinghouse for collection and distribution of royalties and to develop a comprehensive database to ensure efficient and appropriate payment and distribution of those royalties.

Creation of the MLC and the other statutory changes in the MMA requires or authorizes modification of the Judges' regulations relating to section 115. For example, section 102(d) of the MMA requires the Judges, not later than 270 days after enactment of the MMA, to amend part 385 of 37, Code of Federal Regulations (CFR) ''to conform the definitions used in such part to the definitions of the same terms described in section 115(e) of title 17, United States Code, as added by'' section 102(a) of the MMA. That provision also directs the Judges to ''make adjustments to the language of the regulations as necessary to achieve the same purpose and effect as the original regulations with respect to the rates and terms previously adopted by the [Judges].'' In addition, the MMA authorizes the Judges to adopt regulations concerning proceedings to set the administrative assessment established by the statute to fund the MLC. 17 U.S.C. 115(d)(7)(D)(viii), 115(d)(12)(A).

The MMA also adds a new section 801(b)(8) to the Copyright Act, which authorizes the Judges ''to determine the administrative assessment to be paid by digital music providers under section 115(d)'' but states that ''[t]he provisions of section 115(d) shall apply to the conduct of proceedings by the [Judges] under section 115(d) and not the procedures in this section, or section 803, 804, or 805.''

The Judges seek input from persons and entities who reasonably believe they have a significant interest in the content of necessary or appropriate changes to the regulations in chapter III, title 37, Code of Federal Regulations (CFR). The Judges also seek input from persons and entities who reasonably believe they have a significant interest in interpreting and applying the changes the MMA purports to make to chapter 8 of the Copyright Act.

Specifically, but not exclusively, the Judges seek comments regarding the following questions.

(1) What regulations in chapter III, title 37 CFR, if any, *must* be changed and how?

(2) What regulations in chapter III, title 37 CFR, if any, *should* be changed and how?

(3) What effect, if any, does the new language in subparagraph 8 of section 801(b) have on the Judges' ability to make necessary procedural or evidentiary rulings under sections 801, 803, 804, and/or 805 [1] of the Copyright Act, and, in particular, does the new language have the effect that the Judges are now required to adopt new regulations, notwithstanding their general authority under section 801(c)?

(4) If the new language in subparagraph 8 of section 801(b) affects the Judges' authority under other subsections of section 801, how does it change that authority or the procedures to exercise that authority?

The Judges solicit proposed new or modified regulatory language that may be necessary to fully implement the MMA. Commenting persons and entities must support each legal conclusion and each proposed regulatory change with appropriate legal analysis and citation to authority. After considering the proposals, if the Judges determine that rulemaking is required, the Judges will publish a formal notice of proposed rulemaking in accordance with the provisions of the Administrative Procedures Act.

Dated: October 30, 2018.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2018–24089 Filed 11–2–18; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0432; FRL–9986–18–Region 4]

Air Plan Approval; North Carolina: NO_X Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North

[1] Examples: Section 801(c) (necessary procedural and evidentiary rulings), section 803(b)(5) (paper proceedings), section 803(b)(6)(C)(ix) (subpoenas), section 803(c)(2) (rehearings), section 803(c)(5) (protective orders).

Carolina Division of Air Quality (NCDAQ) on June 5, 2017, as supplemented on June 28, 2018. This submittal seeks to revise the State's SIP-approved rules regarding nitrogen oxides (NO_X) emissions from large stationary combustion sources. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before November 26, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2018–0432 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Spann can be reached by phone at (404) 562–9029 or via electronic mail at *spann.jane@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 18, 2001, North Carolina submitted a rule section regarding the control of NO_X emissions from large stationary combustion sources to EPA for approval into its SIP.[1] The rule section—NCAC 15A 02D .1400—contained Rules .1401—''Definitions''; .1403—''Compliance Schedules''; .1413—''Sources Not Otherwise Listed in This Section''; .1414—''Tune-up Requirements''; and .1423—''Large Internal Combustion Engines'' as well as other rules not related to today's proposed action. The submittal also included a rule entitled ''.1406 Utility Boilers (Repealed)'' with no regulatory text. EPA approved the September 18, 2001, SIP revision on December 27, 2002, with the exception of Rule .1406 and the addition of Rules .1413, and .1414, among others. EPA did not act on Rule .1406 because the rule contained no regulatory text and because Rule .1406 was not in the SIP, thus there was nothing to repeal. See 67 FR 78987 for further information.

On August 14, 2002, North Carolina submitted a SIP revision to EPA containing changes to its Section 1400 NO_X rules. The submission included changes to Rule .1401—''Definitions''; .1403—''Compliance Schedules''; .1413—''Sources Not Otherwise Listed in This Section''; .1414—''Tune-up Requirements''; and .1423—''Large Internal Combustion Engines'' as well as changes to other rules not related to today's proposed action. The submittal again included a rule entitled ''.1406 Utility Boilers (Repealed)'' with no regulatory text. North Carolina took these rule changes to hearing on May 21, 2001, and June 5, 2001. EPA did not act on the August 14, 2002, submittal.

On June 5, 2017, North Carolina withdrew its August 14, 2002, SIP submittal and resubmitted the changes to Rules .1401, .1403, .1413, .1414, and .1423 contained in the 2002 submittal along with the repeal of Rule .1406. The June 5, 2017, submittal relies on the hearing record associated with the August 14, 2002, submittal because the rule text is identical. On June 28, 2018, North Carolina supplemented its June 5, 2017, submittal to acknowledge that Rules .1413 and .1414 are not in the SIP.

II. Analysis of North Carolina's June 5, 2017, Submittal and June 28, 2018, Supplement

EPA has reviewed the June 5, 2017, submittal, as supplemented on June 28, 2018, and proposes to act on Rules .1401, .1413, and .1414 and not to act on Rules .1403, .1406, and .1423, as discussed below.[2]

a. Rule .1401—''Definitions''

North Carolina modified Rule .1401 to clarify which definitions outside of the rule apply to Section .1400, including definitions from the Code of Federal Regulations (CFR) as discussed below; add a definition of ''combustion turbine''; revise several existing definitions; and renumber the paragraphs within the rule. The State added the definition of ''combustion turbine'' from 40 CFR 96.2—''an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine''—for consistency with the federal rule. The revised definitions are discussed below.

North Carolina modified the definition of ''reasonable effort'' to replace the term ''optimization of'' with ''utilization'' in the phrase '''Reasonable effort' means the proper installation of technology designed to meet the requirements of Rule .1407, .1408, or .1409 of this Section and the optimization of this technology, according to the manufacturer's recommendations or other similar guidance for not less than six months, in an effort to meet the applicable limitation for a source.'' Given the limited applicability of the provision, the continued requirement to follow manufacturers' recommendations or other similar guidance, the fact that it was state effective in 2002, and the lack of nonattainment areas in the State for any criteria pollutant, EPA does not believe that incorporating the revision into the SIP will interfere with any applicable requirement regarding attainment and reasonable further progress or any other applicable CAA requirement.

Under the SIP-approved definitions of ''emergency generator'' and ''emergency use internal combustion engines,'' subject internal combustion engines are included only during the loss of primary power at the facility that is beyond the control of the owner or operator of the facility or during maintenance ''when necessary to protect the environment.'' In its June 5, 2017, SIP revision, North Carolina replaced the phrase ''when necessary to protect the environment'' with the phrase ''when maintenance is being performed on the power supply to equipment that is essential in protecting the environment or to such equipment itself.'' EPA believes that this is a

[1] See Rule .1402—''Applicability'' and the definition of ''source'' in Rule .1401 for the scope of this rule section.

[2] On June 5, 2017, NCDAQ submitted a SIP revision addressing Rules .1407—''Boilers and Indirect-Fired Process Heaters'' and .1408—''Stationary Combustion Turbines'' that is separate from the SIP revision that EPA is proposing to act on today. On August 14, 2002, and again on November 19, 2008, NCDAQ submitted amendments to Rules .1407 and .1408 along with many other rule amendments. NCDAQ's intention, as outlined in its June 5, 2017, SIP submittal for Rules .1407 and .1408, was to withdraw the November 19, 2008, submittal related to these rules. However, EPA already approved the portion of the November 19, 2008, submittal related to Rules .1407 and .1408 on May 9, 2013. *See* 78 FR 27065.

clarifying change and therefore does not relax the rule.

The State made a number of additional clarifying changes. North Carolina reworded the definition of ''fossil fuel fired'' to clarify that the term applies to certain sources where fossil fuel is combusted either alone or in combustion with other fuel. The definition of ''ozone season'' is revised in the submittal to clarify that it begins on May 31 and ends on September 30 for 2004 and begins on May 1 and ends on September 30 for all other years. The definitions of ''seasonal energy input'' and ''seasonal energy output'' are also revised to clarify that they cover the period beginning on May 1 and ending on September 30. In addition, the State clarified that the definitions in 15A NCAC 2D .0101 from the general definitions and references section of Chapter 2D apply to Section 1400 (unless there is a conflict, in which case the definitions in Rule .1401 control) as well as N.C.G.S. 143–121 and 143–213, the definitions in the governing state air statute. The State also added paragraph (b) stating that whenever reference is made to the CFR, the definitions in the CFR apply unless specifically stated otherwise. These clarifying changes do not alter the meaning of these definitions.

b. Section .1403—''Compliance Schedules''

The version of Rule .1403 included in the June 5, 2017, SIP revision was state effective in 2002. However, on January 31, 2008, the State submitted a SIP revision to EPA containing a version of the rule that was state effective on July 1, 2007. EPA approved the portion of that SIP revision regarding Rule .1403 and incorporated the July 1, 2007, version of the rule into the SIP on May 9, 2013 (78 FR 27065). Because the later version of the rule superseded the July 15, 2002, version contained in the June 5, 2017, SIP revision, EPA is not taking action on the portion of the submittal regarding Rule .1403.

c. Rule .1406—''Utility Boilers (Repealed)''

The June 5, 2017, SIP revision includes a rule entitled ''.1406 Utility Boilers (Repealed)'' with no regulatory text. EPA is not proposing to act on Rule .1406 because the rule contains no regulatory text and because Rule .1406 is not in the SIP.

d. Rule .1413—''Sources Not Otherwise Listed in This Section''

Rule .1413 requires subject sources of NO_X other than boilers, indirect-fired process heaters, stationary combustion turbines, and stationary internal combustion engines at facilities with a potential to emit of 100 tons per year or more of NO_X or 560 pounds per calendar day or more from May 1 through September 30 to apply Reasonably Available Control Technology (RACT). The rule also requires owners or operators of such sources to submit certain information to the State, including a proposed limitation for consideration as RACT, and requires the Director to approve the proposed limitation if he finds that the source has submitted all of the necessary information, the source is covered under the rule, and that the proposed limitation is RACT for the source.

The June 5, 2017, SIP revision identified changes to Rule .1413 in a redline/strikeout format; however, EPA has never incorporated Rule .1413 into the SIP. Therefore, on June 28, 2018, North Carolina supplemented its submittal with a revised redline/strikeout version of the rule acknowledging that none of the rule text is in the SIP. EPA is now proposing to incorporate Rule .1413 into the SIP because the rule imposes NO_X emissions controls on sources in the State and is thus a SIP strengthening measure.

e. Rule .1414—''Tune-up Requirements''

Rule .1414 provides tune-up requirements for certain boilers, indirect-fired process heaters, and stationary internal combustion engines. Owners and operators with equipment subject to the rule must perform tune-ups at least annually in accordance with manufacturers' recommendations and maintain records of the tune-ups.

The June 5, 2017, SIP revision identified changes to Rule .1414 in a redline/strikeout format; however, EPA has never incorporated Rule .1414 into the SIP. Therefore, on June 28, 2018, North Carolina supplemented its submittal with a revised redline/strikeout version of the rule acknowledging that none of the rule text is in the SIP. EPA is now proposing to incorporate Rule .1414 into the SIP because the rule imposes maintenance requirements on certain NO_X emitting equipment in the State to ensure proper operation and is thus a SIP strengthening measure.

f. Rule .1423—''Large Internal Combustion Engines''

EPA is not proposing to act on the changes to Rule .1423 at this time.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference North Carolina regulations 15 NCAC 02D .1401—''Definitions,'' modified to clarify which definitions outside of the rule apply to Section .1400, including definitions from the CFR, add a definition for ''combustion turbine,'' modify the definition of ''reasonable effort,'' ''emergency generator,'' ''emergency use internal combustion engines,'' ''fossil fuel fired,'' ''ozone season,'' ''seasonal energy input'' and ''seasonal energy output,'' and renumber the paragraphs within the rule, state effective on July 15, 2002; .1413—''Sources Not Otherwise Listed in This Section,'' which includes rules for NO_X sources not otherwise listed in section .1400, state effective on July 18, 2002; and .1414—''Tune-Up Requirements,'' which includes tune-up requirements for certain boilers, indirect-fired process heaters and stationary internal combustion engines, state effective on July 18, 2002. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

Pursuant to section 110 of the CAA, EPA is proposing to approve the aforementioned changes to the North Carolina SIP. EPA has evaluated the relevant portions of North Carolina's June 5, 2017, SIP revision, as supplemented on June 28, 2018, and is proposing to determine that they meet the applicable requirements of the CAA and its implementing regulations.

V. Statutory and Executive Order Reviews

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

• Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 25, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

[FR Doc. 2018–24179 Filed 11–2–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0213, EPA–R04–OAR–2014–0767, EPA–R04–OAR–2014–0426; FRL–9986–17–Region 4]

Air Plan Approval; KY; Minor Sources Infrastructure Requirement for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of three State Implementation Plan (SIP) submissions, submitted by the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection, through the Kentucky Division for Air Quality (KDAQ) on April 26, 2013 (two submissions), and February 8, 2016. The submissions address requirements for implementation of the 2012 Fine Particulate Matter ($PM_{2.5}$), 2010 Nitrogen Dioxide (NO_2), and 2010 Sulfur Dioxide (SO_2) national ambient air quality standards (NAAQS). When EPA promulgates a new or revised NAAQS, the Clean Air Act (CAA or Act) requires the state to make a new SIP submission establishing that the existing SIP meets the various applicable requirements, or revising the SIP to meet those requirements. This type of SIP submission is commonly referred to as an ''infrastructure'' SIP. In this proposed action, EPA is proposing to approve the portions of these infrastructure SIP submissions from Kentucky that relate to the minor source program requirements for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS.

DATES: Written comments must be received on or before December 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID Nos. EPA–R04–OAR–2016–0213, EPA–R04–OAR–2014–0767, EPA–R04–OAR–2014–0426 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via electronic mail at *notarianni.michele@epa.gov* or the telephone number (404) 562–9031.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 110 of the CAA, states are required to have SIPs that provide for the implementation, maintenance, and enforcement of the NAAQS. States are further required to make a SIP submission meeting the applicable requirements of sections 110(a)(1) and (2) within three years of EPA promulgating a new or revised NAAQS.[1] EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs; section 110(a)(2) lists specific elements that states must meet for infrastructure SIPs related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon

[1] *See* EPA's May 10, 2017, action proposing to approve other portions of Kentucky's infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS for a discussion of EPA's general approach to reviewing infrastructure SIP submittals. 82 FR 21751.

the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

This action pertains to one of the requirements of section 110(a)(2) that is relevant in the context of a state's development, and EPA's evaluation of, infrastructure SIP submissions: the minor source requirements of section 110(a)(2)(C). Specifically, this action pertains to the Kentucky infrastructure SIP submissions for the 2012 annual primary $PM_{2.5}$, 2010 primary NO_2, and 2010 primary SO_2 NAAQS. All other applicable infrastructure requirements for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS for Kentucky are being or have been addressed in separate rulemakings.

A brief background regarding the NAAQS relevant to today's proposal is provided below. For comprehensive information on these NAAQS, please refer to the **Federal Register** rulemakings cited below.

a. 2012 $PM_{2.5}$ NAAQS

On December 14, 2012 (78 FR 3086, January 15, 2013), EPA revised the primary annual $PM_{2.5}$ NAAQS. The standard was strengthened from 15.0 micrograms per cubic meter ($\mu g/m^3$) to 12.0 $\mu g/m^3$. States were required to submit infrastructure SIP submissions for the 2012 annual $PM_{2.5}$ NAAQS to EPA no later than December 14, 2015. For the 2012 $PM_{2.5}$ NAAQS, EPA is proposing to approve the minor source element of the infrastructure SIP submission submitted by KDAQ on February 8, 2016.[2]

b. 2010 NO_2 NAAQS

On January 22, 2010 (75 FR 6474, February 9, 2010), EPA established a new 1-hour primary NAAQS for NO_2 at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. States were required to submit infrastructure SIP submissions for the 2010 NO_2 NAAQS to EPA no later than January 22, 2013. For the 2010 NO_2 NAAQS, EPA is proposing to approve the minor source element of the infrastructure SIP submission submitted by KDAQ on April 26, 2013.[3]

c. 2010 SO_2 NAAQS

On June 2, 2010 (75 FR 35520, June 22, 2010), EPA revised the primary SO_2 NAAQS to an hourly standard at a level of 75 ppb, based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. States were required to submit infrastructure SIP submissions for the 2010 1-hour primary SO_2 NAAQS (''2010 SO_2 NAAQS'') to EPA no later than June 2, 2013. For the 2010 SO_2 NAAQS, EPA is proposing to approve the minor source element of the infrastructure SIP submission submitted by KDAQ on April 26, 2013.[4]

II. What are States required to address under section 110(a)(2)(C) related to the minor sources element?

Section 110(a)(2)(C) requires SIPs to ''include a program to provide for the enforcement of the measures described in subparagraph (A) [*i.e.,* enforceable emission limitations and measures], and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that the [NAAQS] are achieved, including the permit program as required in parts C and D of this subchapter.'' Generally, EPA summarizes the requirements of 110(a)(2)(C) as requiring that SIPs address three components: enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources; and prevention of significant deterioration (PSD) permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the PSD program).[5] EPA is proposing action only on the minor source program element of 110(a)(2)(C) for Kentucky's infrastructure SIP submissions for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS.

EPA rules addressing SIP requirements for pre-construction regulatory programs that apply to minor sources and minor modifications are at 40 CFR 51.160 through 51.164. Pursuant the 2013 guidance, EPA's review of infrastructure SIP submissions with respect to the minor source requirements in section 110(a)(2)(C) focuses on assuring that the state's SIP meets basic minor source program requirements. Thus, EPA evaluates whether the state has identified existing EPA-approved SIP provisions (or submitted for approval new provisions) containing requirements for minor sources and minor modifications (minor new source review (NSR) program) and whether the program addresses the pollutants relevant to that NAAQS.[6]

III. What is EPA's analysis of how Kentucky addressed section 110(a)(2)(C) related to the minor sources element?

On April 26, 2013, and February 8, 2016, KDAQ submitted infrastructure SIP submissions to EPA that addressed the minor source element of section 110(a)(2)(C) for the pollutants relevant to the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS, in addition to other infrastructure SIP requirements. KDAQ also provided clarifying information to EPA on December 18, 2017, and May 2, 2018, describing Kentucky's suite of SIP-approved regulations which comprise the basic structural elements of the minor source program in the Commonwealth.[7] Specifically, the Commonwealth cited to the following Kentucky Administrative Regulations (KAR) under title 401 to meet the minor source SIP requirements: Kentucky's NSR permitting regulations are found at 401 KAR 51:001, *Definitions of Chapter 51;* 401 KAR 51:017, *Prevention of significant deterioration of air quality;* and 401 KAR 51:052, *Review of new*

[2] EPA approved portions of Kentucky's February 8, 2016, $PM_{2.5}$ infrastructure submission in a separate action. *See* 82 FR 37012 (August 8, 2017). EPA has not yet acted on the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4) for the 2012 $PM_{2.5}$ NAAQS.

[3] EPA approved portions of Kentucky's April 26, 2013, NO_2 infrastructure submission in separate actions. *See* 81 FR 83152 (November 21, 2016), and 80 FR 14019 (March 18, 2015). EPA has not yet acted on the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4) for the 2010 NO_2 NAAQS.

[4] EPA approved portions of Kentucky's April 26, 2013, SO_2 infrastructure submission in a separate action. *See* 81 FR 87817 (December 6, 2016). EPA has not yet acted on the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4) for the 2010 SO_2 NAAQS.

[5] EPA has long noted that a literal reading of the statutory provision to meet all requirements of section 110(a)(2) on the schedule provided in section 110(a)(1) would create a conflict with the nonattainment provisions in part D of Title I of the CAA, which specifically address nonattainment area SIP requirements. *See id.* at 4. For example, section 110(a)(2)(C), in part, pertains to the permit program required in part D of the CAA, which are nonattainment SIP requirements. The provisions in section 172(b) for submission of such plans for nonattainment areas differ from the timing requirements for an infrastructure SIP submission under 110(a)(1). Thus, rather than applying all the stated requirements of section 110(a)(2) in a strict, literal sense, EPA has determined that certain provisions like the part D permit program requirements in 110(a)(2)(C) and 110(a)(2)(I) are not applicable for a particular infrastructure SIP submission. *See generally* ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013 (hereinafter, ''2013 Guidance''), at 4–5, 24, and 52.

[6] 2013 Guidance at 24.

[7] Kentucky correspondence to EPA dated December 18, 2017, and May 2, 2018, are in each of the dockets for this action under ''Proposed Rule-2.''

sources in or impacting upon nonattainment areas. Kentucky addresses requirements for public participation and public availability of information through 401 KAR 52:100, *Public, affected state, and U.S. EPA review.* 401 KAR 50:060, *Enforcement,* establishes legally enforceable procedures. Air dispersion modeling requirements under the NSR permitting process are addressed in 401 KAR 51:017; 401 KAR 51:052; and 401 KAR 50:040, *Air quality models.* 401 KAR 50:065, *Conformity of general federal actions,* sets forth procedures for determining the conformity of general federal actions to the Kentucky SIP and requires consultation between federal government and state government, and, as applicable, any local agency. 401 KAR 50:042, *Good engineering practice stack height,* addresses stack height requirements. Further, Kentucky's May 2, 2018, correspondence describes how minor sources are evaluated in the NSR permitting process, including how these sources are incorporated into NSR air dispersion modeling analyses as relevant to each case.

Based on the information Kentucky provided in its SIP submissions dated February 8, 2016, and April 26, 2013, and clarified in correspondence to EPA dated December 18, 2017, and May 2, 2018, EPA is proposing to determine Kentucky has a SIP-approved minor NSR program that addresses the pollutants relevant to the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS. EPA has therefore made the preliminary determination that Kentucky's SIP satisfies section 110(a)(2)(C) for new and modified minor sources and minor modifications of major sources related to the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS.

IV. Proposed Action

As described above, EPA is proposing to approve the portions of the infrastructure SIP submissions from Kentucky dated February 8, 2016, and April 26, 2013, addressing the minor source requirements of section 110(a)(2)(C) of the CAA for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS. EPA is proposing approval of the minor source portions of these submissions because they are consistent with section 110 of the CAA.

V. Statutory and Executive Order Reviews

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

- Are not significant regulatory actions 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Particulate matter, Sulfur dioxide.

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

Dated: October 25, 2018.

Onis ''Trey'' Glen, III,

Regional Administrator, Region 4.

[FR Doc. 2018–24203 Filed 11–2–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R08–UST–2018–0169; FRL–9982–20–Region 8]

Utah: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of Utah's Underground Storage Tank (UST) program submitted by the State. This action is based on EPA's determination that the State's revisions satisfy all requirements for UST program approval. This action also proposes to codify Utah's state program as revised by Utah and approved by the EPA and to incorporate by reference the State regulations that we have determined meet the requirements for approval. The State's federally-authorized and codified UST program, as revised pursuant to this action, will remain subject to the EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions.

DATES: Send written comments by December 5, 2018.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

2. *Email: langenfeld.matthew@epa.gov.*

3. *Mail:* Matthew Langenfeld, Region 8, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and

Recovery Program, Office of Partnerships and Regulatory Assistance (8P–R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

4. *Hand Delivery or Courier:* Deliver your comments to Matthew Langenfeld, Region 8, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and Recovery Program, Office of Partnerships and Regulatory Assistance (8P–R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

Instructions: Direct your comments to Docket ID No. EPA–R08–UST–2018–0169. The EPA's policy is that all comments received will be included in the public docket without change and may be available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or email. The federal *http://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy the documents that form the basis for this action and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone number (303) 312–6284. Interested persons wanting to examine these documents should make an appointment with the office at least 2 days in advance.

FOR FURTHER INFORMATION CONTACT: Matthew Langenfeld, (303) 312–6284, Region 8, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and Recovery Program, Office of Partnerships and Regulatory Assistance (8P–R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone number (303) 312–6284, email address: *Langenfeld.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Authority: This rule is issued under the authority of Sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by Reference, State program approval, Underground storage tanks.

Dated: October 26, 2018.

Douglas Benevento,

Regional Administrator, EPA Region 8.

[FR Doc. 2018–24061 Filed 11–2–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0010; 4500030114]

RIN 1018–BD54

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Spring Pygmy Sunfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revision and reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on our October 2, 2012, proposed rule to designate critical habitat for the spring pygmy sunfish (*Elassoma alabamae*), under the Endangered Species Act of 1973, as amended (Act). In this document, we propose to add one critical habitat unit (123 hectares (ha) (303 acres (ac)) in Madison County, Alabama, to the critical habitat designation. As a result, our proposed revised critical habitat designation for the species now includes three critical habitat units, totaling approximately 749 ha (1,852 ac), in Alabama. This reopened comment period will provide the public with an opportunity to submit written comments on both the revision described in this document and the October 2, 2012, proposed rule, as well as intervening relevant publications. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: The comment period for the proposed rule published October 2, 2012, at 77 FR 60180 is reopened. We will consider comments received or postmarked on or before December 5, 2018. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2013–0010, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit your comments by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0010, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more details).

FOR FURTHER INFORMATION CONTACT: William Pearson, Field Supervisor, Alabama Ecological Services Field Office, 1208 Main Street, Daphne, AL 36526; telephone 251–441–5181. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for the spring pygmy sunfish that was published in the **Federal Register** on

October 2, 2012 (77 FR 60180); the revision to the proposed boundaries of Unit 1 described in our April 29, 2013, **Federal Register** publication (78 FR 25033); the potential exclusions to the designation that we described in our February 5, 2014, **Federal Register** publication (79 FR 6871); and the new proposed Unit 3 that is described in this document. We will consider information and recommendations we receive from all interested parties. We intend that any final action resulting from this proposal will be based on the best scientific data available and be as accurate and effective as possible.

We request comments or information from any interested party on any aspect of the proposed designation. However, we particularly seek comments concerning:

(1) The reasons why we should or should not designate habitats as ''critical habitat'' under section 4 of the Act, including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Land use designation and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

If you submitted comments or information on the proposed rule during the initial comment period from October 2, 2012, to December 3, 2012; during the second comment period from April 29, 2013, to May 29, 2013; or during the third comment period from February 5, 2014, to March 7, 2014, please do not resubmit them. We have incorporated them into the public record as part of the previous three comment periods, and we will fully consider them in the preparation of our final determination.

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the website. We will post all hardcopy comments on *http://regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, are available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0010, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Species Information

For information on the spring pygmy sunfish's biology, status, distribution, and habitat, refer to the October 12, 2012, proposed listing and critical habitat rule (77 FR 60180), and the October 2, 2013, final listing rule (78 FR 60766).

Previous Federal Actions

On October 2, 2012, we published a proposed rule (77 FR 60180) to list the spring pygmy sunfish as a threatened species and to designate critical habitat for the species. In that proposed rule, we proposed to designate two critical habitat units, totaling approximately 12.9 kilometers (km) (8 stream miles (mi)) and 654.4 hectares (ha) (1,617 acres (ac)) of spring system habitat and adjacent upland buffer in Limestone County, Alabama. Previous Federal actions occurring before October 2, 2012, are summarized in that proposed rule.

On April 29, 2013, we published a document (78 FR 25033) reopening the comment period on the proposed listing and critical habitat for 30 days. That document requested public comments on amendments to the required determinations section of the October 2, 2012, proposal, the draft economic analysis, and a proposed reduction in the size of the critical habitat designation based on information we received during the original public comment period. Specifically, we proposed to reduce the size of Unit 1 by 27.3 ha (67.6 ac), resulting in a proposed critical habitat designation totaling approximately 12.9 km (8 stream mi) and 627.02 ha (1,549.4 ac).

On October 2, 2013, we published a final rule (78 FR 60766) listing the spring pygmy sunfish as a threatened species.

On February 5, 2014, we again reopened the comment period, for an additional 30 days, on the proposed designation of critical habitat to announce exclusions we are considering to proposed critical habitat Unit 1 (79 FR 6871). In that document, we asked for public comments on excluding lands enrolled in candidate conservation agreements with assurances (CCAAs) in accordance with section 4(b)(2) of the Act. Specifically, we are considering excluding all areas covered by the Belle Mina Farms Ltd., McDonald Farm, and Horton Farm CCAAs based on our partnerships with the landowners and the conservation benefits that these agreements afford the spring pygmy sunfish. We will make the final determination on these exclusions in our final rule.

Critical Habitat

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for the spring pygmy sunfish in this document.

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (PBFs) essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Evaluation of a Documented New Population of Spring Pygmy Sunfish

In November 2015, surveys conducted by the Geologic Survey of Alabama (GSA) and Service employees on Wheeler National Wildlife Refuge (NWR) in Madison County, Alabama, verified a new population of spring pygmy sunfish in Blackwell Swamp following the documentation of the species at the swamp in September 2015, by researchers from Jacksonville State University. The discovery of the new population is significant because it occurs outside the Beaverdam Spring complex, the only known occupied site on October 2, 2013, when we listed the spring pygmy sunfish as a threatened species under the Act, and increases the number of known metapopulations from one to two. Based on new information gathered during the November 2015 survey, we are revising the proposed designation of critical habitat to include a new unit (Unit 3) in Madison County, Alabama. This new unit contains all of the PBFs for the spring pygmy sunfish. Because of the limited range of the spring pygmy sunfish, we have determined that the new population in

Blackwell Swamp and its associated habitat is essential to the conservation of the species and may require special management considerations or protection. A map of proposed Unit 3 appears under Proposed Regulation Promulgation, below.

Proposed Critical Habitat Designation

Based on the above information, we are proposing to revise the proposed critical habitat designation to include Blackwell Swamp as Unit 3. We provide occupancy and ownership tables below that include information on all three proposed critical habitat units.

TABLE 1—OCCUPANCY OF THE PROPOSED CRITICAL HABITAT UNITS FOR THE SPRING PYGMY SUNFISH

Unit	Location	Occupied?
1	Beaverdam Spring/Creek	Yes.
2	Pryor Spring/Branch	No.
3	Blackwell Swamp/Run	Yes.

TABLE 2—OWNERSHIP OF THE PROPOSED CRITICAL HABITAT UNITS FOR THE SPRING PYGMY SUNFISH

Unit	Location	Private ownership km (mi); ha (ac)	Federal ownership km (mi); ha (ac)	Total length km (mi)	Total area ha (ac)
1	Beaverdam Spring/Creek	5.9 (3.7); 210 (518)	3.5 (2.21); 344 (849)	9.5 (5.9)	553 (1,367)
2	Pryor Spring/Branch	0.2 (0.15); 8.1 (20)	3.1 (1.95); 65 (162)	3.4 (2.1)	73 (182)
3	Blackwell Swamp/Run	0; 0	2.3 (1.4); 123 (303)	2.3 (1.4)	123 (303)
Total	.....	6.1 (3.85); 218 (538)	8.8 (5.56); 532 (1,314) ...	15.2 (9.4)	749 (1,852)

* Totals may not sum due to rounding.

We present a brief description of Unit 3, and reasons why it meets the definition of critical habitat, below.

Unit 3: Blackwell Swamp/Run, Madison County, Alabama

Unit 3 includes a total of 123 ha (303 ac) of Federal land and 2.3 stream km (1.4 mi), all of which is federally owned within the Wheeler NWR in Madison County, Alabama. This unit is located about 4.3 km (2.7 mi) due west of the town of Triana. This unit is 0.96 km (0.6 mi) north of Blackwell Run's confluence with the Tennessee River; approximately 1 km (0.5 mi) south of Swancott Road SW; about 1 km (0.5 mi) west of Landess Circle; and just to the east of B. Road/County Line Road SW. Unit 3 is currently occupied by spring pygmy sunfish and contains all the PBFs essential to the species' survival and eventual recovery. Unit 3 provides habitat for the spring pygmy sunfish via the spring systems of Blackwell Swamp, which include spring runs and a large spring-fed pool that was enlarged after Blackwell Spring Run was impounded (PBF 1).

There is adequate water quality (PBF 2), water quantity and flow (PBF 3), and a diversity of emergent vegetation (PBF 4) to support the normal life stages and behavior of the spring pygmy sunfish and its prey sources (PBF 4).

Wheeler NWR actively manages water levels in proposed Unit 3 to enhance use by waterfowl. The water in the unit is replenished by surface flow from runoff, a small stream in the northeast corner, and numerous spring seeps of the Blackwell Spring system. The Tennessee River does not influence the spring pool unless allowed to enter the pool through the water control structure, which may occur in the course of waterfowl management. During flood conditions, water inundates and enters secondary channels and sloughs located to the south and southeastern portion of the unit and flows in a southerly direction with the spring run, sometimes overtopping the roads on the west and east side of the unit.

Threats to the spring pygmy sunfish and its habitat in Unit 3 that may require special management or protection of the PBFs include structures, such as boat ramps; an unpaved, gravel-maintained, refuge road (11.7 km; 7.3 mi) circling the unit; and sewer, gas, and water easements, including a City of Huntsville sewer line right-of-way to the east. Additional threats outside and adjacent to the unit include increased agriculture, urbanization, and industrialization activities (such as channel modification for flood control, construction of impoundments, and water extraction) that significantly alter spring flow regime and water quality and quantity; inadequate stormwater management; water diversion; significant changes in streambed material composition and quality as a result of construction projects and maintenance activities that damage or destroy aquatic vegetation and vegetation in the riparian zone; off-road vehicle use; bridge and road construction and maintenance, and culvert and pipe placement; and other watershed and floodplain disturbances that release sediments or nutrients into the water. Many threats that result in decreased water quality and quantity are likely to be amplified during drought events.

Consideration of Economic Impacts

The spring pygmy sunfish occurs in Unit 3, which is entirely within Wheeler NWR. In areas where the spring pygmy sunfish is present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they authorize, fund, or carry out that may affect the species. If we finalize the proposed critical habitat designation, measures to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process for refuge activities. Therefore, the draft economic analysis prepared for Unit 1 and Unit 2 (78 FR 25033) is not significantly affected by the addition of Unit 3 in proposed critical habitat.

Authors

The primary authors of this document are the staff members of the Alabama Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended at 77 FR 60180 (October 2, 2012) as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.95(e) by revising paragraph (5) in, and adding a paragraph (8) to, the entry proposed at 77 FR 60180 for ''Spring Pygmy Sunfish

(*Elassoma alabamae*)'' as set forth below:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

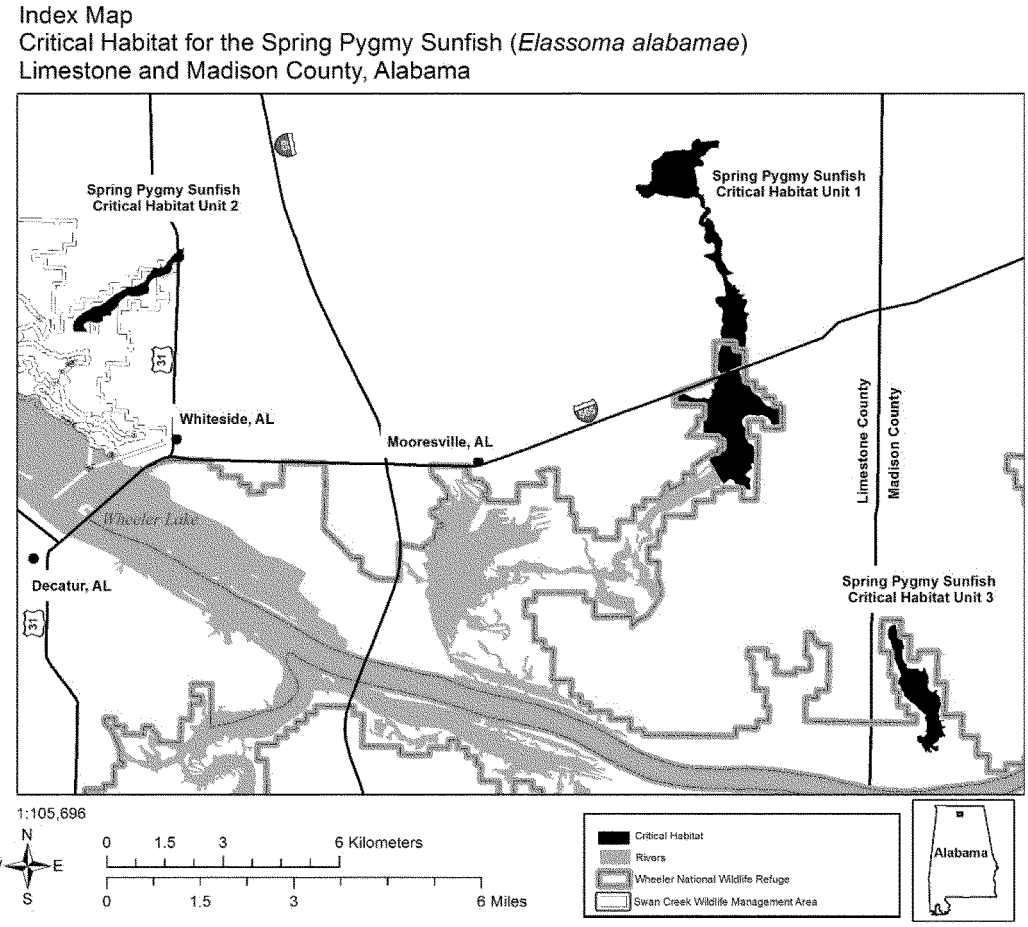
* * * * *

Spring Pygmy Sunfish (*Elassoma alabamae*)

* * * * *

(5) Index map of critical habitat for the spring pygmy sunfish follows:

BILLING CODE 4333–15–P

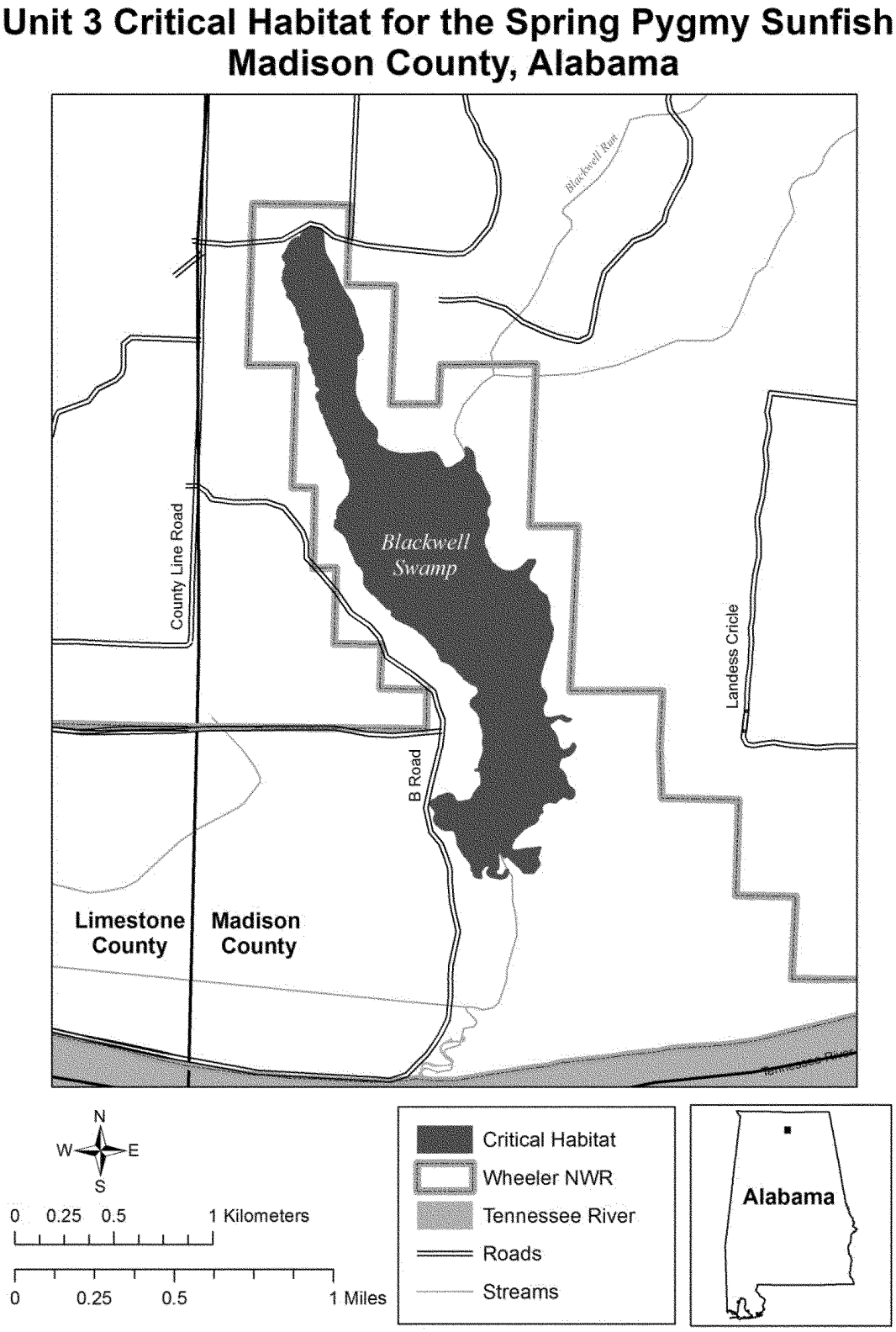


* * * * *

(8) Unit 3: Blackwell Swamp/Run, Madison County, Alabama.

(i) *General Description:* Unit 3 includes a total of 123 ha (303 ac) of land and 2.3 stream km (1.4 stream mi), all which is federally owned within the Wheeler National Wildlife Refuge. Unit 3 is located approximately 4.3 km (2.7 mi) due west of the town of Triana. This unit is 0.96 km (0.6 mi) north of Blackwell Run's confluence with the Tennessee River; approximately 1 km (0.5 mi) south of Swancott Road SW; about 1 km (0.5 mi) west of Landess Circle; and just to the east of B. Road/County Line Road SW.

(ii) Map of Unit 3 follows:



* * * * *

Dated: August 14, 2018.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–24162 Filed 11–2–18; 8:45 am]

BILLING CODE 4333–15–C

Notices

Federal Register
Vol. 83, No. 214
Monday, November 5, 2018

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

DEPARTMENT OF COMMERCE

Bureau of the Census

Federal Economic Statistics Advisory Committee Meeting

AGENCY: Bureau of the Census, U.S. Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a meeting of the Federal Economic Statistics Advisory Committee (FESAC). The Committee advises the Under Secretary for Economic Affairs, the Directors of the Bureau of Economic Analysis (BEA) and the Census Bureau, and the Commissioner of the U.S. Department of Labor's Bureau of Labor Statistics (BLS) on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. If you plan to attend the meeting, please register by Friday, December 7, 2018. You may access the online registration form with the following link: *https://www.eventbrite.com/e/federal-economic-statistics-advisory-committee-fesac-meeting-tickets-51549926217.* Seating is available to the public on a first-come, first-served basis. An agenda will be accessible before the meeting at the following link: *https://www.census.gov/fesac.*

DATES: December 14, 2018. The meeting will begin at approximately 9:00 a.m. and adjourn at approximately 4:30 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Conference Center, 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: James R. Spletzer, Designated Federal Official, Department of Commerce, U.S. Census Bureau, Research and Methodology Directorate, Room 5K175, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–4069, email: *james.r.spletzer@census.gov.* For TTY callers, please call the Federal Relay Service at 1–800–877–8339 and give them the above listed number. This service is free and confidential.

SUPPLEMENTARY INFORMATION: Members of the FESAC are appointed by the Secretary of Commerce. The Committee advises the Under Secretary for Economic Affairs, the Directors of the BEA and the Census Bureau, and the Commissioner of the Department of Labor's BLS on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. The Committee is established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2).

The meeting is open to the public, and a brief period is set aside for public comments and questions. Persons with extensive questions or statements must submit them in writing at least three days before the meeting to the Designated Federal Official named above.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Designated Federal Official as soon as known, and preferably two weeks prior to the meeting.

Due to security protocols and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo identification must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: October 30, 2018.

Ron S. Jarmin,

Deputy Director, Performing the Non-Exclusive Functions and Duties of the Director, Bureau of the Census.

[FR Doc. 2018–24063 Filed 11–2–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–868]

Large Residential Washers From the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that LG Electronics, Inc. (LGE) did not make sales of large residential washers at prices below normal value (NV) during the February 1, 2017, through January 31, 2018, period of review. We invite interested parties to comment on these preliminary results.

DATES: Applicable November 5, 2018.

FOR FURTHER INFORMATION CONTACT: David Goldberger, 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) 482–4136.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by the order are all large residential washers and certain subassemblies thereof from Korea. The products are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[1]

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and

[1] For a full description of the scope of the order, *see* Memorandum ''Decision Memorandum for the Preliminary Results of the 2017–2018 Administrative Review of the Antidumping Duty Order on Large Residential Washers from Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

constructed export price are calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of the Review

As a result of this review, Commerce preliminarily determines that a weighted-average margin of 0.00 percent exists for LGE for the period February 1, 2017, through January 31, 2018.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this segment of the proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the preliminary results, unless the Secretary alters the time limit.[2] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the deadline for case briefs.[3] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined.[4] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless the deadline is extended.[5]

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[6]

We will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales to that importer. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[7] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[8]

We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for LGE will be the rate established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.80 percent, the all-others rate established in the LTFV investigation.[9] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

[2] *See* 19 CFR 351.309(c).

[3] *See* 19 CFR 351.309(d).

[4] *See* 19 CFR 351.310(d).

[5] *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

[6] *See* 19 CFR 351.212(b).

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[8] *See* section 751(a)(2)(C) of the Act.

[9] *See Large Residential Washers From Mexico and the Republic of Korea: Antidumping Duty Orders,* 78 FR 11148, 11150 (February 15, 2013).

Dated: October 29, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
A. Comparisons to Normal Value
1. Determination of Comparison Method
2. Results of the Differential Pricing Analysis
B. Product Comparisons
C. Export Price and Constructed Export Price
D. Normal Value
1. Home Market Viability and Selection of Comparison Market
2. Affiliated Party Transactions and Arm's-Length Test
3. Level of Trade
E. Cost of Production Analysis
1. Calculation of COP
2. Test of Comparison Market Sales Prices
3. Results of the COP Test
F. Calculation of NV Based on Comparison Market Prices
G. Calculation of NV Based on CV
H. Currency Conversion
V. Recommendation

[FR Doc. 2018–24144 Filed 11–2–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval for the Jacques Cousteau, New Jersey National Estuarine Research Reserve Management Plan revision.

SUMMARY: Under applicable Federal regulations, notice is hereby given that the Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce approves the revised Management Plan for the Jacques Cousteau, New Jersey National Estuarine Research Reserve Management Plan. In accordance with applicable Federal regulations, the Jacques Cousteau Reserve revised its Management Plan, which will replace the plan previously approved in 2009.

The revised Management Plan outlines the administrative structure; the research/monitoring, stewardship, education, and training programs of the Reserve; and the plans for future land acquisition and facility development to support Reserve operations.

The Jacques Cousteau Reserve takes an integrated approach to management, linking research, education, coastal training, and stewardship functions. The Reserve has outlined how it will manage administration and its core program providing detailed actions that will enable it to accomplish specific goals and objectives. Since the last management plan, the reserve has: Developed core programs; expanded monitoring programs within Jacques Cousteau and its watershed; enhanced exhibits and trails; provided technical assistance to coastal communities throughout the state of New Jersey, conducted training workshops; implemented K–12 education programs; and built new and innovative partnerships with local, state, regional, and U.S. organizations and universities.

On January 9, 2018, NOAA issued a notice of a thirty day public comment period for the Jacques Cousteau Reserve revised plan (83 FR 1027). Responses to the written and oral comments received, and an explanation of how comments were incorporated into the final revised plan, are available in Appendix D of the revised plan.

The revised Management Plan will serve as the guiding document for the Jacques Cousteau Reserve. View the Jacques Cousteau Reserve Management Plan at URL: *https://jcnerr.org/JCNERR_REVISEDMGMTPLAN%202018.2022.pdf.*

The impacts of the revised management plan have not changed and the initial Environmental Impact Statement (EIS) prepared at the time of designation is still valid. NOAA has made the determination that the revision of the management plan will not have a significant effect on the human environment and therefore qualifies for a categorical exclusion under NOAA Administrative Order 216–6. An environmental assessment will not be prepared.

FOR FURTHER INFORMATION CONTACT: Nina Garfield at (240) 533–0817 or Erica Seiden at (240) 533–0781 of NOAA's National Ocean Service, Stewardship Division, Office for Coastal Management, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

Dated: October 25, 2018.

Keelin Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2018–24196 Filed 11–2–18; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG383

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Gustavus Ferry Terminal Improvements Project

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

ACTION: Notice; issuance of an Incidental Harassment Authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an Incidental Harassment Authorization (IHA) to take small numbers of animals, by Level A and Level B harassment, incidental to the Gustavus Ferry Terminal Improvements project in Gustavus, Alaska

DATES: The authorization is effective from December 15, 2018, through December 14, 2019.

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application, supporting documents, as well as the issued IHA may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities*. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified

geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The National Defense Authorization Act for Fiscal Year 2004 (NDAA)(Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.'' The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

History of Request

On July 31, 2015, NMFS received an application from the Alaska Department of Transportation and Public Facilities (ADOT&PF) requesting the take of marine mammals incidental to reconstructing the existing Gustavus Ferry Terminal in Gustavus, Alaska. NMFS published a notice of proposed IHA and request for comments in the **Federal Register** on June 23, 2016 (81 FR 40852). We subsequently published the final notice of our issuance of the IHA on April 10, 2017 (82 FR 17209), making the IHA effective from December 15, 2017 through December 14, 2018. In-water work associated with the project was expected to be completed within the one-year timeframe of the IHA. The specified activities were expected to result in the take of seven species of marine mammals including harbor seal (*Phoca vitulina*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), killer whale (*Orcinus orca*), humpback whale (*Megaptera novaeangliae*), and minke whale (*Balaenoptera acutorostrata*).

On May 8, 2018, ADOT&PF informed NMFS that work on the project would be postponed due to design revisions and local community considerations and that no work would be completed under the 2017–2018 IHA. ADOT&PF requested that a new IHA be issued that would be effective from December 15, 2018 through December 14, 2019. NMFS published a notice of a proposed IHA and request for comments in the **Federal Register** on August 9, 2018 (83 FR 39424). Under this IHA, ADOT&PF will conduct pile driving activities between the in water work window dates of March 1 through May 31, 2019, and September 1 through November 30, 2019. Although there were minor modifications to the work plan covered under the issued IHA, the number of authorized takes remains unchanged from those listed in the 2017–2018 Authorization.

Description of the Specified Activities

The 2018–2019 IHA covers the same in-water construction activities as those covered by the 2017–2018 IHA which was issued for the modernization of the Gustavus Ferry Terminal project. Minor revisions have been made to the number and types of piles that will be installed and removed. These revisions were described by NMFS in a notice of proposed IHA and request for comments published in the **Federal Register** on August 9, 2018 (83 FR 39424). Additionally, NMFS refers the reader to the documents related to the previously issued 2017–2018 IHA for more detailed description of the project activities. These previous documents include the **Federal Register** notice of the issuance of the 2017–2018 IHA for ADOT&PF's Gustavus Ferry Terminal Improvements project (82 FR 17209; April 10, 2017), ADOT&PF's application, the **Federal Register** notice of the proposed IHA (81 FR 40852; June 23, 2016) and all associated references and documents. A detailed description of the planned vibratory and impact pile driving activities at the ferry terminal improvements project is found in these documents. The description remains accurate with the exception of the minor modifications noted below.

Differences between the 2017–2018 IHA and the issued 2018–2019 IHA are shown in Table 1. Generally speaking, pile driving and removal will occur over the same number of days (maximum of 50) with installation and removal of 16 additional piles over 21 additional hours for the 2018–2019 IHA. These changes represent a 3.5 percent increase in the number of piles installed and a 21.9 percent increase in the number of piles removed. The duration of impact driving will remain the same while the time spent vibratory driving will increase by 18.4 percent. The additional time required for vibratory driving is due to the increase in anticipated number of piles removed. Note that these changes will have a nominal impact on the calculated Level A harassment isopleths and no effect on Level B harassment isopleths. Therefore, the size of the Level A harassment and Level B harassment zones remains unchanged.

TABLE 1—GUSTAVUS FERRY PILE INSTALLATION AND REMOVAL SUMMARY

Pile size (Inches)	# of piles—2017–2018 IHA	# of piles—2018–2019 IHA
30	14	18.
24	40	34 install/12 remove.
18	0	4 remove.
16	0	4 install/4 remove.
12.75	3 install/16 remove	3 install/9 remove.
Total installed/total Piles	57/73	59/89.
Driving Time Duration	**2017–2018 IHA (hours)**	**2018–2019 IHA (hours).**
Impact Driving	57	57.
Vibratory Driving	114	135.
Total	171	192.

A description of ADOT&PF's planned project is provided in the **Federal Register** notice for proposed IHA (83 FR 39424; August 9, 2018). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice and related documents for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on August 9, 2018 (83 FR 39424). That notice described ADOT&PF's proposed activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received a single comment letter from the Marine Mammal Commission (Commission). Specific comments from the Commission's letter and corresponding responses are provided below.

Comment 1: The Commission wrote that in the original IHA application submitted in 2016, ADOT&PF proposed to use 154.3 decibels (dB) re 1 micropascal (μPa) at 10 meters (m) as the proxy source level (SL) for vibratory pile driving of 30-inch steel piles based on measurement of a single pile obtained at the ferry terminal in Kake, Alaska (McGillivray *et al.* 2015). The Commission noted that this measurement is much lower than other measurements obtained from vibratory pile driving of 30-in steel piles at other locations and lower than measurements obtained from another pile at Kake. The Commission asserts that the primary factor affecting the source level is the sediment composition, which at Kake consists of organic mud. However, Starkes and Stutes (2016) stated that geotechnical reports indicated that substrates at Kake and Gustavus differ and that substrates at Gustavus are composed primarily of sand and silty sands. The Commission recommended use of a mean of 166 dB re 1 μPa based on source levels obtained at other locations where the substrates are comprised of sand and silt rather than 157.7 dB re 1 μPa at 10 m NMFS adopted for Gustavus. The Commission also recommends that NMFS re-estimate the extents of the Level A and B harassment zones accordingly and increase the numbers of marine mammal takes appropriately.

NMFS Response: As noted above, NMFS used a proxy source level of 157.7 dB re 1 μPa for vibratory driving of 30-in steel piles during the estimated take analysis used to develop the original Gustavus IHA. ADOT&PF will be using the same type of vibratory hammers at Gustavus as were used at Kake while the pile types and sizes are comparable between the two sites. NMFS does not dispute that the SL used in the Gustavus analysis is generally lower than others that have been recorded across various sites. However, SLs for similar piles measured at different locations tend to cover a range of values. For example, SL measurements from Kodiak for vibratory driving of the same size and type of pile were even lower than those recorded at Kake, although the researchers speculated that the low values be due to the drilling/socketing of piles or sediment composition at Kodiak (Denes *et al.,* 2017). For the Gustavus analysis, NMFS elected to use a value from the lower end of recorded ranges. In order to confirm that the SLs adopted by NMFS are appropriate for use at Gustavus, NMFS will require ADOT&PF to conduct sound source verification (SSV) testing. If the recorded SLs at Gustavus are appreciably greater than those measured at Kake, ADOT&PF will increase the shutdown and harassment zones as appropriate.

Comment 2: The Commission recommends that NMFS require ADOT&PF to use at least three Protected Species Observers (PSO) to monitor the full extent of the Level B harassment zone during all vibratory pile-driving activities and ensure the numbers of animals taken are extrapolated to the full extent of the Level B harassment zone, if unable to be fully monitored.

NMFS Response: NMFS believes that the existing Level B harassment zone can be adequately measured utilizing only two PSOs. The option of adding more PSOs was discussed with ADOT&PF. NMFS suggested that PSOs could be stationed on vessels or on nearby islands. However, due to the frequency, severity and unpredictability of weather in Icy Passage, ADOT&PF was reluctant to employ vessels for monitoring purposes since the safety of PSOs could be at risk. Additionally, island-based PSOs could be stranded on these uninhabited islands overnight, or longer, if retrieval vessels are unable to pick up observers due to weather conditions. NMFS concurred with these assessments. To estimate the total number of takes, NMFS will require ADOT&PF to extrapolate observed take numbers to cover the entire Level B harassment zone if portions cannot be monitored effectively by PSOs.

Comment 3: The Commission recommends that NMFS (1) increase the numbers of Level A harassment takes for harbor seals, harbor porpoises, and Steller sea lions based on their residency patterns, social behavior, and potential to occur within the various Level A harassment zones and (2) reduce the size of the shutdown zone for Steller sea lions to reduce frequency of shutdowns.

NMFS Response: NMFS discussed with ADOT&PF both increasing take of the species listed above and reducing the size of the Steller sea lion shutdown zone. Based on observational data collected by Gustavus, NMFS and the applicant believe that the existing take numbers are adequate. Note that ADOT&PF is currently required to shut down at 4 p.m., after which Steller sea lions are known to follow charter fishing vessels to the dock. Additionally, shutdown will occur when five or more Steller sea lions are observed following charter fishing vessels to the dock prior to 4 p.m. These are the conditions that would most likely result in take of Seller sea lions. Given these requirements, ADOT&PF and NMFS do not believe that the existing shutdown zone will result in a high rate of shutdowns.

Comment 4: If NMFS does not follow the Commission's recommendations, the Commission recommends that NMFS require ADOT&PF to cease its activities if authorized take limits are met. The Commission recommends that the authorization only be revised after a 30-day public comment period is afforded for review of any revisions to the authorization issued in 2018. The Commission understands that in certain circumstances (*e.g.,* unexpected impacts from El Niño conditions) the numbers of authorized takes may not be sufficient. However, the Commission does not believe those types of unforeseeable circumstances should not be treated equally to those which arise from NMFS failing to authorize adequate numbers of takes.

NMFS Response: NMFS believes that the number of takes authorized under this IHA is adequate to cover the action planned by ADOT&PF. As is the case for any IHA, if take numbers for one or more authorized species are exceeded, the applicant is required to cease in-water pile driving activities and contact NMFS. Furthermore, NMFS is requiring ADOT&PF to conduct SSV testing to confirm that measured sound source levels at the action site are similar to the values that were used to estimate take as well identify shutdown and harassment zone sizes. As noted in the IHA, NMFS will revise shutdown and harassment zone sizes if necessary based on SSV testing results without requiring a 30-day comment period.

Comment 5: The Commission had previously recommended that NMFS make several general improvements for pile-driving authorizations. As part of this comment letter, the Commission indicated that NMFS should (1) incorporate the Commission's various recommendations into its pile-driving assessment guidance, (2) finalize that guidance in the near term, including compiling source level data into a central database, and (3) make such guidance available on NMFS's incidental take authorization website.

NMFS Response: NMFS appreciates the Commission's interest in improving pile-driving authorizations. NMFS has been developing pile-driving guidance documents that include many of the Commission's recommendations. As soon as draft documents have been completed, they will be shared with the Commission. Once the guidance documents have been finalized, they will be posted on NMFS's incidental take authorization website, as appropriate.

Comment 6: The Commission recommends that NMFS require action proponents to provide proposed hydroacoustic monitoring plans when authorization applications are submitted and make those plans available for public comment. If such plans are not provided in a timely manner, at the very least, NMFS should provide them to the Commission for review sufficiently in advance of issuing the final authorization.

NMFS Response: During the initial review period, NMFS requests that applicants provide basic information regarding proposed hydroacoustic monitoring plans as part of IHA applications. We also generally ask for comprehensive monitoring plans for review prior to publication of the final IHA. If NMFS has received the monitoring plan before publication of the final IHA, it is shared with the Commission and posted to our website. However, the MMPA does not require submission of the monitoring plan prior to publication of the final IHA. Under these conditions, NMFS indicates in the final IHA that a hydroacoustic monitoring plan must be submitted to NMFS and approved prior to initiation of the monitoring. NMFS will also share the plan with the Commission for review in such cases.

Comment 7: The Commission recommends that NMFS, in lieu of adopting its proposed renewal process for extending authorizations beyond their original one-year period of validity without providing a new opportunity for public review and comment, use abbreviated **Federal Register** notices and reference existing documents to streamline the incidental harassment authorization process. If NMFS adopts the proposed renewal process notwithstanding the Commission's recommendation, the Commission further recommends that NMFS provide the Commission and the public with a legal analysis supporting its conclusion that the process is consistent with the requirements under section 101(a)(5)(D) of the MMPA.

NMFS Response: NMFS appreciates the streamlining achieved by the use of abbreviated FR notices and intends to continue using them for proposed IHAs that include minor changes from previously issued IHAs, but which do not satisfy the renewal requirements.

We believe our method for issuing renewals meets statutory requirements and maximizes efficiency. Importantly, such renewals would be limited to circumstances where: The activities are identical or nearly identical to those analyzed in the proposed IHA; monitoring does not indicate impacts that were not previously analyzed and authorized; and, the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency would consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA would be published in the **Federal Register**, as they are for all IHAs. The option for issuing renewal IHAs has been in NMFS's incidental take regulations since 1996. We will provide any additional information to the Commission and consider posting a description of the renewal process on our website before any renewal is issued utilizing this process.

Description of Marine Mammals

A description of the marine mammals in the area of the activities is found in these previous documents, which remains applicable to the issued 2018–2019 IHA as well. In addition, NMFS has reviewed recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts under the 2017–2018 IHA.

Potential Effects on Specified Activities on Marine Mammals and Their Habitat

A description of the potential effects of the specified activities on marine mammals and their habitat may be found in these previous documents, which remains applicable to the issuance of the 2018–2019 IHA. There is no new information on potential effects.

Estimated Take

A detailed description of the methods and inputs used to estimate authorized take is found in these previous documents. The methods of estimating take for the 2018–2019 IHA are identical to those used in the 2017–2018 IHA. The source levels remain unchanged from the previously issued IHA, and NMFS' 2016 acoustic technical guidance was used to address new acoustic thresholds in the notice of issuance of the 2017–2018 IHA. Specifically, local observational data was used to calculate daily take rates in the absence of density data. Since the number of pile-driving days (50) planned for both the 2017–2018 IHA and the 2018–2019 IHA are the same, the total estimated take projections will be identical.

Description of Mitigation, Monitoring and Reporting Measures

A description of mitigation, monitoring, and reporting measures is found in the previous documents, which are identical to those contained in the 2018–2019 IHA. The following measures would apply to ADOT&PF's mitigation requirements:

Establishment of Shutdown Zone— For all pile driving activities, ADOT&PF will establish a shutdown zone identical to those described in the initial **Federal Register** notice of issuance (82 FR 17209; April 10, 2017) The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). In this case, shutdown zones are intended to contain areas in which sound pressure levels (SPLs) equal or exceed acoustic injury criteria for some authorized species, based on NMFS' acoustic technical guidance published in the **Federal Register** on August 4, 2016 (81 FR 51693).

Establishment of Monitoring Zones— ADOT&PF must establish Level A harassment zones. These zones include areas where animals may be exposed to sound levels that could result in permanent threshold shift (PTS). ADOT&PF will establish Level B harassment disturbance zones which are

areas where SPLs equal or exceed 160 dB rms for impact driving and 120 dB rms during vibratory driving. The Level A and Level B harassment zones are the same as those described in the initial **Federal Register** notice of issuance (82 FR 17209; April 10, 2017). Observation of monitoring zones enables observers to be aware of and communicate the presence of marine mammals in the project area and outside the shutdown zone and thus prepare for potential shutdowns of activity. NMFS has established monitoring protocols, including recording the number of animal observed in the Level A and Level B harassment zones. These protocols are described in the **Federal Register** notice of the issuance (82 FR 17209; April 10, 2017) and are based on the distance and size of the monitoring and shutdown zones. These same protocols are contained in this 2018–2019 IHA. Shutdown, Level A harassment and Level B harassment zones are depicted in Table 2.

TABLE 2—SHUTDOWN, LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS ASSOCIATED WITH IMPACT AND VIBRATORY PILE DRIVING

Species	Shutdown zone—impact/ vibratory (meters)	Level A harassment zone—impact (meters)	Level B harassment zone—impact/ vibratory (meters)
Steller Sea Lion	25/10	n/a	2,090/3,265
Humpback whale	550/20	n/a	2,090/3,265
Harbor Seal	100/10	285	2,090/3,265
Harbor Porpoise	100/20	630	2,090/3,265
Killer whale	25/10	n/a	2,090/3,265
Minke whale	550/20	n/a	2,090/3,265
Dall's Porpoise	100/20	630	2,090/3,265

Temporal and Seasonal Restrictions—Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted and all in-water construction will be limited to the periods between March 1 and May 31, 2019, and September 1 and November 30, 2019.

Soft Start—The use of a soft-start procedure is believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to implement soft start procedures. Soft start is not required during vibratory pile driving and removal activities.

Visual Marine Mammal Observation—Monitoring must be conducted by PSOs, who are trained biologists, with minimum qualifications described in the **Federal Register** notice of the issuance of the 2017–2018 IHA (82 FR 17209; April 4, 2017). In order to effectively monitor the pile driving monitoring zones, two MMOs must be positioned at the best practical vantage point(s). If waters exceed a sea-state which restricts the observers' ability to make observations within the shutdown zone (*e.g.,* excessive wind or fog), pile installation and removal will cease. Pile driving will not be initiated until the entire shutdown zone is visible. MMOs shall record specific information on the sighting forms as described in the **Federal Register** notice of the issuance of the 2017–2018 IHA (82 FR 17209; April 10, 2017). At the conclusion of the in-water construction work, ADOT&PF will provide NMFS with a monitoring report which includes summaries of recorded takes and estimates of the number of marine mammals that may have been harassed.

Determinations

ADOT&PF plans to conduct in-water construction activities similar to those covered in the previous 2017–2018 IHA. As described above, the number of estimated takes of the same stocks of marine mammals is the same as those authorized in the 2017–2018 IHA that were found to meet the negligible impact and small numbers standards. Our analysis showed that less than 9.07 percent of the populations of affected stocks, with the exception of minke and killer whales, could be taken by harassment. For Northern resident and West Coast transient killer whales, the percentages, when instances of take are compared to abundance, are 48.2 percent and 51.8 percent, respectively. However, the takes estimated for these stocks (up to 126 instances assuming all takes are accrued to a single stock) are not likely to represent unique individuals. Instead, we anticipate that there will be multiple takes of a smaller number of individuals.

The Northern resident killer whale stock are most commonly seen in the waters around the northern end of Vancouver Island, and in sheltered inlets along B.C.'s Central and North Coasts. They also range northward into Southeast Alaska in the winter months. Pile driving operations are not permitted from December through February. It is unlikely that such a large portion of Northern resident killer whales with ranges of this magnitude would be concentrated in and around Icy Passage.

NMFS believes that small numbers of the West coast transient killer whale stock would be taken based on the limited region of exposure in comparison with the known distribution of the transient stock. The West coast transient stock ranges from Southeast Alaska to California, while the planned project activity would be stationary. A notable percentage of West coast transient whales have never been observed in Southeast Alaska. Only 155 West coast transient killer whales have been identified as occurring in Southeast Alaska according to Dahlheim and White (2010). The same study identified three pods of transients, equivalent to 19 animals that remained almost exclusively in the southern part of Southeast Alaska (*i.e.* Clarence Strait and Sumner Strait). This information indicates that only a small subset of the entire West coast Transient stock would be at risk for take in the Icy Passage area because a sizable portion of the stock has either not been observed in Southeast Alaska or consistently remains far south of Icy Passage.

There is no current abundance estimate for minke whale since population data on this species is dated. However, the authorized take of 42 minke whales may be considered small. A visual survey for cetaceans was conducted in the central-eastern Bering Sea in July-August 1999, and in the southeastern Bering Sea in 2000. Results of the surveys in 1999 and 2000 provide

provisional abundance estimates of 810 and 1,003 minke whales in the central-eastern and southeastern Bering Sea, respectively (Moore *et al.,* 2002). Additionally, line-transect surveys were conducted in shelf and nearshore waters in 2001–2003 from the Kenai Fjords in the Gulf of Alaska to the central Aleutian Islands. Minke whale abundance was estimated to be 1,233 for this area (Zerbini *et al.,* 2006). However, these estimates cannot be used as an estimate of the entire Alaska stock of minke whales because only a portion of the stock's range was surveyed. (Allen and Anglis 2012). Clearly, 42 authorized takes should be considered a small number, as it constitutes only 5.2 percent of the smallest abundance estimate generated during the surveys just described and each of these surveys represented only a portion of the minke whale range.

Therefore, the number of individual animals authorized to be taken for all species are considered small relative to the relevant stocks or populations.

The 2018–2019 IHA includes mitigation, monitoring, and reporting requirements that are identical to those depicted in the 2017–2018 IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) ADOT&PF's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

In order to comply with the ESA, NMFS Alaska Regional Office (AKR) Protected Resources Division issued a Biological Opinion on March 21, 2017 under section 7 of the ESA, on the issuance of an IHA to ADOT&PF under section 101(a)(5)(D) of the MMPA. This consultation concluded that the project was likely to adversely affect but unlikely to jeopardize the continued existence of the threatened Mexico DPS of humpback whale (*Megaptera novaeangliae*) or the endangered western DPS of Steller sea lion (*Eumatopias jubatus*), or adversely modify designated critical habitat for Steller sea lions. In a memo dated June 13, 2018, NMFS AKR concluded that re-initiation of section 7 consultation is not necessary for the issuance of the 2018–2019 IHA. The only modification to the project is a time shift of one year. No additional take has been requested by ADOT&PF or has been authorized by NMFS. All mitigation measures described in the Biological Opinion would be implemented to reduce harassment of marine mammals and document take of marine mammals. For these reasons, we anticipate no new or changed effects of the action beyond what was considered in the 2017 Biological Opinion.

National Environmental Policy Act

In compliance with NOAA policy, the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), and the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), NMFS determined the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

Authorization

As a result of these determinations, we have issued an IHA to ADOT&PF for conducting the described construction activities related to city dock and ferry terminal improvements from December 15, 2018 through December 14, 2019, provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: October 26, 2018.

Catherine Marzin,

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

[FR Doc. 2018–24064 Filed 11–2–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Inland Waterways Users Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; correction.

SUMMARY: The notice of an open meeting scheduled for November 28, 2018 published in the **Federal Register** on October 26, 2018 has a new date. The meeting will be held on November 29, 2018.

DATES: The Inland Waterways Users Board will meet from 8:00 a.m. to 12:00 p.m. on November 29, 2018. Public registration will begin at 7:15 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–8083; and by email at *Kenneth.E.Lichtman@usace.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–24147 Filed 11–2–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0116]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Forms and Instructions for the Fulbright-Hays Seminars Abroad Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before December 5, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0116. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Sara Starke, 202–453–7681.

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: Application Forms and Instructions for the Fulbright-Hays Seminars Abroad Program.

OMB Control Number: 1840–0501.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 300.

Total Estimated Number of Annual Burden Hours: 900.

Abstract: The Department of Education (US/ED) is responsible for administering the Fulbright-Hays Seminars Abroad (SA) Program under authority of Section 102(b)(6) of the Mutual Educational and Cultural Exchange (Fulbright-Hays) Act of 1961, as amended. The program is administered under the policies established by the J. William Fulbright Foreign Scholarship Board (FSB), a 12-member body appointed by the President. US/ED recruits and recommends candidates for seminar positions abroad in accordance with FSB policies, which support the purposes of the Fulbright-Hays Act. The application is necessary in order for the Department to award funds under this program.

Dated: October 31, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–24178 Filed 11–2–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995), intends to extend for three years, an information collection request with the Office of Management and Budget (OMB).

DATES: Comments regarding this proposed information collection must be received on or before January 4, 2019. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to Courtney Bracey by email at *Courtney.Bracey@science.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Courtney Bracey, *courtney.bracey@science.doe.gov,* (301) 903–1844.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended 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 used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. This information collection request contains:

(1) *OMB No.* {1910–5178};

(2*) Information Collection Request Title:* Portfolio Analysis and Management System (PAMS);

(3) *Type of Review:* {extension};

(4) *Purpose:* This existing collection is based on the Health Resources and Services Administration (HRSA) Electronic Handbooks software. Discretionary financial assistance proposals continue to be collected using *Grants.gov* but are imported into PAMS for use by the program offices. Under the existing information collection, an external interface in PAMS allows two other types of proposal submission: DOE National Laboratories are able to submit proposals for technical work authorizations directly into PAMS, while other Federal Agencies will be able to submit Proposals for interagency awards directly into PAMS. External users from all institution types are able to submit Solicitation Letters of Intent and Pre-proposals directly into PAMS. All applicants, whether they submitted

through *Grants.gov* or PAMS, are able to register with PAMS to view the proposals that were submitted. They also are able to maintain a minimal amount of information in their personal profile. The existing collection automates and streamlines the submission, tracking, and correspondence portions of financial award pre-review processes.

The information collected is used by DOE to select applicants and projects for financial awards;

(5) *Annual Estimated Number of Respondents:* {The following numbers are calculated using the average of data received in fiscal year 2015 through fiscal year 2018. 6,533 PAMS new registrants, who are to include 9,700 submitters of lab proposals, interagency proposals, pre-proposals, and Letters Of Intent (LOI) (assuming one person per estimated submission) and 10,900 reviewers of proposals submitted through *Grants.gov*;

(6) *Annual Estimated Number of Total Responses:* Annual Estimated Number of Total Responses: The Office of Science receives about 370 DOE national laboratory and interagency proposals per year, based on an average number of submissions received for (fiscal year 2015 through fiscal year 2018) and about 4,600 pre-proposals and letters of intent per year, based on an average of the data collected between fiscal year 2015 and fiscal year 2018;

(7) *Annual Estimated Number of Burden Hours:* The time it takes to complete a form depends upon the type of form being completed. External users will need to register with PAMS in order to access the system. It takes approximately 30 minutes for external users to complete the forms required to become a registered PAMS user. Both LOI and pre-proposal forms take 15 minutes each, whereas completing a lab/interagency proposal will take about 3 hours. The reviewers require about 3 hour of analysis, per submission. Based on the annual estimated number of responses, broken down by DOE national laboratory, letter of intent and pre-proposal, the annual estimated time required for reviewers to complete analysis or responses and the time required for external users to register with PAMS, the estimated annual number of burden hours is 30,150;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

Statutory Authority: Section 641 of the Department of Energy Organization Act, codified at 42 U.S.C. 7251.

Signed in Washington, DC, on October 22, 2018.

Vasilios Kountouris,

Director, Office of Information Technology and Services, Office of Science, Department of Energy.

[FR Doc. 2018–24131 Filed 11–2–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy, Office of Environmental Management.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES:

Monday, November 26, 2018, 1 p.m.–5 p.m.

Tuesday, November 27, 2018, 9 a.m.–5 p.m.

ADDRESSES: Partridge Inn, 2110 Walton Way, Augusta, GA 30904.

FOR FURTHER INFORMATION CONTACT: Amy Boyette, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC, 29802; Phone: (803) 952–6120.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, November 26, 2018

Opening, Chair Update, and Agenda Review
Agency Updates
Break
Administrative & Outreach Committee Update
Facilities Disposition & Site Remediation Committee Update
Nuclear Materials Committee Update
Strategic & Legacy Management Committee Update
Waste Management Committee Update
Presentation: Defense Waste Processing Facility and Glass Waste Storage Status
Discussion of Draft Recommendation: Pollinator Management Program
Public Comments
Recess

Tuesday, November 27, 2018

Reconvene
Agenda Review

Presentations

- Annual Site Environmental Report
- Environmental Management Systems
- Plutonium Disposition Options

Lunch Break

Presentations

- DOE–EM Performance Metrics
- National Environmental Research Park

Break

Presentations

- Solid Waste Program, Naval Waste and Waste Isolation Pilot Plant (WIPP) update
- Mercury in the Liquid Waste System

Public Comments
Voting on Recommendations
Adjourn

Public Participation: The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Amy Boyette at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Amy Boyette's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Amy Boyette at the address or phone number listed above. Minutes will also be available at the following website: *http://cab.srs.gov/srs-cab.html.*

Signed in Washington, DC on October 31, 2018.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2018–24137 Filed 11–2–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6440–009]

Lakeport Hydroelectric One, LLC; 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.:* 6440–009.

c. *Date Filed:* August 31, 2018.

d. *Submitted By:* Lakeport Hydroelectric One, LLC (Lakeport).

e. *Name of Project:* Lakeport Hydroelectric Project.

f. *Location:* On the Winnipesaukee River in Laconia, Belknap County, New Hampshire. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 and 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Michael Scarzello, Director, Eagle Creek Renewable Energy, 116 N State Street, P.O. Box 167, Neshkoro, WI 54960–0167; Phone at (973) 998–8400, or email at *michael.scarzello@eaglecreekre.com.*

i. *FERC Contact:* Erin Kimsey at (202) 502–8621; or *erin.kimsey@ferc.gov.*

j. Lakeport filed its request to use the Traditional Licensing Process on August 31, 2018 and provided public notice of the request on August 31, 2018. In a letter dated October 30, 2018, the Director of the Division of Hydropower Licensing approved Lakeport's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New Hampshire State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Lakeport as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Lakeport 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.

n. 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 Laconia Public Library, 695 N Main Street, Laconia, NH 03246.

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 6440–009. Pursuant to 18 CFR 16.20, each application for a subsequent 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 August 31, 2021.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 30, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24108 Filed 11–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC19–13–000]

Entergy Louisiana, LLC; Notice of Filing

Take notice that on October 29, 2018, Entergy Louisiana, LLC filed a request for approval to use Account 439, authorized by the Financial Accounting Standards Board.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the 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 on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on November 19, 2018.

Dated: October 30, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24106 Filed 11–2–18; 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: EC19–17–000.

Applicants: Entergy Arkansas, Inc.

Description: Application for Authorization under Section 203 of the Federal Power Act of Entergy Arkansas, Inc.

Filed Date: 10/29/18.

Accession Number: 20181029–5170.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: EC19–18–000.

Applicants: Entergy Services, LLC, Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, LLC, Entergy Texas, Inc.

Description: Application for Authorization under Section 203 of the Federal Power Act of Entergy Services, LLC, et al.

Filed Date: 10/29/18.

Accession Number: 20181029–5180.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: EC19–19–000.

Applicants: Plymouth Rock Energy, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Plymouth Rock Energy, LLC.

Filed Date: 10/30/18.

Accession Number: 20181030–5094.

Comments Due: 5 p.m. ET 11/20/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1911–003; ER12–1912–003; ER12–1913–003; ER12–1915–003; ER12–1916–003; ER12–1917–003; ER14–41–002; ER14–42–002.

Applicants: RE McKenzie 1 LLC, RE McKenzie 2 LLC, RE McKenzie 3 LLC, RE McKenzie 4 LLC, RE McKenzie 5 LLC, RE McKenzie 6 LLC, RE Rosamond One LLC, RE Rosamond Two LLC.

Description: Notice of Non-Material Change in Status of the McKenzie and Rosamond Sellers.

Filed Date: 10/29/18.

Accession Number: 20181029–5174.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: ER18–1628–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2018–10–29_Additional Compliance for Order 842 Primary Frequency Response to be effective 5/15/2018.

Filed Date: 10/29/18.

Accession Number: 20181029–5143.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: ER18–2419–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2018–10–30_SA 2953 Quilt Block Wind Farm-ATC Substitute 2nd Rev GIA (J395 J652) to be effective 8/28/2018.

Filed Date: 10/30/18.

Accession Number: 20181030–5064.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–209–000.

Applicants: San Diego Gas & Electric Company.

Description: § 205(d) Rate Filing: 2019 SDGE TRBAA Update to Transmission Owner Tariff Filing to be effective 1/1/2019.

Filed Date: 10/29/18.

Accession Number: 20181029–5122.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: ER19–210–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Maintenance Adder Revisions to the PJM Tariff to be effective 12/31/9998.

Filed Date: 10/29/18.

Accession Number: 20181029–5154.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: ER19–211–000.

Applicants: Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, LLC, Entergy Texas, Inc., Entergy Arkansas, Inc.

Description: § 205(d) Rate Filing: TCCs JOOA to be effective 12/31/9998.

Filed Date: 10/29/18.

Accession Number: 20181029–5161.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: ER19–212–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: SA 296 5th Rev—NITSA–NOA with Exxon Mobil Corporation to be effective 8/1/2018.

Filed Date: 10/29/18.

Accession Number: 20181029–5162.

Comments Due: 5 p.m. ET 11/19/18.

Docket Numbers: ER19–213–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: NCEMPA 1 RS No. 318 (2019) to be effective 1/1/2019.

Filed Date: 10/30/18.

Accession Number: 20181030–5029.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–214–000.

Applicants: South Carolina Electric & Gas Company.

Description: § 205(d) Rate Filing: SCPSA Interconnection Agreement to be effective 12/31/2018.

Filed Date: 10/30/18.

Accession Number: 20181030–5041.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–215–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Cane Creek Solar LGIA Filing to be effective 10/23/2018.

Filed Date: 10/30/18.

Accession Number: 20181030–5047.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–216–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Moonshot Solar LGIA Filing to be effective 10/23/2018.

Filed Date: 10/30/18.

Accession Number: 20181030–5053.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–217–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP–NCEMC (RS–182) Amendment to be effective 1/1/2019.

Filed Date: 10/30/18.

Accession Number: 20181030–5061.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–218–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–10–30_SA 3193 OSER-Ameren Illinois GIA (J644) to be effective 10/17/2018.

Filed Date: 10/30/18.

Accession Number: 20181030–5090.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–219–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: 2019 RSBAA Update Filing to be effective 1/1/2019.

Filed Date: 10/30/18.

Accession Number: 20181030–5120.

Comments Due: 5 p.m. ET 11/20/18.

Docket Numbers: ER19–222–000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: WPL—Mazomanie Wholesale Service Agreement to be effective 12/31/2018.

Filed Date: 10/30/18.

Accession Number: 20181030–5156.

Comments Due: 5 p.m. ET 11/20/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–24095 Filed 11–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2146–111; Project No. 82–000; Project No. 618–000]

Alabama Power Company; Notice of Intent To Prepare Environmental Impact Statement and Soliciting Scoping Comments

On July 28, 2005, Alabama Power Company (Alabama Power) filed, pursuant to sections 4(e) and 15 of the Federal Power Act,[1] an application for a single new license to continue operation and maintenance of three previously separately licensed projects that include seven developments: (1) The Coosa Hydroelectric Project No. 2146, which comprises the Weiss, H. Neely Henry, Logan Martin, Lay, and Bouldin developments; (2) the Mitchell Dam Hydroelectric Project No. 82; and (3) the Jordan Dam Hydroelectric Project No. 618. The single new operating license would combine all of these projects as one project, the Coosa River Hydroelectric Project (Coosa River Project) No. 2146, with a combined 960.9 megawatts of hydroelectric generating capacity. The projects are located on the Coosa River, in the states of Alabama and Georgia, and occupy about 280 acres of federal land administered by the U.S. Bureau of Land Management.

On December 31, 2009, Commission staff issued a final Environmental Assessment (EA) for the Coosa River Project. On June 20, 2013 (June 20 Order), the Commission issued a single new 30-year license to Alabama Power for the continued operation and maintenance of the Coosa River Project.[2] On July 18, 2013, Alabama Rivers Alliance and American Rivers (jointly) filed a request for rehearing of the Commission's June 20 Order. On July 22, 2013, Alabama Power and Georgia Environmental Protection Division also filed separate requests for rehearing of the Commission's June 20 Order.[3] On April 21, 2016 (April 21 Order), the Commission issued an order on rehearing and clarification regarding the new license for the project.[4] On May 17, 2016, Alabama Rivers Alliance and American Rivers (jointly) filed a request for rehearing of the April 21 Order. On September 12, 2016, the Commission issued an order denying rehearing of the April 21 Order. Subsequently, Alabama Rivers Alliance and American Rivers (jointly) filed a petition in the U.S. Court of Appeals for the District of Columbia Circuit (court), and on July 6, 2018, the court issued an opinion vacating and remanding the new license to the Commission for further proceedings consistent with the opinion.[5]

In order to address the issues identified by the court, Commission staff intend to prepare a draft and final environmental impact statement (EIS) in accordance with the National Environmental Policy Act. The EIS will describe and evaluate the probable effects of the proposed action and alternatives. The focus of the EIS will be the issues identified by the court as requiring further analyses (*i.e.,* dissolved oxygen, fish entrainment and turbine mortality, federally listed threatened and endangered species, and cumulative effects). For the resource areas not the subject of the opinion, the EIS will either include or incorporate by reference the analysis in the Commission's final EA.

To support and assist this environmental review, we are conducting scoping on the issues to be addressed in the EIS and are issuing a scoping document for comment under separate cover. Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to comment on the scoping document. At this time, we do not anticipate holding public or agency scoping meetings.

With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402.

The deadline for filing scoping comments is 30 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *https://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 *https://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2146–111.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

The record for this proceeding 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 documents. For assistance, contact FERC Online Support.

You may also 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.

Copies of the scoping document outlining the subject areas to be addressed in the EIS were distributed to the parties on the Commission's mailing list. Copies of the scoping document may be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support.

The draft EIS will be sent to all persons and entities on the Commission's service and mailing lists for the Coosa River Project. The draft EIS will include our recommendations for operating procedures, and environmental protection and enhancement measures that should be part of any new license issued by the Commission. Recipients will then have 60 days to review the draft EIS and file written comments with the Commission. All comments filed with the Commission on the final EIS will be considered in the Order taking final

[1] 16 U.S.C. 797(e) and 808 (2012).

[2] *Alabama Power Company,* 143 FERC 61,249 (2013), *order on reh'g and clarification,* 155 FERC 61,080 (2016), *order denying reh'g,* 156 FERC 61,171 (2016).

[3] The Atlanta Regional Commission adopted and incorporated by reference Georgia Environmental Protection Division's request for rehearing.

[4] *Alabama Power Company,* 155 FERC 61,080 (2016).

[5] *American Rivers* v. *FERC,* 895 F.3d 32 (D.C. Cir. 2018). By notice issued on September 10, 2018, the previous licenses for the Coosa River, Jordan, and Mitchell Hydroelectric Projects were reinstated; each project is currently operating under an annual license.

action on the license application. The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Scoping Document	October 2018.
Comments Due on Scoping Document	November 2018.
Issue Revised Scoping Document (if necessary)	December 2018.
Issue Additional Information Request (if necessary)	December 2018.
Additional Information Response Due	March 2019.
Draft EIS Issued	August 2019.
Comments Due on Draft EIS	October 2019.
Final EIS Issued	December 2019.

This notice informs all interested individuals, organizations, and agencies with environmental expertise and concerns, that: (1) The Commission staff has decided to prepare an EIS addressing the issues raised by the court; and (2) the comments, recommendations, and terms and conditions already on file with the Commission on the application will be taken into account in the EIS.

Any questions regarding this notice may be directed to Aaron Liberty at (202) 502–6862, or by email at *aaron.liberty@ferc.gov.*

Dated: October 30, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24107 Filed 11–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–89–000]

Notice of Availability of the Environmental Assessment for the Proposed Empire North Project; Empire Pipeline, Inc.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Empire North Project, proposed by Empire Pipeline, Inc. (Empire) in the above-referenced docket. Empire requests authorization to construct and operate gas compression facilities in Tioga County, Pennsylvania, and Ontario County, New York.

The EA assesses the potential environmental effects of construction and operation of the Empire North Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The U.S. Department of Transportation participated as a cooperating agency in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis.

The proposed Empire North Project includes the following facilities:

- A new 21,000 horsepower compressor station in Jackson Township, Tioga County, Pennsylvania;
- a new 32,000 horsepower compressor station in the Town of Farmington, Ontario County, New York;
- modifications of the existing regulator valves and station piping and installation of metering facilities at the existing New Victor Regulator Station in Ontario County, New York;
- minor modifications to the existing Jackson Meter and Regulator Station in Jackson Township, Tioga County, Pennsylvania; and
- upgrading the maximum allowable operating pressure of the Empire Connector Pipeline from 1,290 to 1,440 pounds per square inch gauge.

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; Native American tribes; other interested parties; and local libraries and newspapers. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the Environmental Documents page (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://www.ferc.gov/docs-filing/elibrary.asp*), click on General Search, and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP18–89). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC, on or before 5:00 p.m. Eastern Time on November 29, 2018.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on eRegister. You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing;'' or

(3) You can file a paper copy of your comments by mailing them to the

following address. Be sure to reference the project docket number (CP18–89–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission may grant affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: October 30, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24105 Filed 11–2–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP17–117–000	10–16–2018	Youngstown/Warren Regional Chamber.
CP17–118–000	.....	President and CEO James Dignan.
Exempt:		
1. CP17–101–000	10–16–2018	FERC Staff. [1]
2. CP17–101–000	10–16–2018	FERC Staff. [2]
3. CP17–41–000	10–23–2018	FERC Staff. [3]
4. CP17–117–000	10–25–2018	State of Louisiana.
CP17–118–000	.....	House Representative Taylor F. Barras.

Dated: October 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–24096 Filed 11–2–18; 8:45 am]

BILLING CODE 6717–01–P

[1] Conference Call Notes for meeting on October 3, 2018 with the National Marine Fisheries Service.

[2] Conference Call Notes for meeting on October 3, 2018 with Transco.

[3] Conference Call Notes for meeting on October 19, 2018 with Environmental Resources Managements, Inc., Eagle LNG Partners Jacksonville, LLC, Cardno, and Florida Department of Environmental Protection.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9986–04–Region 3]

Delegation of Authority to the State of West Virginia To Implement and Enforce Additional or Revised National Emission Standards for Hazardous Air Pollutants Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On September 11, 2017 and September 21, 2018, the Environmental Protection Agency (EPA) sent the State of West Virginia (West Virginia) letters acknowledging that West Virginia's delegation of authority to implement and enforce the National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) had been updated, as provided for under previously approved delegation mechanisms. To inform regulated facilities and the public, EPA is making

available a copy of EPA's letters to West Virginia through this notice.

DATES: On September 11, 2017 and September 21, 2018, EPA sent West Virginia letters acknowledging that West Virginia's delegation of authority to implement and enforce Federal NESHAPs and NSPS had been updated.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. Copies of West Virginia's submittal are also available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Emily Bertram, (215) 814–5273, or by email at *bertram.emily@epa.gov.*

SUPPLEMENTARY INFORMATION: On June 6, 2017, West Virginia notified EPA that West Virginia had updated its incorporation by reference of Federal NESHAP and NSPS to include many such standards as found in Title 40 of the Code of Federal Regulations (CFR), Parts 60, 61, and 63 as of June 1, 2016. On September 11, 2017, EPA sent West Virginia a letter acknowledging that West Virginia now has the authority to implement and enforce the NESHAP and NSPS as specified by West Virginia in its notice to EPA, as provided for under previously approved automatic delegation mechanisms. All notifications, applications, reports, and other correspondence required pursuant to the delegated NESHAP and NSPS must be submitted to both EPA Region III and to the West Virginia Department of Environmental Protection, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the West Virginia Department of Environmental Protection. A copy of EPA's September 11, 2017 letter to West Virginia follows:

Mr. William F. Durham, Director
Division of Air Quality
West Virginia Department of Environmental Protection
601 57th Street
Charleston, West Virginia 25304

Dear Mr. Durham:

The United States Environmental Protection Agency (EPA) has previously delegated to the State of West Virginia the authority to implement and enforce various federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS), which are found at 40 CFR parts 60, 61, and 63. In those actions EPA also delegated to West Virginia the authority to implement and enforce any future EPA NESHAP or NSPS on the condition that West Virginia legally adopt the future standards, make only allowed wording changes, and provide specified notice to EPA.

In a letter dated June 6, 2017, West Virginia informed EPA that West Virginia had updated its incorporation by reference of federal NESHAP and NSPS to include many such standards as found in 40 CFR parts 60, 61, and 63 as of June 1, 2016. West Virginia noted that it understood it was automatically delegated the authority to implement these standards. West Virginia committed to enforcing the standards in conformance with the terms of EPA's previous delegations of authority. West Virginia made only allowed wording changes.

West Virginia provided copies of the revised West Virginia Legislative Rules which specify the NESHAP and NSPS which West Virginia has adopted by reference. These revised Legislative Rules are entitled 45 CSR 34—''Emission Standards for Hazardous Air Pollutants,'' and 45 CSR 16—''Standards of Performance for New Stationary Sources.'' These revised Rules have an effective date of June 1, 2017.

Accordingly, EPA acknowledges that West Virginia now has the authority, as provided for under the terms of EPA's previous delegation actions, to implement and enforce the NESHAP and NSPS standards which West Virginia adopted by reference in West Virginia's revised Legislative Rules 45 CSR 34 and 45 CSR 16, both effective on June 1, 2017.

Please note that on December 19, 2008 in *Sierra Club vs. EPA*,[1] the United States Court of Appeals for the District of Columbia Circuit vacated certain provisions of the General Provisions of 40 CFR part 63 relating to exemptions for startup, shutdown, and malfunction (SSM). On October 16, 2009, the Court issued the mandate vacating these SSM exemption provisions, which are found at 40 CFR part 63, § 63.6(f)(1), and (h)(1).

Accordingly, EPA no longer allows sources to use the SSM exemption as provided for in the vacated provisions at 40 CFR part 63, § 63.6(f)(1), and (h)(1), even though EPA has not yet formally removed the SSM exemption provisions from the General Provisions of 40 CFR part 63. Because West Virginia incorporated 40 CFR part 63 by reference, West Virginia should also no longer allow sources to use the former SSM exemption from the General Provisions of 40 CFR part 63 due to the Court's ruling in *Sierra Club vs. EPA.*

EPA appreciates West Virginia's continuing NESHAP and NSPS enforcement efforts, and also West Virginia's decision to take automatic delegation of additional and more recent NESHAP and NSPS by adopting them by reference.

If you have any questions, please contact me or Mr. Marcos Aquino, Acting Associate Director, Office of Permits and State Programs, at 215–814–3422.

Sincerely,

Cristina Fernandez, Director Air Protection Division

On June 5, 2018, West Virginia notified EPA that West Virginia had updated its incorporation by reference of Federal NESHAP and NSPS to include many such standards as found in Title 40 of the Code of Federal Regulations (CFR), Parts 60, 61, and 63 as of June 1, 2017. On September 21, 2018, EPA sent West Virginia a letter acknowledging that West Virginia now has the authority to implement and enforce the NESHAP and NSPS as specified by West Virginia in its notice to EPA, as provided for under previously approved automatic delegation mechanisms. All notifications, applications, reports, and other correspondence required pursuant to the delegated NESHAP and NSPS must be submitted to both EPA Region III and to the West Virginia Department of Environmental Protection, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the West Virginia Department of Environmental Protection. A copy of EPA's September 21, 2018 letter to West Virginia follows:

Mr. William F. Durham, Director
Division of Air Quality
West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, West Virginia 25304

Dear Mr. Durham:

The United States Environmental Protection Agency (EPA) has previously delegated to the State of West Virginia the authority to implement and enforce various federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS), which are found at 40 CFR parts 60, 61, and 63. In those actions EPA also delegated to West Virginia the authority to implement and enforce any future EPA NESHAP or NSPS on the condition that West Virginia legally adopt the future standards, make only allowed wording changes, and provide specified notice to EPA.

In a letter dated June 5, 2018, West Virginia informed EPA that West Virginia had updated its incorporation by reference of federal NESHAP and NSPS to include many such standards as found in 40 CFR parts 60, 61, and 63 as of June 1, 2017. West Virginia noted that it understood it was automatically delegated the authority to implement these standards. West Virginia committed to enforcing the standards in conformance with the terms of EPA's previous delegations of authority. West Virginia made only allowed wording changes.

West Virginia provided copies of the revised West Virginia Legislative Rules which specify the NESHAP and NSPS which West Virginia has adopted by reference.

[1] *Sierra Club* v. *EPA,* 551 F.3rd 1019 (D.C. Cir. 2008).

These revised Legislative Rules are entitled 45 CSR 34—''Emission Standards for Hazardous Air Pollutants,'' and 45 CSR 16—''Standards of Performance for New Stationary Sources.'' These revised Rules have an effective date of June 1, 2018.

Accordingly, EPA acknowledges that West Virginia now has the authority, as provided for under the terms of EPA's previous delegation actions, to implement and enforce the NESHAP and NSPS standards which West Virginia adopted by reference in West Virginia's revised Legislative Rules 45 CSR 34 and 45 CSR 16, both effective on June 1, 2018.

Please note that on December 19, 2008 in *Sierra Club vs. EPA,*[2] the United States Court of Appeals for the District of Columbia Circuit vacated certain provisions of the General Provisions of 40 CFR part 63 relating to exemptions for startup, shutdown, and malfunction (SSM). On October 16, 2009, the Court issued the mandate vacating these SSM exemption provisions, which are found at 40 CFR part 63, § 63.6(f)(1), and (h)(1).

Accordingly, EPA no longer allows sources to use the SSM exemption as provided for in the vacated provisions at 40 CFR part 63, § 63.6(f)(1), and (h)(1), even though EPA has not yet formally removed the SSM exemption provisions from the General Provisions of 40 CFR part 63. Because West Virginia incorporated 40 CFR part 63 by reference, West Virginia should also no longer allow sources to use the former SSM exemption from the General Provisions of 40 CFR Part 63 due to the Court's ruling in *Sierra Club vs. EPA.*

EPA appreciates West Virginia's continuing NESHAP and NSPS enforcement efforts, and also West Virginia's decision to take automatic delegation of additional and more recent NESHAP and NSPS by adopting them by reference.

If you have any questions, please contact me or Ms. Zelma Maldonado, Acting Associate Director, Office of Permits and State Programs, at 215–814–3448.

Sincerely,

Cristina Fernandez, Director Air Protection Division

This notice acknowledges the update of West Virginia's delegation of authority to implement and enforce NESHAP and NSPS.

Dated: October 23, 2018.

Cristina Fernandez,

Director, Air Protection Division, Region III.

[FR Doc. 2018–24160 Filed 11–2–18; 8:45 am]

BILLING CODE 6560–50–P

[2] *Sierra Club* v. *EPA,* 551 F.3rd 1019 (D.C. Cir. 2008).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2018–0663; FRL–9986–11–OAR]

Proposed Information Collection Request; Comment Request; Recordkeeping and Reporting Requirements for the Performance-Based Measurement System for Fuels (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Recordkeeping and Reporting Requirements for the Performance-based Measurement System for Fuels'' (EPA ICR No. 2459.03, OMB Control No. 2060–0692) 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 proposed extension of the ICR, which is currently approved through May 31, 2019. 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 January 4, 2019.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2018–0663, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 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: James W. Caldwell, Compliance Division, Office of Transportation and Air Quality, 6405A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–343–9303; fax number: 202–343–2802; email address: *caldwell.jim@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 regulations at 40 CFR part 80 set standards for certain parameters of gasoline and diesel fuel, such as sulfur content, to control harmful vehicle emissions and protect emission controls. Refiners and importers are required to test for these parameters and report the results to EPA. The regulations at 40 CFR part 80.47, 80.584, and 80.585 (1) identify acceptable test methods for some of the regulated parameters, (2) specify criteria for precision, accuracy, and quality control for the test methods used to measure the regulated parameters (certain test methods in use prior to October 28, 2013 are exempt from some of the criteria), and (3) establish procedures by which a test laboratory can demonstrate that an alternative test method meets the criteria and is thus ''qualified'' for use. This program for the qualification of test methods is known as the Performance-based Measurement

System (PBMS). Test laboratories are required to generate certain records to demonstrate compliance with PBMS program requirements. This ICR covers the recordkeeping and reporting requirements for PBMS records. There are no required forms. Example formats for certain records are at: *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/compliance-performance-based-measurement-system.*

Form numbers: None.

Respondents/affected entities: Laboratories that test gasoline and diesel fuel.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 1,000 (total).

Frequency of response: On occasion, periodically (varies with test method).

Total estimated burden: 26,696 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,460,454 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in estimates: There is an increase of 17,198 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an incorrect estimate of 52 laboratories for the current approval while the actual number should have been near 1,000.

Dated: October 29, 2018.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2018–24159 Filed 11–2–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9986–07–Region 9]

Casmalia Resources Superfund Site; Notice of Proposed CERCLA Administrative De Minimis Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA) and the Resource Conservation and Recovery Act (RCRA), the Environmental Protection Agency (EPA) is hereby providing notice of a proposed administrative *de minimis* settlement concerning the Casmalia Resources Superfund Site in Santa Barbara County, California (the Casmalia Resources Site). CERCLA provides EPA with the authority to enter into administrative *de minimis* settlements. This settlement is intended to resolve the liabilities of the 104 settling parties identified below for the Casmalia Resources Site. These parties have also elected to resolve their liability for response costs and potential natural resource damage claims by the United States Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA). These 104 parties sent 9,696,519 lbs. of waste to the Casmalia Resources Site, which represents 0.07% of the total Site waste of 5.6 billion pounds. This settlement requires these parties to pay $885,397 to EPA.

DATES: EPA will receive written comments relating to the settlement until December 5, 2018. EPA will consider all comments it receives during this period, and may modify or withdraw consent to the settlement if any comments disclose facts or considerations indicating that the settlement is inappropriate, improper, or inadequate.

Public meeting: In accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d), commenters may request an opportunity for a public meeting in the affected area. The deadline for requesting a public meeting is November 19, 2018. Requests for a public meeting may be made by contacting Russell Mechem by email at *mechem.russell@epa.gov.* If a public meeting is requested, information about the date and time of the meeting will be published in the local newspaper, *The Santa Maria Times,* and will be sent to persons on the EPA's Casmalia Resources Site mailing list. To be added to the mailing list, please contact: Alejandro Diaz at (415) 972–3242 or by email at *diaz.alejandro@epa.gov.*

ADDRESSES: Written comments should be addressed to Casmalia Case Team, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street (mail code SFD–7–1), San Francisco, California 94105–3901, or may be sent by email to *mechem.russell@epa.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of the settlement document and additional information about the Casmalia Resources Site and the proposed settlement may be obtained on the EPA-maintained Casmalia Resources Site website at: *http://www.epa.gov/region09/casmalia* or by calling Russell Mechem at (415) 972–3192.

SUPPLEMENTARY INFORMATION: Section 122(g) of CERCLA gives EPA authority to enter into administrative *de minimis* settlements. Section 122(i) of CERCLA and section 7003(d) of RCRA require that EPA publish notice of certain proposed settlements. This settlement is intended to resolve the liabilities of the settling parties under sections 106 and 107 of CERCLA and section 7003 of RCRA for the Casmalia Resources Site.

The parties that have elected to settle their liability with EPA at this time are as follows: A/C Industrial Cleaning Co.; Adams Campbell Co.; Aerosol Services Co.; Afflu, Ltd dba Dalee Car Bath; AG RX; Alcorn Fence Co.; ALLFAST Fastening Systems; Armorlite Inc.; Arnold Engineering; Arvinyl; ASCO Sintering Co.; Audax Group; Axelson, Inc., acquired by Wheatley Corp/Dresser Industries and later merged into Halliburton Energy Services, Inc.; Bard Parker; BC Laboratories, Inc.; Berney Construction; Bien Nacido Vineyards; Briggman Disposal; Burke Chemical; C.P. National; CAE, Inc.; California Avi-Tron; Carl's Jr.; Centre Properties; Channel Disposal Co.; Cigna Health Plans of CA; Circuitry Engineering; City of Hidden Hills; Coast Welding Supply, Inc.; Commercial Coil Spring Company; Contract Applications, Inc.; County of San Luis Obispo; Crystallite Co.; Darnell Corp.; Data Card; Data Documents Systems; Dela-Tek, Incorporated; Denny's Restaurants; D-Whit, Inc. (fka Whitney Machinery, Inc.); Economics Lab, Inc.; EDCO Disposal; Ericsson; Foster & Kleiser; Fruit Growers Supply; Futura Metal Technology; Gannett; Gannon Manufacturing Company; Haley Brothers; Harsco Corporation, through its April 11, 1966 Acquisition of Certain Assets of Borden Metal Products Henry Company, Resin Technology Division; Honetreat Corporation; IAMA, Inc.; IMAAC Corporation; Inca Products Company; J. Colavin & Sons; Jack in the Box; Jostens, Inc.; K&N Engineering, Inc.; K/J Plating; Kerr Dental; Kerr Glass Mfg. Corp.; Keystone Products, Inc.; Keystone RV Company, successor by merger to Dutchmen Manufacturing, Inc., sucessor to Komfort Corporation; Kilovac Corp.; Magnet Sales & Manufacturing, Inc.; Manufacturers Life Insurance; Marriott International, Inc.; Martin Decker Company; Merck & Co., Inc.; Metelics; Nanofilm; Norris Plumbing Fixtures; Pacific Resins & Chemical; Pacific Ship Repair; PCB Engineering; Penhall Company; Petroleum Contractors, Inc.; Precision Anodizing & Plating, Inc.; Precision Autobody; QT Optoelectronics; Rain Bird Sprinkler Mfg. Corp.; S I I Willis Oil Tool Company; Schuster Flexible Packaging/Schuster Cellophane; Sea-Land Service, Inc.; Shepherd Machinery; Silicon Valley Group; Smart

Supply Company; Soco West, Inc.; Southern California Carton; Stanley Bostich; Steve Reynolds, Prado Road Service; Sun Eight Company, Inc.; Sundance Spas, Inc.; Super Seal & Stripe; Superior Gear; Thermo Analytical, Inc./EAL; Thornton Coast Ring Corp.; Tryad Service Corporation; Tulip Corporation; Universal Molding Company; US Foods;Ventura Rubbish; Vorelco, Inc.; Western Specialty Coatings Co.

Dated: September 27, 2018.

Enrique Manzanilla,

Director, Superfund Division, U.S. EPA Region IX.

[FR Doc. 2018–24201 Filed 11–2–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receiverships

Notice is Hereby Given that the Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for the institutions listed below, intends to terminate its receivership for said institutions.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIPS

Fund	Receivership name	City	State	Date of appointment of receiver
10442	Farmers' & Traders' State Bank	Shabbona	IL	06/08/2012
10198	Century Security Bank	Duluth	GA	03/19/2010
10529	The Farmers and Merchants State Bank of Argonia.	Argonia	KS	10/13/2017

The liquidation of the assets for each receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of any of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and be sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of the above-mentioned receiverships will be considered which are not sent within this time frame.

Dated at Washington, DC, on October 31, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–24115 Filed 11–2–18; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receivership

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for the institution listed below intends to terminate its receivership for said institution.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIP

Fund	Receivership name	City	State	Date of appointment of receiver
10522	Allied Bank	Mulberry	AR	09/23/2016

The liquidation of the assets for the receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing, identify the receivership to which the comment pertains, and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated at Washington, DC, on October 31, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–24172 Filed 11–2–18; 8:45 am]

BILLING CODE P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, November 8, 2018 at 10:00 a.m.

PLACE: 1050 First Street NE, Washington, DC.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices.

Investigatory records compiled for law enforcement purposes and production would disclose investigative techniques.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

Contact Person for More Information: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2018–24245 Filed 11–1–18; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan 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 application also will 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 HOLA (12 U.S.C. 1467a(e)). 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 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). 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 November 27, 2018.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *WSFS Financial Corporation, Wilmington, Delaware;* to merge with Beneficial Bancorp, Inc., Philadelphia, Pennsylvania, and thereby indirectly acquire shares of Beneficial Bank, Philadelphia, Pennsylvania. Beneficial Bancorp Inc. intends to apply to become a savings and loan holding company with respect to Beneficial Bank's conversion to a stock federal savings association.

Board of Governors of the Federal Reserve System, October 30, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–24074 Filed 11–2–18; 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 November 21, 2018.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Kanwar Deep Suri,* Dallas, Texas, and Noah Ratilal Shah, Bartonville, Texas; to each acquire voting shares of One World Holding, Inc., and thereby indirectly acquire voting shares of One World Bank, both of Dallas, Texas.

Board of Governors of the Federal Reserve System, October 30, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–24083 Filed 11–2–18; 8:45 am]

BILLING CODE 6210–01–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 November 30, 2018.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Geneva State Company, Geneva, Nebraska;* to acquire voting shares of Jefferson County Bancshares, Inc., and thereby indirectly acquire Jefferson County Bank, both of Daykin, Nebraska.

2. *Geneva State Company, Geneva, Nebraska;* to acquire voting shares of First National Fairbury Corporation, and thereby indirectly acquire First National Bank of Fairbury, both of Fairbury, Nebraska.

Board of Governors of the Federal Reserve System, October 31, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–24143 Filed 11–2–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Consolidated Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y–12; OMB No. 7100–0300) and the Annual Report of Merchant Banking Investments Held for an Extended Period (FR Y–12A; OMB No. 7100–0300).

DATES: Comments must be submitted on or before January 4, 2019.

ADDRESSES: You may submit comments, identified by *FR Y–12 or FR Y–12A,* by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove sensitive personally identifiable information at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions; including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report Title: Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies, and the Annual Report of Merchant Banking Investments Held for an Extended Period.

Agency form number: FR Y–12 and FR Y–12A, respectively.

OMB control number: 7100–0300.

Frequency: FR Y–12, quarterly and semiannually; and FR Y–12A, annually.

Reporters: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), U.S. intermediate holding companies (IHCs), and financial holding companies (FHCs) that hold merchant banking investments that are approaching the end of the holding periods permissible under Regulation Y.

Estimated annual reporting hours: FR Y–12 quarterly, 1,782 hours; FR Y–12 semiannual, 165 hours; and FR Y–12A, 3,293 hours.

Estimated average hours per response: FR Y–12, 16.5 hours; and FR Y–12A, 7.5 hours.

Number of respondents: FR Y–12 quarterly, 27; FR Y–12 semiannual, 5; and FR Y–12A, 439.

General description of report: The FR Y–12 collects information from certain domestic BHCs, SLHCs, and U.S. intermediate holding companies (collectively, holding companies) on their equity investments in nonfinancial companies. Respondents report the FR Y–12 either quarterly or semiannually based on reporting threshold criteria. The FR Y–12A is filed annually by FHCs that hold merchant banking investments that are approaching the end of the holding periods permissible under Regulation Y (covered investments).

Proposed revisions: The Board proposes to revise the FR Y–12 by (1) requiring that dollar values

be reported in thousands instead of millions, and (2) no longer requiring firms to report the fax number of the person to be contacted regarding a report submission. The Board proposes to revise the FR Y–12A by (1) requiring that dollar values be reported in thousands instead of millions, (2) adding an item for the holding period expiration date of the covered investment, (3) expanding the scope of the item where a respondent indicates its plan and schedule for disposition of its covered investment, (4) clarifying that the top-tier FHC should be the filer for each submitted report, (5) adding an item for the RSSD ID of the direct holder of the covered investment, (6) clarifying that an FHC needs to continue to file the report until it ceases to hold the covered investment, (7) no longer requiring firms to report the fax number of the person to be contacted regarding a report submission, and (8) making other minor clarifications throughout the instructions. The proposed revisions to the FR Y–12 would be effective for the March 30, 2019, report date. The proposed revisions to the FR Y–12A would be effective for the December 31, 2019, report date.

FR Y–12 and FR Y–12A

The Board is proposing to require firms to report dollar values on the FR Y–12 and FR Y–12A reports in thousands instead of millions. Since firms currently file the reports in millions, any amounts reported that are less than $500 thousand round down and are reported as a $0. On the FR Y–12A report, this can cause problems as the Board may not be adequately able to assess a respondent's plan for disposing of its covered investment without knowing the dollar value of the investment. For consistency between the FR Y–12 and FR Y–12A reports, the Board is proposing this change for both reports.

The Board is also proposing to remove the item that captures the fax number of the person to be contacted regarding a report submission from the FR Y–12 and FR Y–12A reports, as this information is no longer needed.

FR Y–12A Only

The Board is proposing to add an item indicating when the permissible holding period expires for a merchant banking investment. As previously mentioned, FHCs are only allowed to hold merchant banking investments for a specified number of years, unless the Board approves an extension request. Currently, the date of expiration for the permissible holding period is not included on the form. As a result, Board staff routinely need to follow up with FHCs for this information. To streamline this process, the Board is proposing to revise the FR Y–12A to require respondents to indicate the date on which the permissible holding period expires for a covered investment (proposed item 1.a).

The Board is also proposing to expand the scope of the existing item where an FHC indicates its plan and schedule for disposition of its covered investment (current item 8). Since FHCs can only hold merchant banking investments for a specified number of years, the FR Y–12A report currently contains an item where FHCs explain their plans and schedules for disposition of these investments. In reviewing these plans, the Board frequently needs to reach out to the FHCs to obtain more information than is provided in FR Y–12A submissions. For example, the Board may ask about previous efforts to dispose of the covered investment, or any potential challenges related to the disposition. Therefore, the Board is proposing to expand the scope of current item 8 in order to have a more complete picture of the disposition process. This expanded item will streamline the review process for the FR Y–12A report by allowing the Board to ask FHCs fewer follow up questions regarding FR Y–12A submissions. To better incorporate this expanded scope, the Board is proposing to rename this item from 'Plan and Schedule for disposition of the Covered Investment' to 'Past Efforts and Future Plan, Including Timing, to Achieve Disposition of Covered Investment Within the Holding Period.'

The Board is further proposing to clarify that the top-tier FHC should be the filer for each submitted report. Currently, there is diversity in practice among FR Y–12A filers in that some firms file at the FHC level, while other firms file at the direct holder level. The instructions are ambiguous as to which firm within the organization should be the filer. For consistency and clarity, the Board proposes to clarify the instructions to state that all firms should report at the FHC level. On a case-by-case basis, top-tier holding companies can be given exemptions to file certain regulatory reports. In these cases, lower-tier holding companies typically file on their behalf. The proposed revisions to the FR Y–12A would indicate that if the top-tier FHC is exempt from reporting the FR Y–12A report, then a lower-tier holding company must file on its behalf.

In conjunction with the proposal to clarify that the top-tier FHC should be the FR Y–12A filer, the Board is also proposing to add an item that requires an FHC to report the RSSD ID of the direct holder of the covered investment within its organization. An RSSD ID is a unique identifier assigned to institutions by the Federal Reserve. The FR Y–12A report currently has an item for the name and location of the direct holder of the covered investment, but not an item for the RSSD ID of the direct holder. Submission of the RSSD ID of the direct holder will better enable the Board to monitor the covered investment, and will allow the Board to more effectively scope examinations to put more resources towards specific subsidiaries if they are direct holders of covered investments.

Finally, the Board is proposing to clarify that an FHC needs to continue to file the FR Y–12A report until the FHC ceases to hold its covered investment. The instructions currently require FHCs to file the report if they hold merchant banking investments for longer than eight years (or 13 years in the case of an investment held through a qualifying private equity fund). An FHC may hold such investments beyond the permissible holding period if it receives Board approval to do so. However, the instructions do not clearly state that an FHC needs to continue to file the FR Y–12 report until it ceases to hold its merchant banking investment, even if the permissible holding period has been extended by the Board. Adding such clarifying language will remove ambiguity about when an FHC can cease reporting the FR Y–12A report. *Legal authorization and confidentiality:* The Board's Legal Division has determined that the information collected under the FR Y–12 and FR Y–12A is mandatory and authorized to be collected from BHCs and FHCs pursuant to section 5(c) of the Bank Holding Company Act (BHC ACT) (12 U.S.C. 1844(c)(1)(A)); from SLHCs pursuant to section 10(b)(2) of the Home Owners Loan Act (HOLA) (12 U.S.C. 1467a(b)(2)), as amended by Section 369(8) of the Dodd-Frank Wall Street and Consumer Protection Act (Dodd-Frank Act); and from IHCs pursuant to Section 5(c) of the BHC Act, (12 U.S.C. 1844(c)(1)(A)), as well as pursuant to Sections 102(a)(1) and 165 of the Dodd-Frank Act, (12 U.S.C. 5311(a)(1)) and 5365,[1] and Regulation YY, 12 CFR 252.153(b)(2).

[1] Section 165(b)(2) of Title I of the Dodd-Frank Act, (12 U.S.C. 5365(b)(2)), refers to ''foreign-based bank holding company.'' Section 102(a)(1) of the Dodd-Frank Act, (12 U.S.C. 5311(a)(1)), defines ''bank holding company'' for purposes of Title I of the Dodd-Frank Act to include foreign banking organizations that are treated as bank holding companies under Section 8(a) of the International Banking Act, (12 U.S.C. 3106(a)). The Board has required, pursuant to Section 165(b)(1)(B)(iv) of the

Continued

In addition, with respect to the FR Y–12A report, Section 4(k)(7)(A) of the BHC Act, (12 U.S.C. 1843(k)(7)(A)), authorizes the Board and the Treasury Department to jointly develop implementing regulations governing merchant banking activities for purposes of section 4(k)(4)(H) of the BHC Act. Section 4(k)(4)(H) of the BHC Act, (12 U.S.C. 1843(k)(4)(H)), and subpart J of the Board's Regulation Y, (12 CFR 225.170 *et seq.*), authorize a BHC that has made an effective FHC election to acquire merchant banking investments that are not otherwise permissible for an FHC. Section 10(c)(2)(H) of HOLA, as amended by Section 606(b) of the Dodd-Frank Act, (12 U.S.C. 1467a(c)(2)(H)), and Section 8(a) of the International Bank Act, (12 U.S.C. 3106(a)), extend certain authorities and requirements of the BHC Act to SLHCs and to foreign banks, respectively.

The Board does not consider information collected on the FR Y–12 report to be confidential, and the completed version of this report generally is made available to the public upon request. However, exemption 4 of the Freedom of Information Act (FOIA) provides an exemption from public disclosure for ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' (5 U.S.C. 552(b)(4)). Thus, if a respondent feels that disclosure of confidential commercial or financial information on the FR Y–12 report is reasonably likely to result in substantial harm to its competitive position under exemption 4 of the FOIA, the respondent may request confidential treatment for such information pursuant to the Board's Rules Regarding the Availability of Information, 12 CFR 261.15.

The Board generally considers the information collected on the FR Y–12A to be confidential under exemption 4 of the FOIA (5 U.S.C. 552(b)(4)). Information reported on the FR Y–12A is competitively sensitive and its release would likely result in substantial harm to the competitive position of an FHC or SLHC. In addition, if the FR Y–12A data is obtained as a part of an examination or supervision of a financial institution, this information may also be withheld pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process (5 U.S.C. 552(b)(8)).

Board of Governors of the Federal Reserve System, October 29, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–24118 Filed 11–2–18; 8:45 am]

BILLING CODE 6210–01–P

Dodd-Frank Act, (12 U.S.C. 5365(b)(1)(B)(iv)), certain of the foreign banking organizations that are subject to section 165 of the Dodd-Frank Act to form U.S. intermediate holding companies. Accordingly, the parent foreign-based organization of a U.S. IHC is treated as a BHC for purposes of the BHC Act and Section 165 of the Dodd-Frank Act. Because Section 5(c) of the BHC Act authorizes the Board to require reports from subsidiaries of BHCs, Section 5(c) provides additional authority to require U.S. IHCs to report the information contained in the FR Y–12 and FR Y–12A reports.

FEDERAL TRADE COMMISSION

[File No. 181 0152]

Marathon Petroleum Corp.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before November 26, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Marathon Petroleum Corp.; File No. 1810152'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/marathonpetroleumcorpconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Marathon Petroleum Corp.; File No. 1810152'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Helder G. Agostinho (202–326–3415), Bureau of Competition, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 25, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before November 26, 2018. Write ''Marathon Petroleum Corp.; File No. 1810152'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/marathonpetroleumcorpconsent/* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that website.

If you prefer to file your comment on paper, write ''Marathon Petroleum Corp.; File No. 1810152'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not

include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before November 26, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy*.

Analysis of Proposed Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Marathon Petroleum Corporation (''Marathon'') and Express Mart Franchising Corp., Petr-All Petroleum Consulting Corporation, and REROB, LLC (''Express Mart'' and collectively, the ''Respondents''). The Consent Agreement is designed to remedy the anticompetitive effects that likely would result from Marathon's proposed acquisition of retail fuel outlets and other interests from Express Mart.

Under the terms of the proposed Consent Agreement, Marathon must divest to the upfront buyer Sunoco LP (''Sunoco'') retail fuel outlets and related assets in five local markets in New York. Marathon must complete the divestiture within 90 days after the closing of Marathon's acquisition of Express Mart. The Commission and Respondents have agreed to an Order to Maintain Assets that requires Respondents to operate and maintain each divestiture outlet in the normal course of business through the date Sunoco acquires the outlet.

The Commission has placed the proposed Consent Agreement on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement, modify it, or make it final.

II. The Respondents

Respondent Marathon, a publicly traded company headquartered in Findlay, Ohio, operates a vertically integrated refining, marketing, retail, and transportation system. Marathon's wholly owned subsidiary, Speedway LLC (''Speedway''), owns and operates 2,740 convenience stores located in 21 states, making it the second-largest chain of company-owned and -operated gasoline and convenience stores in the United States. In addition, independent entrepreneurs own and operate 5,600 Marathon-branded retail fuel outlets in 20 states and the District of Columbia.

Respondent Express Mart is a collection of closely held New York State S Corporations and limited liability companies headquartered in Syracuse, New York. Express Mart owns and operates convenience stores and retail fuel outlets stations primarily along the I–90 corridor in the Syracuse-Rochester-Buffalo region of upstate New York. Express Mart's network includes 77 convenience stores with attached fuel stations, as well as 11 franchise locations owned by independent contract dealers operating under the Express Mart banner. Express Mart's convenience stores operate under the Express Mart name, while its retail fuel stations operate primarily under the Sunoco banner.

III. The Proposed Acquisition

On April 13, 2018, Marathon, through its wholly owned subsidiary Speedway, entered into an agreement to acquire certain retail fuel outlets and other interests, from Express Mart (the ''Transaction''). The Transaction would expand Speedway's presence across upstate New York.

The Commission's Complaint alleges that the Transaction, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and that the Transaction agreement constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition for the retail sale of gasoline and the retail sale of diesel in five local markets in New York.

IV. The Retail Sales of Gasoline and Diesel

The Commission's Complaint alleges that the relevant product markets in which to analyze the Transaction are the retail sale of gasoline and the retail sale of diesel. Consumers require gasoline for their gasoline-powered vehicles and can purchase gasoline only at retail fuel outlets. Likewise, consumers require diesel for their diesel-powered vehicles and can purchase diesel only at retail fuel outlets. The retail sale of gasoline and the retail sale of diesel constitute separate relevant markets because the two are not interchangeable—vehicles that run on gasoline cannot run on diesel and vehicles that run on diesel cannot run on gasoline.

The Commission's Complaint alleges the relevant geographic markets in which to assess the competitive effects of the Transaction include five local markets within the following cities: Farmington, Fayetteville, Johnson City, Rochester, and Whitney Point in New York.

The geographic markets for retail gasoline and retail diesel are highly localized, ranging up to a few miles, depending on local circumstances. Each relevant market is distinct and fact-dependent, reflecting a number of

considerations, including commuting patterns, traffic flows, and outlet characteristics. Consumers typically choose between nearby retail fuel outlets with similar characteristics along their planned routes. The geographic markets for the retail sale of diesel may be similar to the corresponding geographic markets for retail gasoline as many diesel consumers exhibit the same preferences and behaviors as gasoline consumers.

The Transaction would substantially increase the market concentration in each of the five local markets, resulting in five highly concentrated markets for the retail sale of gasoline and the retail sale of diesel. In four of the five local gasoline retail markets, the Transaction would reduce the number of competitively constraining independent market participants from three to two. In the fifth local gasoline retail market, the Transaction would reduce the number of competitively constraining independent participants from four the three. In three of the five retail diesel markets, the Transaction would result in a merger to monopoly. In the fourth diesel market, the Transaction would reduce the number of competitively constraining independent participants from three to two. In the fifth diesel market, the Transaction would reduce the number of competitively constraining independent participants from four to three.

The Transaction would substantially lessen competition for the retail sale of gasoline and the retail sale of diesel in these local markets. Retail fuel outlets compete on price, store format, product offerings, and location, and pay close attention to competitors in close proximity, on similar traffic flows, and with similar store characteristics. The combined entity would be able to raise prices unilaterally in markets where Marathon and Express Mart are close competitors. Absent the Transaction, Marathon and Express Mart would continue to compete head to head in these local markets.

Moreover, the Transaction would enhance the incentives for interdependent behavior in local markets where only two or three competitively constraining independent market participants would remain. Two aspects of the retail fuel industry make it vulnerable to such coordination. First, retail fuel outlets post their fuel prices on price signs that are visible from the street, allowing competitors to observe each other's fuel prices without difficulty. Second, retail fuel outlets regularly track their competitors' fuel prices and change their own prices in response. These repeated interactions give retail fuel outlets familiarity with how their competitors price and how changing prices affect their sales.

Entry into each relevant market would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects arising from the Acquisition. Significant entry barriers include the availability of attractive real estate, the time and cost associated with constructing a new retail fuel outlet, and the time associated with obtaining necessary permits and approvals.

V. The Proposed Consent Agreement

The proposed Consent Agreement would remedy the Acquisition's likely anticompetitive effects by requiring Marathon to divest certain Speedway and Express Mart retail fuel outlets and related assets to Sunoco in five local markets.

The proposed Consent Agreement requires that the divestiture be completed no later than 90 days after Marathon consummates the Acquisition. This Agreement protects the Commission's ability to obtain complete and effective relief given the small number of outlets to be divested. The proposed Consent Agreement further requires Marathon and Express Mart to maintain the economic viability, marketability, and competitiveness of each divestiture asset until the divestiture to Sunoco is complete. For up to twelve months following the divestiture, Marathon and Express Mart must make available transitional services, as needed, to assist the buyer of each divestiture asset.

In addition to requiring outlet divestitures, the proposed Consent Agreement also requires Respondents to provide the Commission notice before acquiring designated outlets in the five local areas for ten years. The prior notice provision is necessary because acquisitions of the designated outlets likely raise competitive concerns and may fall below the HSR Act premerger notification thresholds.

Presently, in Rochester, New York, one local market of concern, Sunoco serves as the wholesale supplier to a retail fuel outlet that is an independent competitor to Speedway and Express Mart. By purchasing the Speedway outlet, Sunoco will also become a competitor to the outlet for which it is currently a wholesale supplier. To address this concern, Sunoco has agreed to implement a firewall between its wholesale and retail fuel pricing businesses in that local market. The firewall will restrict Sunoco retail pricing personnel's access to wholesale information, prohibiting Sunoco retail from knowing, among other information, how its pricing decisions affect the competing location's volumes.

The proposed Consent Agreement contains additional provisions designed to ensure the effectiveness of the proposed relief. For example, Respondents have agreed to an Order to Maintain Assets that will issue at the time the proposed Consent Agreement is accepted for public comment. The Order to Maintain Assets requires Respondents to operate and maintain each divestiture outlet in the normal course of business, through the date the Respondents' complete divestiture of the outlet. During this period, and until such time as the buyer no longer requires transitional assistance, the Order to Maintain Assets authorizes the Commission to appoint an independent third party as a Monitor to oversee the Respondents' compliance with the requirements of the proposed Consent Agreement.

The purpose of this analysis is to facilitate public comment on the proposed Consent agreement, and the Commission does not intend this analysis to constitute an official interpretation of the proposed Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–24078 Filed 11–2–18; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1967]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Biosimilars User Fee Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 5, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written

comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0718. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Biosimilars User Fee Program

OMB Control Number 0910–0718—Extension

This information collection supports FDA's Biosimilars User Fee Program. The Biologics Price Competition and Innovation Act of 2009 (BPCI Act), amended the Public Health Service Act by adding section 351(k) (42 U.S.C. 262(k)) to create an abbreviated approval pathway for biological products shown to be biosimilar to or interchangeable with an FDA-licensed reference biological product. This allows a company to apply for licensure of a biosimilar or interchangeable biological product (351(k) application). The BPCI Act also amended section 735 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g) to include 351(k) applications as a type of application under ''human drug application'' for the purposes of the prescription drug user fee provisions.

The Biosimilar User Fee Act of 2012 (BsUFA) authorized FDA to assess and collect user fees for certain activities in connection with biosimilar biological product development (BPD). BsUFA was reauthorized for an additional 5 years in August 2017 (BsUFA II). FDA's biosimilar biological product user fee program requires FDA to assess and collect user fees for certain meetings concerning biosimilar BPD (BPD meetings), investigational new drug applications (INDs) intended to support a biosimilar biological product application, and biosimilar biologic license applications (BLAs).

Form FDA 3792, entitled ''Biosimilars User Fee Cover Sheet'', is submitted by each new BPD entrant (identified via a new meeting request or IND submission) and new BLAs. Form FDA 3792 requests the minimum necessary information to identify the request and determine the amount of the fee to be assessed, and to account for and track user fees. The form provides a cross-reference of the fees submitted for an activity with the actual submission or activity by using a unique number tracking system. The information collected is used by FDA's Center for Drug Evaluation and Research and Center for Biologics Evaluation and Research to initiate the administrative screening of biosimilar biological product INDs, and BLAs, and to account for and track user fees associated with BPD meetings.

In addition to the Biosimilars User Fee Cover Sheet, the information collection includes an annual survey of all BsUFA II participants designed to provide information to FDA of anticipated BsUFA II activity in the upcoming fiscal year. This information helps FDA set appropriate annual BsUFA II fees.

FDA has also developed the guidance entitled, ''Assessing User Fees Under the Biosimilar User Fee Amendments of 2017'' to assist industry in understanding when fees are incurred and the process by which applicants can submit payments. The guidance also explains how respondents can request discontinuation from the BPD program as well as how respondents can request to move products to the discontinued section of the biosimilar list. Finally, the guidance provides information on the consequences of failing to pay BsUFA II fees, as well as processes for submitting reconsideration and appeal requests. The guidance is available on our website at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM584984.pdf.*

In the **Federal Register** of June 29, 2018 (83 FR 30746), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection title	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (hours)	Total hours
Biosimilar User Fee Cover Sheet; Form FDA 3792	35	1	35	*0.5	17.5
Annual Survey	35	1	35	1	35
Request for discontinuation from BPD program	2	1	2	1	2
Request to move products to discontinued section of the biosimilar list	5	1	5	*0.5	2.5
Total					57

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
* 30 minutes.

We have increased our estimate by an additional 15 respondents since last OMB approval of the information collection. This estimated increase is based on our expectation that participation in the BPD program will continue to grow, consistent with our experience since establishment of the information collection in 2012.

Dated: October 30, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24130 Filed 11–2–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6841]

Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices and Certain Devices Requiring Direct Marking; Immediately in Effect Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance entitled ''Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices and Certain Devices Requiring Direct Marking; Immediately in Effect Guidance for Industry and Food and Drug Administration Staff.'' This guidance describes FDA's intention with respect to the enforcement of unique device identification requirements for class I and unclassified devices, other than implantable, life-sustaining, or life-supporting (I/LS/LS) devices. FDA does not intend to enforce standard date formatting, labeling, and Global Unique Device Identification Database (GUDID) data submission requirements for these devices before September 24, 2020. In addition, FDA does not intend to enforce direct mark requirements for these devices before September 24, 2022. This guidance also describes FDA's direct mark compliance policy for class III, LS/LS, and class II devices that are nonsterile, manufactured and labeled prior to their applicable direct mark compliance date, and remain in inventory, as well as for class I and unclassified devices that are nonsterile, manufactured and labeled prior to September 24, 2022, and remain in inventory. FDA does not intend to enforce the direct mark requirements for these devices when the device's unique device identifier (UDI) can be derived from other information directly marked on the device. The guidance document is immediately in effect, but it remains subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidance is published in the **Federal Register** on November 5, 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–2017–D–6841 for ''Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices and Certain Devices Requiring Direct Marking; Immediately in Effect Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices and Certain Devices Requiring Direct Marking; Immediately in Effect Guidance for Industry and Food and Drug Administration Staff'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT:

For Center for Devices and Radiological Health-regulated devices: Christina Savisaar, UDI Regulatory Policy Support, 10903 New Hampshire Ave., Bldg. 66, Rm. 3319, 301–796–5995, email: *GUDIDSupport@fda.hhs.gov.*

For Center of Biologics Evaluation and Research-regulated devices: Stephen Ripley, Office of Communication, Outreach, and Development, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911, or call 1–800–835–4709 or 240–402–8010.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance entitled ''Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices and Certain Devices Requiring Direct Marking; Immediately in Effect Guidance for Industry and Food and Drug Administration Staff.'' On September 24, 2013, FDA published a final rule establishing a unique device identification system designed to adequately identify devices through distribution and use (the UDI Rule). Phased implementation of the regulatory requirements set forth in that final rule is based on a series of established compliance dates based primarily on device classification, which range from September 24, 2014, to September 24, 2020.

The UDI Rule requires a device to bear a unique device identifier on its label and packages unless an exception or alternative applies (see 21 CFR 801.20), and special labeling requirements apply to stand-alone software regulated as a device (21 CFR 801.50). The UDI Rule also requires that data pertaining to the key characteristics of each device required to bear a UDI be submitted to FDA's GUDID (21 CFR 830.300). In addition, the final rule added 21 CFR 801.18, which requires certain dates on device labels to be in a standard format. For devices that: (1) Must bear UDIs on their labels and (2) are intended to be used more than once and reprocessed between uses, 21 CFR 801.45 requires the devices to be directly marked with a UDI. Compliance dates for labeling, GUDID data submission, standard date format, and direct marking requirements can be found in 78 FR 58786 at 58815 to 58816.

This guidance describes FDA's intention with regard to enforcement of labeling, standard date formatting, GUDID data submission, and direct marking for class I and unclassified devices, other than I/LS/LS devices. This guidance also describes FDA's intention with regard to direct mark requirements for class III, LS/LS, and class II devices that are nonsterile, manufactured and labeled prior to their applicable direct mark compliance date, and remain in inventory, as well as FDA's intention with regard to direct mark requirements for class I and unclassified devices that are nonsterile, manufactured and labeled prior to September 24, 2022, and remain in inventory.

FDA considered comments received on the guidance that appeared in the **Federal Register** on January 16, 2018 (83 FR 2057). FDA revised the guidance as appropriate in response to the comments. This guidance supersedes the January 2018 guidance of the same name, ''Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices; Immediately in Effect Guidance for Industry and Food and Drug Administration Staff.''

This guidance is being implemented without prior public comment because the Agency has determined that prior public participation is not feasible or appropriate (§ 10.115(g)(2) (21 CFR 10.115(g)(2))). FDA has determined that this guidance document presents a less burdensome policy that is consistent with public health. Although this guidance is immediately in effect, FDA will consider all comments received and revise the guidance document as appropriate.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (§ 10.115). The guidance represents the current thinking of FDA on ''Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices and Certain Devices Requiring Direct Marking.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov* or *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* Persons unable to download an electronic copy of ''Unique Device Identification: Policy Regarding Compliance Dates for Class I and Unclassified Devices and Certain Devices Requiring Direct Marking; Immediately in Effect Guidance for Industry and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 17029 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the following FDA regulations have been approved by OMB as listed in the following table:

21 CFR part	Topic	OMB control No.
801 subpart B and 830	Unique Device Identification	0910–0720
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation	0910–0073

Dated: October 31, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24177 Filed 11–2–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel ''Vaccine Adjuvant Discovery Program''.

Date: November 28–29, 2018.

Time: 12:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Geetanjali Bansal, Ph.D., Scientific Reviewer Officer, Scientific Review Program, Division of Extramural Activities, Room 3G49, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9834, Bethesda, MD 20892–9834, (240) 669–5073, *geetanjali.bansal@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Clinical Trial Implementation Cooperative Agreement (U01).

Date: November 29, 2018.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Kumud K. Singh, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, 301–761–7830, *kumud.singh@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 30, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24102 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; NIH Office of Intramural Training & Education—Application, Registration, and Alumni Systems, Office of the Director

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health Office of Intramural Training & Education (OITE) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Patricia Wagner, Program Analyst, Office of Intramural Training & Education (OITE), Office of Intramural Research (OIR), Office of the Director (OD), National Institutes of Health (NIH); 2 Center Drive: Building 2/Room 2E06; Bethesda, Maryland 20892 or call non-toll-free number 240–476–3619 or Email your request, including your address to: *wagnerpa@od.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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.

Proposed Collection Title: NIH Office of Intramural Training & Education—Application, Registration, and Alumni Systems, 0925–0299, 06/30/2019, REVISION, Office of Intramural Training & Education (OITE), Office of Intramural Research (OIR), Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: The Office of Intramural Training & Education (OITE) administers a variety of programs and initiatives to recruit pre-college through pre-doctoral educational level individuals into the National Institutes of Health Intramural Research Program (NIH–IRP) to facilitate their development into future biomedical scientists. The proposed information collection is necessary in order to determine the eligibility and quality of potential awardees for traineeships in these programs. The applications for admission consideration solicit information including: Personal information, ability to meet eligibility criteria, contact information, university-assigned student identification number, training program selection, scientific discipline interests, educational history, standardized examination scores, reference information, resume components, employment history, employment interests, dissertation research details, letters of recommendation, financial aid history, sensitive data, and travel information, as well as feedback questions about interviews and application submission experiences. Sensitive data collected on the applicants: Race, gender, ethnicity, relatives at NIH, and recruitment method, are made available only to OITE staff members or in aggregate form to select NIH offices and are not used by the admission committees for admission consideration. In addition, information to monitor trainee placement after departure from NIH is periodically collected.

OMB approval is requested for 3 years. There are no costs to respondents

other than their time. The total estimated annualized burden hours are 13,297.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time/ response (hours)	Total annual burden hours
High School Scientific Training & Enrichment Program—Orientation	25	1	10/60	4
High School Scientific Training & Enrichment Program 2.0—Orientation	25	1	10/60	4
HiSTEP & HiSTEP2—Alumni Tracking	125	2	30/60	125
Summer Internship Program—Application	8,000	1	45/60	6,000
Summer Internship Program—Recommendation Letters	16,000	1	10/60	2,667
Amgen Scholars at NIH—Supplemental Application	535	1	10/60	89
Amgen Scholars at NIH—Feedback	20	1	15/60	5
Amgen Scholars at NIH—Alumni Tracking	127	1	30/60	64
Community College Summer Enrichment Program—Alumni Tracking	158	1	10/60	26
College—Summer Opportunities in Advanced Research—Alumni Tracking	158	1	10/60	26
Graduate—Summer Opportunities in Advanced Research—Alumni Tracking	114	1	30/60	57
Graduate Data Science Summer Program—Alumni Tracking	30	1	30/60	15
Native American Visit Week—Application	15	1	20/60	5
Native American Visit Week—Recommendation Letters	15	1	10/60	3
Native American Visit Week—Feedback	15	1	15/60	4
Undergraduate Scholarship Program—Application	125	1	60/60	125
Undergraduate Scholarship Program—Recommendation Letters for Applicants	375	1	10/60	63
Undergraduate Scholarship Program—Exceptional Financial Need—Completed by Applicant	125	1	3/60	8
Undergraduate Scholarship Program—Exceptional Financial Need—Completed by University Staff	125	1	15/60	41
Undergraduate Scholarship Program—Exceptional Financial Need Resubmission—Completed by Applicant	38	1	3/60	8
Undergraduate Scholarship Program—Exceptional Financial Need Resubmission—Completed by University Staff	38	1	15/60	41
Undergraduate Scholarship Program—Scholar Contract	25	1	10/60	4
Undergraduate Scholarship Program—Evaluation of Scholar Pay Back Period	30	1	15/60	8
Undergraduate Scholarship Program—Renewal Application	15	1	45/60	11
Undergraduate Scholarship Program—Recommendation Letters for Renewals	15	1	10/60	3
Undergraduate Scholarship Program—Deferment Form—Completed by Scholar	10	1	3/60	1
Undergraduate Scholarship Program—Deferment Form—Completed by University Staff	10	1	12/60	2
Postbaccalaureate Training Program—Application	2,250	1	45/60	1,688
Postbaccalaureate Training Program—Recommendation Letters	6,750	1	10/60	1,125
NIH Academy—Fellow & Certificate Programs Application	300	1	15/60	75
NIH Academy—Enrichment Program Application	175	1	15/60	44
Graduate Partnerships Program—Application	325	1	60/60	325
Graduate Partnerships Program—Recommendation Letters for Application	975	1	10/60	163
Graduate Partnerships Program—Interview Experience Survey	30	1	10/60	5
Graduate Partnerships Program—Registration	175	1	15/60	44
Graduate Partnerships Program—Awards Certificate	75	1	30/60	38
MyOITE—User Accounts	6,000	1	3/60	300
MyOITE—NIH Alumni	500	1	15/60	125
OITE Careers Blog—Success Stories	6	1	45/60	5
Totals	43,854	43,979	N/A	13,297

Dated: October 29, 2018.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2018–24150 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Quantification of Drugs of Abuse and Related Compounds in Biological Specimens (8951).

Date: December 6, 2018.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 827–5702, *lf33c.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 30, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24100 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK SEP: RC2.

Date: November 19, 2018.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call)

Contact Person: Peter J. Kozel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7009, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–4721, *Kozelp@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 30, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24098 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Advisory Committee to the Director, National Institutes of Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, National Institutes of Health.

Date: December 13, 2018.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: NIH Director's Report, ACD Working Group Reports, Other Business of the Committee.

Place: National Institutes of Health. Building 31, 6th Floor Conference Room 6C, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, MD 20892, 301–496–4272, *Woodgs@od.nih.gov*.

Name of Committee: Advisory Committee to the Director, National Institutes of Health.

Date: December 14, 2018.

Time: 9:00 a.m. to 12:30 p.m.

Agenda: ACD Working Group Reports, Other Business of the Committee.

Place: National Institutes of Health, Building 31, 6th Floor Conference Room 6C, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, MD 20892, 301–496–4272, *Woodgs@od.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://acd.od.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: October 30, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24097 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular Disease.

Date: November 13, 2018.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0952, *espinozala@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; The Lasker Clinical Research Scholar Program.

Date: November 28, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cancer Health Disparities.

Date: November 29, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6009, *lin.reigh-yi@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cancer Health Disparities.

Date: November 29–30, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, 301–451–4467, *howardz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 30, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24103 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: December 3–4, 2018.

Closed: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Intramural Research Program, National Institute on Drug Abuse, NIH, Johns Hopkins Bayview Campus, Baltimore, MD 21223.

Contact Person: Joshua Kysiak, Program Specialist, Biomedical Research Center, Intramural Research Program, National Institute on Drug Abuse, NIH, DHHS, 251 Bayview Boulevard, Baltimore, MD 21224, 443–740–2465, *kysiakjo@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 30, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24099 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel Identification of Genetic and Genomic Variants by Next-Gen Sequencing in Non-human Animal Models (U01).

Date: November 16, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–827–5819, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel PHASE II Interview: NIDA Avant-Garde Award Program for HIV/AIDS and Drug Use Research (DP1).

Date: December 10, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–827–5820, *hiromi.ono@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 30, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24101 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Draft Report on Health Research and Development To Stem the Opioid Crisis: A Federal Roadmap; Request for Comments

AGENCY: National Institutes of Health, HHS.

ACTION: Notice for public comment.

SUMMARY: The Office of the Director, National Institutes of Health (NIH), on behalf of the National Science and Technology Council (NSTC); Committee on Science; Fast Track Action Committee on Health Science and Technology Response to the Opioid Crisis (Opioid FTAC), is requesting input on the content of a draft report, ''Health Research and Development to Stem the Opioid Crisis: A Federal Roadmap.''

DATES: Comments must be submitted on or before December 5, 2018.

ADDRESSES: You may submit comments by email to *opioidsroadmap@OSTP.eop.gov.* Please include ''Health Research and Development to Stem the Opioid Crisis: A Federal Roadmap'' in the subject line of the message.

Instructions: The draft report is available for download at: *https://www.nih.gov/draft-ftac.* Response to this Notice for Public Comments is voluntary. Clearly indicate the section and page number, if applicable, to which submitted comments pertain. All submissions must be in English. Please clearly label submissions as regarding ''Health Research and Development to Stem the Opioid Crisis: A Federal Roadmap.'' When the final report is issued, relevant comments and the commenters' names, along with the commenters' responses, may become part of the public record and be made available to view online. NIH therefore requests that commenters do not submit business proprietary information, copyrighted information, or personally identifiable information in response to this Notice for Public Comment. Please note that the U.S. Government will not pay for response preparation or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Sara Brenner, Office of Science and Technology Policy, (202) 456–444, or *OpioidsRoadmap@ostp.eop.gov.*

SUPPLEMENTARY INFORMATION: The Opioid FTAC was chartered in December 2017 to facilitate coordination of health Research and Development (R&D) and related Science and Technology (S&T) activities across agencies, and with other Administration initiatives, in support of the national response to the opioid crisis; facilitate interagency sharing of opioid-related health R&D findings, standard-based data and tools, and best practices; assess gaps in, and opportunities for strengthening, the R&D and related S&T response to the opioid crisis; and, identify opportunities to expedite promising and potentially groundbreaking R&D efforts to rapidly combat the crisis.

The draft report builds on the recommendations in the report from the President's Commission on Combating Drug Addiction and The Opioid Crisis, as well as recommendations from multiple other sources, such as the National Academy of Sciences report on Pain Management and the Opioid Epidemic, the Interagency Pain Research Coordinating Committee's Federal Pain Research Strategy, the National Governors Association report on Governor's Recommendations for Federal Action to End the Nation's Opioid Crisis, and the Surgeon General's report Facing Addiction in America, among others, to identify research and development opportunities to coordinate the Federal Government's S&T response to the opioid crisis. This notice solicits relevant public input on the draft report.

The report describes:

- Seven areas of R&D: (1) The Biology and Chemistry of Opioid Addiction and Pain, (2) Non-Biological Contributors to Opioid Addiction, (3) Pain Management, (4) Prevention of Opioid Addiction, (5) Treatment of Opioid Addiction and Withdrawal, (6) Overdose Prevention and Recovery, and (7) Community Consequences of Opioid Addiction;
- Research recommendations generated by the Opioid FTAC in each of these areas;
- An eighth section that includes recommendations on ways to enhance Federal interagency coordination as well as coordination with non-Federal stakeholders.

Dated: October 29, 2018.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2018–24149 Filed 11–2–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4403–DR; Docket ID FEMA–2018–0001]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–4403–DR), dated October 19, 2018, and related determinations.

DATES: The declaration was issued October 19, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 19, 2018, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from severe storms, straight-line winds, and flooding during the period of September 1 to September 8, 2018, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Paul Taylor, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Kansas have been designated as adversely affected by this major disaster:

Barber, Clay, Kingman, Kiowa, Marshall, Pratt, Rice, and Riley Counties for Public Assistance.

All areas within the State of Kansas are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24191 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002; Internal Agency Docket No. FEMA–B–1859]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before February 4, 2019.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1859, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

David I. Maurstad,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Fremont County, Iowa and Incorporated Areas Project: 16–07–0307S Preliminary Date: June 29, 2018	
City of Farragut	City Hall, 518 Hartford Avenue, Farragut, IA 51639.
City of Hamburg	City Office, 1201 Main Street, Hamburg, IA 51640.
City of Imogene	City Hall, 101 South Railroad Street, Imogene, IA 51645.
City of Randolph	City Hall, 107 South Main Street, Randolph, IA 51649.
City of Riverton	City Office, 803 Summer Avenue, Riverton, IA 51650.
City of Sidney	City Hall, 604 Clay Street, Sidney, IA 51652.
Town of Thurman	Fremont County Courthouse, 2014 290th Avenue, Sidney, IA 51652.
Unincorporated Areas of Fremont County	Fremont County Courthouse, 2014 290th Avenue, Sidney, IA 51652.
Mills County, Iowa and Incorporated Areas Project: 16–07–0303S Preliminary Date: June 29, 2018	
City of Emerson	City Hall, 410 Manchester Street, Emerson, IA 51533.
City of Glenwood	City Hall, 5 North Vine Street, Glenwood, IA 51534.
City of Hastings	City Hall, 401 Indian Avenue, Hastings, IA 51540.
City of Henderson	City Office, 310 Maple Street, Henderson, IA 51541.
City of Malvern	City Hall, 107 East 4th Street, Malvern, IA 51551.
City of Pacific Junction	City Hall, 407 Lincoln Avenue, Pacific Junction, IA 51561.
City of Silver City	City Hall, 417 Main Street, Silver City, IA 51571.
Unincorporated Areas of Mills County	Mills County Engineer's Office, 403 Railroad Avenue, Glenwood, IA 51534.
Dodge County, Nebraska and Incorporated Areas Project: 17–07–1393S Preliminary Dates: November 17, 2017 and May 23, 2018	
City of Hooper	City Office, 124 North Main Street, Hooper, NE 68031.
Unincorporated Areas of Dodge County	Dodge County Courthouse, 435 North Park Avenue, Fremont, NE 68025.

[FR Doc. 2018–24198 Filed 11–2–18; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of November 16, 2018 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

David I. Maurstad,

Deputy Associate Administrator for Insurance and Mitigation,Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Cabarrus County, North Carolina and Incorporated Areas Docket No.: FEMA–B–1718	
City of Concord	GIS Division, 35 Cabarrus Avenue West, Concord, NC 28025.
City of Kannapolis	City Hall, 401 Laureate Way, Kannapolis, NC 28081.
City of Locust	City Hall, 186 Ray Kennedy Drive, Locust, NC 28097.
Town of Harrisburg	Town Hall, 4100 Main Street, Suite 101, Harrisburg, NC 28075.
Town of Midland	Town Hall, 4293–B Highway 24/27 East, Midland, NC 28107.
Town of Mount Pleasant	Town Hall, 8590 Park Drive, Mount Pleasant, NC 28124.
Unincorporated Areas of Cabarrus County	Cabarrus County Planning Services, 65 Church Street Southeast, Concord, NC 28025.
Iredell County, North Carolina and Incorporated Areas Docket No.: FEMA–B–1718	
Unincorporated Areas of Iredell County	Iredell County Planning Department, 349 North Center Street, Statesville, NC 28687.
Mecklenburg County, North Carolina and Incorporated Areas Docket No.: FEMA–B–1718	
City of Charlotte	Mecklenburg County Storm Water Services, 2145 Suttle Avenue, Charlotte, NC 28208.
Town of Cornelius	Town Hall, 21445 Catawba Avenue, Cornelius, NC 28031.
Town of Davidson	Planning Department, 216 South Main Street, Davidson, NC 28036.
Town of Huntersville	Planning Department, 105 Gilead Road, Huntersville, NC 28078.
Unincorporated Areas of Mecklenburg County	Mecklenburg County Storm Water Services, 2145 Suttle Avenue, Charlotte, NC 28208.
Rowan County, North Carolina and Incorporated Areas Docket No.: FEMA–B–1718	
Unincorporated Areas of Rowan County	Rowan County Planning and Development Department, 402 North Main Street, #204, Salisbury, NC 28144.
Stanly County, North Carolina and Incorporated Areas Docket No.: FEMA–B–1718	
Town of Stanfield	Town Hall, 103 West Stanly Street, Stanfield, NC 28163.
Unincorporated Areas of Stanly County	Stanly County Planning and Zoning Department, 1000 North 1st Street, Albemarle, NC 28001.
Union County, North Carolina and Incorporated Areas Docket No.: FEMA–B–1718	
Town of Fairview	Fairview Land Use Office, 7400 Concord Highway, Monroe, NC 28110.
Unincorporated Areas of Union County	Union County Planning Department, 500 North Main Street, Suite 70, Monroe, NC 28112.

[FR Doc. 2018–24184 Filed 11–2–18; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of December 7, 2018 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472,

(202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

David I. Maurstad,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
El Paso County, Colorado and Incorporated Areas Docket No.: FEMA–B–1601	
City of Colorado Springs	City Administration, 30 South Nevada Avenue, Colorado Springs, CO 80903.
City of Fountain	City Hall, 116 South Main Street, Fountain, CO 80817.
City of Manitou Springs	City Hall, 606 Manitou Avenue, Manitou Springs, CO 80829.
Town of Calhan	Town Hall, 556 Colorado Avenue, Calhan, CO 80808.
Town of Green Mountain Falls	Town Hall, 10615 Unit B Green Mountain Falls Road, Green Mountain Falls, CO 80819.
Town of Monument	Town Hall, 645 Beacon Lite Road, Monument, CO 80132.
Town of Palmer Lake	Town Hall, 42 Valley Crescent Street, Palmer Lake, CO 80133.
Town of Ramah	Town Hall, 113 South Commercial Street, Ramah, CO 80832.
Unincorporated Areas of El Paso County	Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.
Lee County, Florida and Incorporated Areas Docket No.: FEMA–B–1510	
City of Fort Myers	Development Department, 1825 Hendry Street, Suite 101, Fort Myers, FL 33901.
Village of Estero	Community Development Department, 9401 Corkscrew Palms Circle, Estero, Florida 33928.
Unincorporated Areas of Lee County	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.
St. Johns County, Florida and Incorporated Areas Docket No.: FEMA–B–1709	
City of St. Augustine	City Hall, Planning and Building Department, 75 King Street, St. Augustine, FL 32084.
City of St. Augustine Beach	City Hall, Building Department, 2200 A1A South, St. Augustine Beach, FL 32080.
Unincorporated Areas of St. Johns County	St. Johns County Permit Center, 4040 Lewis Speedway, St. Augustine, FL 32084.
Liberty County, Georgia and Incorporated Areas Docket No.: FEMA–B–1701	
City of Flemington	City Hall, 156 Old Sunbury Road, Flemington, GA 31313.
City of Hinesville	City Hall, 115 East M.L. King, Jr. Drive, Hinesville, GA 31313.
City of Midway	City Hall, 150 Butler Avenue, Unit D, Midway, GA 31320.
City of Riceboro	City Hall, 4614 South Coastal Highway, Riceboro, GA 31323.
City of Walthourville	City Hall, 222 Busbee Road, Walthourville, GA 31333.
Town of Allenhurst	Liberty Consolidated Planning Commission, 100 Main Street, Suite 7520, Hinesville, GA 31313.
Unincorporated Areas of Liberty County	Liberty County Courthouse Annex, Building and Licensing Department, 112 North Main Street, Room 1200, Hinesville, GA 31313.
Dallas County, Iowa and Incorporated Areas Docket No.: FEMA–B–1728	
City of Adel	City Hall, 301 South 10th Street, Adel, IA 50003.
City of Dallas Center	City Hall, 1502 Walnut Street, Dallas Center, IA 50063.
City of Dawson	City Hall, 208 South 1st Street, Dawson, IA 50066.
City of De Soto	City Hall, 405 Walnut Street, De Soto, IA 50069.
City of Dexter	City Hall, 911 State Street, Dexter, IA 50070.

Community	Community map repository address
City of Granger	City Hall, 1906 Main Street, Granger, IA 50109.
City of Perry	Building Official's Office, 1102 Willis Avenue, Perry, IA 50220.
City of Redfield	City Hall, 808 1st Street, Redfield, IA 50233.
City of Van Meter	City Hall, 310 Mill Street, Van Meter, IA 50261.
City of Waukee	City Hall, 230 West Hickman Road, Waukee, IA 50263.
City of Woodward	City Hall, 105 East 2nd Street, Woodward, IA 50276.
Unincorporated Areas of Dallas County	Dallas County Planning and Development Department, 907 Court Street, Adel, IA 50003.
Houston County, Minnesota and Incorporated Areas Docket No.: FEMA–B–1610	
City of Brownsville	City Hall, 104 North 6th Street, Brownsville, MN 55919.
City of Caledonia	City Hall, 231 East Main Street, Caledonia, MN 55921.
City of Hokah	City Hall, 102 Main Street, Hokah, MN 55941.
City of Houston	City Hall, 105 West Maple Street, Houston, MN 55943.
City of La Crescent	City Hall, 315 Main Street, La Crescent, MN 55947.
City of Spring Grove	City Hall, 118 First Avenue Northwest, Spring Grove, MN 55974.
Unincorporated Areas of Houston County	Houston County Courthouse, 304 South Marshall Street, Caledonia, MN 55921.
Coos County, Oregon and Incorporated Areas Docket No.: FEMA–B–1729	
City of Bandon	City Hall, 555 Highway 101, Bandon, OR 97411.
City of Coos Bay	City Hall, 500 Central Avenue, Coos Bay, OR 97420.
City of Coquille	City Hall, 851 North Central Boulevard, Coquille, OR 97423.
City of Lakeside	City Hall, 915 North Lake Road, Lakeside, OR 97449.
City of Myrtle Point	City Hall, 424 5th Street, Myrtle Point, OR 97458.
City of North Bend	City Hall, 835 California Street, North Bend, OR 97459.
City of Powers	City Hall, 275 Fir Street, Powers, OR 97466.
Coquille Indian Tribe	Administrative Building, 3050 Tremont Avenue, North Bend, OR 97459.
Unincorporated Areas of Coos County	Coos County Courthouse, 250 North Baxter Street, Coquille, OR 97423.
Berkeley County, South Carolina and Incorporated Areas Docket No.: FEMA–B–1661	
City of Charleston	Engineering Department, 2 George Street, Suite 2100, Charleston, SC 29401.
City of Goose Creek	City Hall, 519 North Goose Creek Boulevard, Goose Creek, SC 29445.
City of Hanahan	City Hall, 1255 Yeamans Hall Road, Hanahan, SC 29410.
Town of Bonneau	Town Hall, 420 Municipal Lane, Bonneau, SC 29431.
Town of Jamestown	Municipal Complex, 7604 State Highway 41, Jamestown, SC 29453.
Town of Moncks Corner	Municipal Complex, 118 Carolina Avenue, Moncks Corner, SC 29461.
Unincorporated Areas of Berkeley County	Berkeley County Office Building, 1003 U.S. Highway 52, Moncks Corner, SC 29461.

[FR Doc. 2018–24072 Filed 11–2–18; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4399–DR; Docket ID FEMA–2018–0001]

Florida; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4399–DR), dated October 11, 2018, and related determinations.

DATES: This amendment was issued October 22, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 19, 2018.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24080 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4400–DR; Docket ID FEMA–2018–0001]

Georgia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Georgia (FEMA–4400–DR), dated October 14, 2018, and related determinations.

DATES: This amendment was issued October 25, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 14, 2018.

Clay, Randolph, and Tift Counties for Individual Assistance.

Calhoun, Laurens, Sumter, and Turner Counties for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24186 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3407–EM; Docket ID FEMA–2018–0001]

Alabama; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Alabama (FEMA–3407–EM), dated October 12, 2018, and related determinations.

DATES: The declaration was issued October 12, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 12, 2018, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Alabama resulting from Hurricane Michael beginning on October 10, 2018, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Alabama.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program in selected areas and emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program in selected areas.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Gerard M. Stolar, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Alabama have been designated as adversely affected by this declared emergency:

Emergency protective measures (Category B), including direct federal assistance, under the Public Assistance program for Dale, Geneva, Henry, and Houston Counties.

Emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program for Baldwin, Barbour, Bullock, Butler, Coffee, Conecuh, Covington, Crenshaw, Escambia, Mobile, Montgomery, Pike, and Russell Counties and the Poarch Band of Creek Indians.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24195 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4393–DR; Docket ID FEMA–2018–0001]

North Carolina; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the

State of North Carolina (FEMA–4393–DR), dated September 14, 2018, and related determinations.

DATES: This amendment was issued October 22, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Carolina is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 14, 2018.

Bertie and Davidson Counties for Public Assistance, including direct federal assistance.

Pitt County for Public Assistance [Categories C–G] (already designated for Individual Assistance and assistance for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

Orange County for Public Assistance, including direct federal assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24188 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4394–DR; Docket ID FEMA–2018–0001]

South Carolina; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Carolina (FEMA–4394–DR), dated September 16, 2018, and related determinations.

DATES: This amendment was issued October 24, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Carolina is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 16, 2018.

Jasper County for emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24190 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3405–EM; Docket ID FEMA–2018–0001]

Florida; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Florida (FEMA–3405–EM), dated October 9, 2018, and related determinations.

DATES: This amendment was issued October 22, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective October 19, 2018.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24073 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4399–DR; Docket ID FEMA–2018–0001]

Florida; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–4399–DR), dated October 11, 2018, and related determinations.

DATES: This amendment was issued October 14, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated

October 14, 2018, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), in a letter to Brock Long, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in certain areas of the State of Florida resulting from Hurricane Michael beginning on October 7, 2018, and continuing, is of sufficient severity and magnitude that special cost-sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act'').

Therefore, I amend my declaration of October 11, 2018, to authorize a limited period of 100 percent Federal cost share for debris removal, including direct Federal assistance, for a 120 hour (5 day) continuous period of the State of Florida's choosing, and then a 75 percent Federal cost share thereafter; and a limited period of 100 percent Federal cost share for emergency protective measures, including direct Federal assistance, for a 120 hour (5 day) continuous period of the State of Florida's choosing, and then a 75 percent Federal cost share thereafter.

This adjustment to State and local cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under the law. The Robert T. Stafford Disaster Relief and Emergency Assistance Act specifically prohibits a similar adjustment for funds provided for Other Needs Assistance (Section 408), and the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24082 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4394–DR; Docket ID FEMA–2018–0001]

South Carolina; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Carolina (FEMA–4394–DR), dated September 16, 2018, and related determinations.

DATES: This amendment was issued October 16, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Carolina is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 16, 2018.

Berkeley and Williamsburg Counties for Public Assistance [Categories A and C–G] (already designated for emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program).

Chesterfield, Darlington, Dillion, Florence, Georgetown, Horry, Marion, and Marlboro Counties for Public Assistance [Categories A and C–G] (already designated Individual Assistance and emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program.

Calhoun, Clarendon, Colleton, and Lancaster Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24185 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002; Internal Agency Docket No. FEMA–B–1862]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The

flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

David I. Maurstad,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona: Mohave ...	City of Lake Havasu City (18–09–0407P)	The Honorable Mark S. Nexsen, Mayor, City of Lake Havasu City, 2330 McCulloch Boulevard North, Lake Havasu City, AZ 86403.	City Hall, 2330 McCulloch Boulevard North, Lake Havasu City, AZ 86403.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 21, 2019	040116
California:						
Napa	City of Napa (16–09–1316P)	The Honorable Jill Techel, Mayor, City of Napa, P.O. Box 660, Napa, CA 94559.	Public Works Department, 1600 1st Street, Napa, CA 94559.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 22, 2019	060207
Napa	Unincorporated Areas of Napa County (16–09–1316P)	The Honorable Belia Ramos, Chairman, Board of Supervisors, Napa County, 1195 3rd Street, Suite 310, Napa, CA 94559.	Napa County, Engineering Division, Planning, Building & Environmental Services, 1195 3rd Street, 2nd Floor, Napa, CA 94559.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 22, 2019	060205
San Luis Obispo.	City of San Luis Obispo (17–09–2800P)	The Honorable Heidi Harmon, Mayor, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA 93401.	Engineering Department, 919 Palm Street, San Luis Obispo, CA 93401.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 7, 2019	060310
Florida: Duval	City of Jacksonville (17–04–6092P)	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 17, 2019	120077
Idaho:						
Blaine	City of Hailey (18–10–0371P)	The Honorable Fritz Haemmerle, Mayor, City of Hailey, 115 Main Street South Suite H, Hailey, ID 83333.	City Hall, 115 Main Street South, Suite H, Hailey, ID 83333.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 10, 2019	160022
Blaine	Unincorporated Areas of Blaine County (18–10–0371P)	Ms. Angenie McCleary, Chairman, Blaine County Board of Commissioners 206 1st Avenue South, Suite 300, Hailey, ID 83333.	Blaine County Planning and Zoning, 219 1st Avenue South, Suite 208, Hailey, ID 83333.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 10, 2019	165167

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Indiana: Hamilton ..	City of Westfield (18–05–3099P)	The Honorable Andy Cook, Mayor, City of Westfield 2728 East 171st Street, Westfield, IN 46074.	Town Hall, 130 Penn Street, Westfield, IN 46074.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 17, 2019	180083
Kansas: Johnson ..	City of Overland Park (18–07–1002P)	The Honorable Carl Gerlach, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, KS 66212.	City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 9, 2019	200174
Nebraska: Saunders.	Unincorporated Areas of Saunders County (18–07–0793P)	Ms. Doris Karloff, Chairperson, Saunders County, P.O. Box 153, Yutan, NE 68073.	Saunders County Courthouse, 433 North Chestnut Street, Wahoo, NE 68066.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 4, 2019	310195
New York: Albany	City of Albany (17–02–1160P)	The Honorable Kathy M. Sheehan, Mayor, City of Albany, 24 Eagle Street, Room 102, Albany, NY 12207.	City Hall, 24 Eagle Street, Albany, NY 12207.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 7, 2019	360001
Oregon: Jackson ...	City of Medford (18–10–0822P)	The Honorable Gary Wheeler, Mayor, City of Medford, 411 West 8th Street, Medford, OR 97501.	Lausmann Annex Building, 200 South Ivy Street, Lausmann Annex, Medford, OR 97501.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 23, 2019	410096
Pennsylvania: Allegheny.	Municipality of Monroeville (17–03–2556P)	The Honorable Nick Gresock, Mayor, Municipality of Monroeville, Municipal Building, 2700 Monroeville Boulevard, Monroeville, PA 15146.	Municipal Engineering Office, 2700 Monroeville Boulevard, Monroeville, PA 15146.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 22, 2019	420054
Texas:						
Dallas	City of Dallas (18–06–0160P)	The Honorable Michael S. Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Department of Public Works, 320 East Jefferson Boulevard, Room 321, Dallas, TX 75203.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 6, 2019	480171
Travis	City of Austin (18–06–2729P)	The Honorable Steve Adler, Mayor, City of Austin, P.O. Box 1088, Austin, TX 78767.	Stormwater Management Division, 505 Barton Springs Road, Suite 908, Austin, TX 78704.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 17, 2019	480624
Wisconsin: Rusk ...	Unincorporated Areas of Rusk County (18–05–1900P)	The Honorable David Willingham, County Board Chair, Rusk County Government Center, 311 Miner Avenue East, Ladysmith, WI 54848.	Rusk County Courthouse, 311 Miner Avenue East, Ladysmith, WI 54848.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 1, 2019	550602

[FR Doc. 2018–24199 Filed 11–2–18; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4399–DR; Docket ID FEMA–2018–0001]

Florida; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4399–DR), dated October 11, 2018, and related determinations.

DATES: This amendment was issued October 16, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 11, 2018.

Leon County for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–24081 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0104]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for U Nonimmigrant Status

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 December 5, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0104 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 July 17, 2018, at 83 FR 33247, allowing for a 60-day public comment period. USCIS did receive two comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2010–0004 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:* Petition for U Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–918; Form I–918, Supplement A; Form I–918, Supplement B; Biometric Services; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Federal Government. This information collection permits victims of certain qualifying criminal activity and their immediate family to petition for temporary nonimmigrant 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 I–918 is 36,000 and the estimated hour burden per response is 5 hours. The estimated total number of respondents for the information collection I–918, Supplement A is 25,000 and the estimated hour burden per response is 1.5 hours. The estimated total number of respondents for the information collection I–918, Supplement B is 36,000 and the estimated hour burden per response is 1 hour. The estimated total number of respondents for the biometric services is 61,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 324,870 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 $259,250.

Dated: October 31, 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. 2018–24154 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0005]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Family Unity Benefits

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 January 4, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0005 in the body of the letter, the agency name and Docket ID USCIS–2009–0021. 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–2009–0021;

(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–2009–0021 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 for Family Unity Benefits.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–817; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households: The information collected will be used to determine whether the applicant meets the eligibility requirements for benefits under 8 CFR 236.14 and 245a.33.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–817 is approximately 1,000 and the estimated hour burden per response is 2 hours per response; and the estimated number of respondents providing biometrics is 1,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,170 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 $122,500.

Dated: October 31, 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. 2018–24156 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0113]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: InfoPass

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 January 4, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0113 in the body of the letter, the agency name and Docket ID USCIS–2009–0024. 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–2009–0024;

(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–2009–0024 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:* InfoPass.

(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: Individuals or households. The InfoPass system allows an applicant or petitioner to schedule an interview appointment with USCIS through USCIS' internet website.

(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 InfoPass is 1,043,319 and the estimated hour burden per response is .1 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 104,332 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* There is no estimated total annual cost burden associated with this collection of information, all costs are captured in the information collections that require an appointment.

Dated: October 31, 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. 2018–24132 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0045]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition by Entrepreneur To Remove Conditions on Permanent Resident Status

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 January 4, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0045 in the body of the letter, the agency name and Docket ID USCIS–2006–0009. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0009;

(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–2006–0009 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:* Petition by Entrepreneur to Remove Conditions on Permanent Resident Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–829; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form is used by a conditional resident alien entrepreneur who obtained such status through a qualifying investment, to apply to remove conditions on his or her conditional residence.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–829 is 3,500 and the estimated hour burden per response is 4 hours. The estimated total number of respondents for the information collection for Biometrics is 3,500 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 18,095 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 $428,750.

Dated: October 31, 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. 2018–24157 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0029]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Waiver of Grounds of Inadmissibility

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 January 4, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0029 in the body of the letter, the agency name and Docket ID USCIS–2007–0042. 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–2007–0042; (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–2007–0042 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 for Waiver of Grounds of Inadmissibility.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–601; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–601 is necessary for USCIS to determine whether the applicant is eligible for a waiver of inadmissibility under section 212 of the Act. Furthermore, this information collection is used by individuals who are seeking for Temporary Protected Status (TPS).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–601 is 17,000 and the estimated hour burden per paper responses is 1.75 hours and the estimated hour burden per electronically-filed responses is 1.33 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 29,750 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 $6,311,250.

Dated: October 31, 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. 2018–24152 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0096]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Genealogy Index Search Request and Genealogy Records Request

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 January 4, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0096 in the body of the letter, the agency name and Docket ID USCIS–2006–0013. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0013;

(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–2006–0013 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:* Genealogy Index Search Request and Genealogy Records Request.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1041 and G–1041A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Genealogy Program is necessary to provide a more timely response to requests for genealogical and historical records. Form G–1041 is provided as a convenient means for persons to provide data necessary to perform a search of historical agency indices. Form G–1041A provides a convenient means for persons to identify a particular record desired under the Genealogy Program. The forms provide rapid identification of such requests and ensures expeditious handling. Persons such as researchers, historians, and social scientists seeking ancestry information for genealogical, family history and heir location purposes will use Forms G–1041 and G–1041A.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–1041 is 3,847 and the estimated hour burden per response is 1,924 hours. The estimated total number of respondents for the information collection G–1041A is 2,920 and the estimated hour burden per response is 1,460 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,384 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 $25,376.

Dated: October 31, 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. 2018–24155 Filed 11–2–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2018–N106; FXES11140100000–189–FF01E00000]

Revised Draft Environmental Impact Statement; Amendment to the 1997 Washington State Department of Natural Resources State Lands Habitat Conservation Plan and Incidental Take Permit; Extension of Public Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is extending the public comment period for the revised draft environmental impact statement (RDEIS) addressing an amendment to the 1997 Washington State Department of Natural Resources (WDNR) State Lands Habitat Conservation Plan (HCP) to cover the implementation of a Long-Term Conservation Strategy (LTCS) for the marbled murrelet. The RDEIS also addresses an amendment to the Endangered Species Act incidental take permit for take of marbled murrelet resulting from the implementation of the LTCS. The Service jointly developed the RDEIS with the WDNR. The RDEIS is intended to satisfy the requirements of both the National Environmental Policy Act and the Washington State Environmental Policy Act. If approved, the proposed LTCS will replace an interim marbled murrelet conservation strategy that is currently being implemented under the WDNR HCP. Extending the comment period will allow more time for the public to review the RDEIS and submit comments.

DATES: The comment period for the RDEIS addressing an amendment to the 1997 WDNR State Lands HCP to cover the implementation of a LTCS for the marbled murrelet, which published on September 7, 2018 (83 FR 45458), is extended. Please send your written comments by 11:59 p.m. EST on December 6, 2018.

ADDRESSES: To view the pertinent documents for this proposal, request further information, or submit comments, please use one of the following methods, and note that your information request or comments are in reference to FWS–R1–ES–2018–N106.

- *Internet:* You can view the DEIS on the internet at *www.fws.gov/WWFWO/* or at *www.dnr.wa.gov/non-project-actions.*
- *Hard Copy:* Contact one of the sources listed in **FOR FURTHER INFORMATION CONTACT** to request hard copies.
- *Email:* Comments may be submitted electronically to WDNR at *https://www.dnr.wa.gov/long-term-conservation-strategy-marbled-murrelet.* WDNR will transmit all comments received to the Service.
- *U.S. Mail:* Comments may also be submitted in writing to: SEPA Center, P.O. Box 47015, Olympia, WA 98504–7015. WDNR will transmit all comments received to the Service.

FOR FURTHER INFORMATION CONTACT: Please contact either of the following:

- Mark Ostwald, by telephone at 360–753–9564, by email at *Mark_Ostwald@fws.gov,* or by U.S. mail at Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Dr., Suite 102, Lacey, WA 98503; or
- SEPA Center, WDNR, by telephone at 360–902–1750, or by email at *sepacenter@dnr.wa.gov.*

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service or FWS), have jointly developed with

the Washington State Department of Natural Resources (WDNR) a revised draft environmental impact statement (RDEIS) addressing an amendment to the 1997 WDNR State Lands Habitat Conservation Plan (HCP) to cover the implementation of a Long-Term Conservation Strategy (LTCS) for the marbled murrelet. The marbled murrelet (*Brachyamphus marmoratus*), a seabird, was listed as threatened in 1992 under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*).

The RDEIS also addresses an amendment to the ESA section 10 incidental take permit (ITP) for take of marbled murrelet resulting from the implementation of the LTCS. The RDEIS is intended to satisfy the requirements of both the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and the Washington State Environmental Policy Act. If approved, the proposed LTCS will replace an interim conservation strategy for the marbled murrelet, which is currently being implemented under the WDNR HCP.

The RDEIS analyzes seven action alternatives and a no action alternative. If approved, the amended ITP would authorize incidental take of the marbled murrelet that would occur as a result of implementation of the LTCS over the remaining 50-year term of the WDNR HCP. The scope of the proposed amendment to the WDNR HCP and ITP, and thus of the RDEIS, is exclusively limited to consideration of the LTCS for the marbled murrelet. A **Federal Register** notice of availability (83 FR 45458) for the RDEIS was published for a 60-day comment period on September 7, 2018.

In addition to this notice, the U.S. Environmental Protection Agency (EPA) is also publishing a notice announcing the extension of the public comment period on the RDEIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*). The original public comment period for this RDEIS is scheduled to close on November 6, 2018. In order to give the public additional time to review and comment on the RDEIS addressing an amendment to the 1997 WDNR State Lands HCP, the FWS is extending the public comment period. Comments previously submitted on the RDEIS need not be resubmitted, as they will be fully considered in preparing the final RDEIS addressing an amendment to the 1997 WDNR State Lands HCP.

For background information regarding the original EIS and HCP, the interim conservation strategy for the marbled murrelet, and next steps in this process, see the September 7, 2018, **Federal Register** notice (83 FR 45458).

Public Comments

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We specifically request information and comments on the following:

1. Biological information on the marbled murrelet in the terrestrial and marine environments;
2. Cumulative effects on the environment that might influence the status of the marbled murrelet in the ESA listed range;
3. Resiliency of the alternatives in providing current and future marbled murrelet habitat in relation to climate change and future natural disturbance events such as fire and windstorms;
4. Adequacy of the distribution of marbled murrelet habitat to provide conservation over the remaining term of the HCP;
5. Other aspects of the human environment not already identified in the DEIS that may be affected, pursuant to NEPA regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6.
6. Other information and documents related to the RDEIS that WDNR has posted on their website at *https://www.dnr.wa.gov/long-term-conservation-strategy-marbled-murrelet.*

Comments received from the 2016 DEIS public comment period were used to inform the RDEIS. Comments received on the DEIS and this RDEIS will be responded to in the FEIS. If you submitted comments during the comment period for the DEIS, you do not need to resubmit those comments.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we use in preparing the FEIS, will be available for public inspection by appointment, during normal business hours, at our Washington Fish and Wildlife Office (see **ADDRESSES**).

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Katherine Hollar,

Acting Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2018–24212 Filed 11–2–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A51010.999900]

Proclaiming Certain Lands as Reservation for the Confederated Tribes of the Chehalis Reservation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 156.97 acres, more or less, an addition to the reservation of the Confederated Tribes of the Chehalis Reservation of Washington on October 12, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW, MS–4642–MIB, Washington, DC 20240, telephone (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 5110) for the lands described below. These lands are proclaimed to be part of the Confederated Tribes of the Chehalis Reservation, in Thurston and Lewis Counties, Washington.

Confederated Tribes of the Chehalis Reservation,

8 Parcels—Williamette Meridian

Thurston and Lewis Counties, Washington—Legal Descriptions Containing 156.97 Acres, More or Less

Sam Smith (Tract 157–T1214)

The East 528.2 feet of the Northeast quarter of the Northwest quarter of Section 24, Township 15 North, Range 3 West, W.M.; excepting therefrom tract conveyed to State of Washington by deed dated May 25, 1966, and recorded under File No. 743235 and excepting also county road known as Hobson Road (216th Avenue SW) along the South boundary; and also except that portion, if any, that lies within the West half of that part of the Northeast quarter of the Northwest Quarter lying Easterly of Northern Pacific Railway Company right of way.

In Thurston County, Washington.

Containing 15.7 acres more or less.

Ponds Property (Tract 157–T1216)

That portion of the Northeast quarter of the Northwest quarter of Section 24, Township 15 North, Range 3 West, W.M., lying Easterly of right-of-way of Burlington Northern, Inc. (now BNSF Railway Company); except the East 528.2 feet thereof and except the South 1,100 feet as measured along said right-of-way line.

In Thurston County, Washington.

Containing 3.96 acres, more or less.

That part of the Northeast quarter of the Northwest quarter of Section 24, Township 15, Range 3 West, W.M., lying Easterly of the right of way of Northern Pacific Railway Company (now BNSF Railway Company); excepting therefrom the East 528.2 feet of said Northeast quarter of the Northwest quarter; also excepting therefrom that portion conveyed to Glen L. Bigler by instrument recorded October 9 1973 under File No. 899648; also excepting therefrom County Road known as Hobson Road (now 216th Ave. SW).

In Thurston County, Washington.

Containing 11.48 acres, more or less.

Totaling 15.44 acres more or less.

Billie Mills (Tract 157–T1220)

Lot 3 and that portion of Lot 4 lying easterly of Primary State Highway No. 1, of Cooper Place, as recorded in Volume 8 of Plats, page 9; excepting from said Lot 3 that portion of the South 140 feet lying Westerly of a 100 foot right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; excepting also the right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and Primary State Highway No. 1; and except the Westerly 30 feet for county road known as Mills Road.

That part of the South 140 feet of Lot 3, and that portion of Lot 4 of Cooper Place, as recorded in Volume 8 of Plats, page 9, lying Westerly of a 100 foot wide right of way of Chicago-Milwaukee Railroad Company; except that portion of said Lot 4 lying within the following described tract: Beginning at the Southwest corner of said Lot 4; thence East along the South line thereof, 1,089 feet; thence North 400.125 feet; thence West to the Westerly line of said Lot 4; thence Southerly along said Westerly line to the point of beginning; except the Westerly 30 feet of said Lots 3 and 4 for County Road known as Benedict Road (Billie Mills Street SW).

That portion of Lot 4 of Cooper Place, as recorded in Volume 8 of Plats, page 9, described as follows: Commencing at the Southwest corner of said Lot 4; thence East along the South line of said Lot 1,089 feet; thence North 400.125; thence West to the Westerly line of said Lot; thence Southeasterly along Westerly line of Lot to the Point of Beginning. Excepting therefrom the Westerly 30 feet.

Situate in the County of Thurston, State of Washington.

Totaling 33.49 acres, more or less.

Big One (Tract 157–T1226)

That portion of Lots 5, 6 and 7 of Cooper Place, as recorded in Volume 8 of Plats, Page 9, lying Westerly of right-of-way of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, ALSO vacated Benedict Road adjacent to said Lots 5, 6, and 7 as described in instrument recorded December 17, 2008 under Auditor's File Number 4050809.

In Thurston County, Washington.

Containing 29.27 acres, more or less.

Middle Bigler (Tract 157–T1230)

That portion of Lot 12 of Cooper Place, as recorded in Volume 8 of Plats, page 9, lying Easterly of former Olympic Highway, except the North 150 feet of said part of Lot 12; together with that portion of vacated county road abutting said Lot 12 which would attach to said premises by operation of law.

Situated in Thurston County, State of Washington.

Containing 3.02 acres, more or less.

Wilson (Tract 157–T1232)

Parcel A: Parcel 1 of Large Lot Subdivision No. LL–0430, as recorded September 10, 1987 under File No. 8709100134. Excepting therefrom that portion conveyed to the State of Washington for highway purposes, by deed recorded under Auditor's File No. 9102040022. Together with those minerals as granted and conveyed by instrument recorded December 11, 2014 under Auditor's File No. 4421044.

Parcel B: An easement for ingress, egress and utilities, over, under and across an existing shared driveway as set out in deed recorded November 4, 2011 under Auditor's File No. 4236425, described as being along the Northerly portion of the Easterly boundary of the following described premises:

Tract 12 and that portion of Tract 9 of Farmdale Addition to Gate City, as recorded in Volume 6 of Plats, page 19, lying South of Rochester Grand Mound Highway; together with the vacated street lying between said tracts and that part of vacated street adjoining Tract 9 on the East.

In Thurston County, Washington.

Containing 26.31 acres, more or less.

Abston (Tract 157–T1235)

Parcel A: The Southwest quarter of the Southeast quarter of Section 13, Township 15 North, Range 3 West, W.M., lying Westerly of Primary State Highway No. 1; EXCEPT the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way.

Parcel B: The Northwest quarter of the Northeast quarter of Section 24, Township 15 North, Range 3 West, W.M., lying Westerly of Primary State Highway No. 1; excepting the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad; also except Hobson Road.

In Thurston County, Washington.

Containing 15.85 acres, more or less.

Pe Ell (Tract 157–T1233)

Beginning at the Southwest corner of the Southeast quarter of the Northwest quarter of Section 23, Township 13 North, Range 5 West, W.M.; thence along the West line of the East half of the Northwest quarter, North 25.6 chains; thence East 12.9 chains to the West boundary line of the right-of-way of the Yakima and Pacific Coast Railroad Company; thence Southerly along said right-of-way 27.53 chains to the South line of the Southeast quarter of the Northwest quarter; thence West on the South boundary of the Southeast quarter of the Northwest quarter, 5.46 chains to the Point of Beginning.

In Lewis County, Washington.

Containing 17.89 acres more or less.

The above described lands contain a total of 156.97 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads and highways, public utilities, railroads and pipelines, or any other valid easements or rights-of-way or reservations of record.

Dated: October 12, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–24174 Filed 11–2–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A501010.999900 253G]

Proclaiming Certain Lands as Reservation for the Skokomish Indian Tribe of Washington

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 581.96 acres, more or less, an addition to the reservation of the Skokomish Indian Tribe of Washington on October 12, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene M. Round Face, Bureau of Indian Affairs, Division of Real Estate

Services, 1849 C Street NW, MS–4642–MIB, Washington, DC 20240, telephone (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 5110) for the lands described below. The land was proclaimed to be part of the Skokomish Indian Tribe Reservation, in Mason County, Washington.

Skokomish Indian Tribe Reservation

Two Parcels—Williamette Meridian

Mason County, Washington—Legal Description Containing 581.96 Acres, More or Less

Stohr Property, 157–T–1203

The Southwest quarter (SW ¼) of the Southeast quarter (SE ¼), and the Southeast quarter (SE ¼) of the Southwest quarter (SW ¼) all in Section twenty-seven (27), Township twenty-two (22), Range four (4) West, W.M.

Parcel Numbers 42227 34 00000 and 42227 43 00000

Situate in Mason County, Washington.

Containing 80.96 acres, more or less.

Skokomish Park at Lake Cushman, 157–T–1219

Parcel 1: All that portions of Government Lot one (1) and the Northeast quarter (NE ¼), all in Section nineteen (19), Township twenty-three (23) North, Range four (4) West, W.M., which lie above the 742 foot contour line (City of Tacoma Cushman project datum). For reference purposes, U.S.G.S. benchmark ''J–32 (1929)'' in the top of Cushman Dam No. 1 equals elevation 741.50 feet.

EXCEPTING therefrom all those portions thereof, if any, ''to which Lake Cushman Company has granted a leasehold estate interest, whether recorded with the Office of the Mason County Auditor or not,'' as set forth in instrument recorded December 28, 1990, Auditor's File No. 520415.

Parcel No. 42319 10 00000.

Parcel 2: All those portions of: The Southwest quarter (SW ¼) of the Northwest quarter (NW ¼), the Southeast quarter (SE ¼) of the Northwest quarter (NW ¼), the Northeast quarter (NE ¼), the Northeast quarter (NE ¼) of the Southeast quarter (SE ¼), the Southwest quarter (SW ¼) of the Southeast quarter (SE ¼), the Northwest quarter (NW ¼) of the Southeast quarter (SE ¼), and the Southwest quarter (SW ¼), all in Section twenty (20);

And, the Northwest quarter (NW ¼) of the Northeast quarter (NE ¼) of Section twenty-nine (29),

All in Township twenty-three (23) North, Range four (4) West, W.M., which lie above the 742 foot contour line (City of Tacoma Cushman project datum). For reference purposes, U.S.G.S. benchmark ''J–32 (1929)'' in the top of Cushman Dam No. 1 equals elevation 741.50 feet.

EXCEPTING from all of the foregoing, right-of-way for State Route 119;

ALSO, EXCEPTING from the Northwest quarter (NW ¼) of the Northeast quarter (NE ¼) of said Section twenty-nine (29), all that portion thereof lying Westerly of the Westerly right-of-way line of said State Route 119, and Southerly of the Northerly line of the Lake Cushman Company Community Park Tract described as Parcel No. 49 of Exhibit A of Amendment to Lease recorded December 28, 1990, Auditor's File No. 520415, records of Mason County, Washington, said Northerly line being particularly described as follows:

BEGINNING at a point on the Southwesterly right-of-way line of State Route 119 having Washington State South Zone grid coordinates of X = 1,328,629.76 and & = 787,242.34 (NAD 27); thence Southwesterly, perpendicular to said Southwesterly right-of-way line, to the aforementioned 742 foot contour line, and the terminus of the herein described line. This description is based on the Washington Coordinate System South Zone Grid (NAD 27) per survey for the plat of Lake Cushman No. 1, Volume 6 of Plats, pages 60 to 63, both inclusive, records of Mason County, Washington.

ALSO, EXCEPTING therefrom all those portions thereof, if any, ''to which Lake Cushman Company has granted a leasehold estate interest, whether recorded with the Office of the Mason County Auditor or not,'' as set forth in instrument recorded December 28, 1990, Auditor's File No. 520415.

Said land being also known and described as the resulting Parcel 1 of Boundary Line Adjustment No. 14–18, recorded June 4, 2014, Auditor's File Nos. 2025533 and 2025534.

Parcel Numbers 42320 00 60000 and 42329 00 60000.

Situate in Mason County, Washington.

Containing 501 acres, more or less.

The above described lands contain a total of 581.96 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

The proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads, highways, public utilities, railroads and pipelines, or any other valid easements or rights-of-way or reservations of record.

Authority: 25 U.S.C. 5110.

Dated: October 12, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–24176 Filed 11–2–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14400000.BJ0000 19X]

Notice of Filing of Plats of Survey, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Colorado State Office, Lakewood, Colorado, 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: Unless there are protests of this action, the plats described in this notice will be filed on December 5, 2018.

ADDRESSES: You may submit written protests to the BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856; *rbloom@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, seven 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 plat and field notes of the dependent resurvey and subdivision of section 17 in Township 13 South, Range 74 West, Sixth Principal Meridian, Colorado, were accepted on September 5, 2018.

The plat, in 3 sheets, incorporating the field notes of the dependent resurvey and survey in Township 46 North, Range 6 East, New Mexico Principal Meridian, Colorado, was accepted on September 12, 2018.

The plat incorporating the field notes of the remonumentation of certain corners in Township 47 North, Range 11 East, New Mexico Principal Meridian, Colorado, was accepted on October 17, 2018.

A person or party who wishes to protest any of the above surveys must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A statement of reasons for the protest may

be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Randy A. Bloom,

Chief Cadastral Surveyor.

[FR Doc. 2018–24187 Filed 11–2–18; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD01000 L51010000.EU0000 XXXL5017AP LVRWB11B4700]

Notice of Availability of the Environmental Assessment and Draft Land Use Plan Amendment for the OMYA Direct Land Sale Project, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared an Environmental Assessment (EA) and Draft Land Use Plan Amendment (LUPA) of the California Desert Conservation Area (CDCA) Plan for the OMYA Direct Land Sale Project, and by this Notice is announcing the opening of a 60-day public comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the EA and Draft LUPA by January 4, 2019. The BLM will announce any future meetings or hearings and any additional activities involving the public at least 15 days in advance through public notices, media releases, mailings, and the public website at: *https://eplanning.blm.gov.*

ADDRESSES: You may submit comments related to the OMYA Direct Land Sale Project by any of the following methods:

- *Website: https://eplanning.blm.gov.*
- *Email: blm_ca_omya_project@blm.gov.*
- *Mail:* BLM Barstow Field Office, Attn: OMYA Direct Land Sale, 2601 Barstow Road, Barstow, CA 92311.

Copies of the EA are available at the Barstow Field Office and on the project website at the above address.

FOR FURTHER INFORMATION CONTACT: Matthew Toedtli, BLM Barstow Field Office, 2601 Barstow Road, Barstow, CA 92311, 760–252–6026, or email: *mtoedtli@blm.gov.* Any person wishing to be added to the project mailing list of interested parties may contact Mr. Toedtli. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339 to contact Mr. Toedtli during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with the BLM regarding this project. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: In 2011, the BLM and OMYA Inc. entered into a Settlement Agreement to resolve the unauthorized use of public lands associated with OMYA's mining operations at its White Knob Quarry. In accordance with that Settlement Agreement, the BLM is considering a direct sale of public land to OMYA under the authority of 43 U.S.C. 1713 and 1719 (Sections 203 and 209 of FLPMA). The BLM published a Notice of Intent (NOI) to prepare an EA and an Amendment to the CDCA Plan in the **Federal Register** on October 4, 2012. The NOI provided for a 30-day public scoping period for the LUPA, announced the beginning of the scoping process for the EA, and sought public input on environmental issues. No public comments were received.

The Proposed Action (Alternative A) includes the direct land sale of 70 acres of public land to OMYA to resolve the unauthorized use and meet OMYA's need for additional land for disposal of mine waste. To accommodate the proposed land sale, a LUPA is required to change the land use designation of the affected parcel from an Area of Critical Environmental Concern (ACEC) to General Public Lands (GPL). The parcel proposed for sale is currently within the Granite Mountain Wildlife Linkage ACEC as designated in the Desert Renewable Energy and Conservation Plan. The ACEC provides a link for wildlife populations to the north and south of this area. The LUPA would also satisfy the criteria for the sale of public lands under Sections 203 and 209 of FLPMA. In addition to the Proposed Action, two other alternatives are included in the EA. Alternative B (No Action), does not authorize a direct sale of public land, authorizes the continued management of the placer mining claims owned by OMYA and orders the restoration of the site consistent with the applicable mining law. Alternative C provides for a direct land sale of 45 acres of public land to OMYA; a LUPA to remove 45 acres from the Granite Mountain Wildlife Linkage ACEC; and change the land use designation of the affected parcel to GPL, with continued management of the remainder of the placer claims owned by OMYA consistent with the 1872 Mining Law. Alternative A is the BLM's preferred alternative in the EA.

Below are the legal descriptions of the public lands considered in the range of alternatives starting with the 70-acre parcel followed by the 45-acre parcel.

70-Acre Legal Description

San Bernardino Meridian, California

T. 3 N, R. 1 W,
Sec. 5, SW¼SW¼, W½SE¼SW¼, and SE¼SE¼SW¼.
The area described contains 70.00 acres.

45-Acre Legal Description

San Bernardino Meridian, California

T. 3 N, R. 1 W,
Sec. 5, S½SW¼SW¼, W½SE¼SW¼, and W½SE¼SE¼SW¼.
The area described contains 45.00 acres.

End of Land Description

Your input is important and will be considered in the environmental and land-use planning analysis processes. All comment submissions should include the commenter's name and mailing address. Comments, including the names and addresses of the commenter, will be available for public inspection at the Barstow Field Office at the above address during regular business hours (8:00 a.m. to 4:30 p.m.), Monday through Friday, except Federal holidays.

Before including your address, phone number, email address, or other personally identifying information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask the BLM in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Danielle Chi,

California Deputy State Director, Resources.

[FR Doc. 2018–24175 Filed 11–2–18; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–26860; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before October 20, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by November 20, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 20, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Pima County

Catalina Foothills Estates Job No. 399 House (Single Family Residential Architecture of Josias Joesler and John and Helen Murphey MPS) 4950 N Calle Colmado, Tucson, MP100003145

CONNECTICUT

Litchfield County

Burrall—Belden House, 6 Barnes Rd., Canaan, SG100003146

Middlesex County

Carter, Hubbell House, 2 Carter Hill Rd., Clinton, SG100003147

New Haven County

Dixwell Avenue Congregational United Church of Christ, 217 Dixwell Ave., New Haven, SG100003148

DISTRICT OF COLUMBIA

District of Columbia

Petworth Branch Library, 4200 Kansas Ave. NW, Washington, SG100003149

Harbour Square, 400–560 (even) N St. SW, 1301–1327 (odd) 4th St. SW, Washington, SG100003158

MARYLAND

Frederick County

Cockey's House and Store, 3409 Urbana Pike, Urbana, SG100003151

NEW YORK

Delaware County

Hamden District No. 1 School, 5594 E River Rd., Hawleys vicinity, SG100003152

Niagara County

Bewley Building, 4 Market St., Lockport, SG100003153

TENNESSEE

Davidson County

Rainbow Ranch, 312 E Marthona Rd., Madison, SG100003154

Smith—Carter House, 1020 Gibson Dr., Madison, SG100003155

Marion County

Whitwell Cumberland Presbyterian Church, 876 Main St., Whitwell, SG100003156

Stewart County

Maple Grove Farm (Historic Family Farms in Middle Tennessee MPS), 544 Long Creek Rd., Dover, MP100003157

Union County

Oak Grove School, 410 Brantley Rd., Sharps Chapel, SG100003161

WISCONSIN

Ozaukee County

Port Washington North Breakwater Light (Light Stations of the United States MPS), 550 E Jackson St., Port Washington, MP100003160

In the interest of preservation, a SHORTENED comment period has been requested for the following resource:

GEORGIA

Fulton County

Meredith, Kenneth and Hazel House, 417 Hillside Dr. NW, Atlanta, SG100003150, Comment period: 3 days

Authority: Section 60.13 of 36 CFR part 60.

Dated: October 22, 2018.

Christopher Hetzel,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2018–24142 Filed 11–2–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0052]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection; Strategic Planning Environmental Assessment Outreach

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 4, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding 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: Charlayne Armentrout, Office of Strategic Management either by mail at 99 New York Avenue NE, Washington, DC 20226, by email at *Charlayne.Armentrout@atf.gov,* or by telephone at 202–648–7099.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection* (check justification or form 83): Extension, without change, of a currently approved collection.

2. *The Title of the Form/Collection:* Strategic Planning Environmental Assessment Outreach.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Not-for-profit Institution, Federal Government, State, Local or Tribal Government.

Abstract: The Office of Strategic Management at ATF will use the information to help identify and validate the agency's internal strengths and weaknesses.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1,500 respondents will utilize the survey, and it will take each respondent approximately 18 minutes to respond once to this Information Collection.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 450 hours, which is equal to 1,500 (# of responses) * .3 (18 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: October 31, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–24181 Filed 11–2–18; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Agreed Modification to Consent Decree Under the Clean Water Act

On October 30, 2018, the Department of Justice lodged an Agreed Modification to Consent Decree with the United States District Court for the Central District of Illinois in the lawsuit entitled *United States* v. *City of Rock Island, Illinois,* Civil Action No. 4:00–CV–04076–JBM. The original Consent Decree in this case was approved and entered by the Court in 2003 (the ''2003 Consent Decree'').

The 2003 Consent Decree resolved alleged violations of the Clean Water Act associated with untreated discharges from the City of Rock Island's municipal wastewater treatment and sewer system. Under the 2003 Consent Decree, Rock Island committed to make an array of engineering improvements to its wastewater treatment plant and sewer system, with input and oversight from the U.S. Environmental Protection Agency (''EPA''). The Agreed Modification to Consent Decree would memorialize agreed deadline extensions for two sewer system improvement projects addressing wastewater discharge points designated as Outfall 006 and Outfall 007. The Outfall 006 project was slated for completion in January 2018, but the parties to the 2003 Consent Decree agreed to extend that deadline until August 2018. The Outfall 007 project was originally scheduled for construction completion in April 2016 and operational startup in October 2016, but the parties agreed to extend those deadlines until June 2018, and August 2018, respectively. Rock Island met the extended deadlines for both projects. EPA has determined that the delays at issue were due to circumstances beyond Rock Island's control, as described in detail in the Agreed Modification.

The publication of this notice is intended mainly to inform the public of these agreed deadline extensions, but it also opens a period for public comment on the Agreed Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *City of Rock Island, Illinois,* D.J. Ref. No. 90–5–1–1–06489. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Agreed Modification to 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 Agreed Modification 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 $4.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–24054 Filed 11–2–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Safety and Health Onsite Consultation Agreements

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) revision titled, ''Occupational Safety and Health Onsite Consultation Agreements,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments received on or before December 5, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation;

including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201801-1218-004* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Occupational Safety and Health Onsite Consultation Agreements information collection. The OSHA Onsite Consultation Service Program offers free and confidential advice to small and medium-sized businesses in all States across the country, with priority given to high-hazard worksites. The requirements specified in the Onsite Consultation regulations for cooperative agreements, 29 CFR part 1908, are necessary to ensure uniform delivery of onsite consultation services nationwide. The regulatory procedures specify the activities carried out by State Onsite Consultation Programs funded by the Federal government, as well as the responsibilities of employers who receive onsite consultation services. This information collection has been classified as a revision, because the OSHA is making minor edits to the Safety and Health Program Assessment Worksheet, Form OSHA–33, that reflect new terminology and revised requirements associated with the revised 2012 OSHA Hazard Communication Standard, 29 CFR 1910.1200. Occupational Safety and Health Act of 1970 sections 7(c)(1) and 21(c) authorize this information collection. *See* 29 U.S.C. 656(c)(1) and 670(c).

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 the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0110. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 30, 2018 (83 FR 13792).

Interested parties are encouraged to send comments to the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0110. The OMB is particularly interested in comments that:

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

Agency: DOL–OSHA.

Title of Collection: Occupational Safety and Health Onsite Consultation Agreements.

OMB Control Number: 1218–0110.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 22,767.

Total Estimated Number of Responses: 94,225.

Total Estimated Annual Time Burden: 214,750 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–24153 Filed 11–2–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended

AGENCY: Office of Workers' Compensation Programs, Labor Department.

ACTION: Notice of revision of listing of covered Department of Energy facilities.

SUMMARY: The Office of Workers' Compensation Programs (OWCP) is publishing a list of Department of Energy (DOE) facilities covered under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA).

DATES: This notice revises and republishes the listing of DOE facilities that was last published by OWCP on January 20, 2015 (80 FR 2735) to include additional determinations made on this subject through November 5, 2018.

ADDRESSES: OWCP welcomes comments regarding this list. Individuals who wish to suggest changes to this list may provide information to OWCP at the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Division of Energy Employees Occupational Illness Compensation, Room C–3321, 200 Constitution Avenue NW, Washington, DC 20210. You may also suggest changes to this list by email at *DEEOIC-Public@dol.gov.* You should include ''DOE facilities list'' in the subject line of any email containing comments on this list.

FOR FURTHER INFORMATION CONTACT: Rachel P. Leiton, Director, Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C–3321, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–693–0081 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (42 U.S.C. 7384 *et seq.*), was originally enacted on October 30, 2000, and the primary responsibility

for administering EEOICPA was assigned to the Department of Labor (DOL) by Executive Order 13179 (65 FR 77487). In section 2(c)(vii) of that Executive Order, DOE was directed to publish a list in the **Federal Register** of Atomic Weapons Employer (AWE) facilities, DOE facilities, and facilities owned and operated by a Beryllium Vendor (as those terms are defined in sections 7384l(5), 7384l(12) and 7384l(6) of EEOICPA, respectively). Pursuant to this direction, DOE published a list of these three types of facilities covered under EEOICPA on January 17, 2001 (66 FR 4003), and subsequently revised and republished the entire list on June 11, 2001 (66 FR 31218), December 27, 2002 (67 FR 79068), July 21, 2003 (68 FR 43095) and August 23, 2004 (69 FR 51825). In subsequent notices published on November 30, 2005 (70 FR 71815), June 28, 2007 (72 FR 35448), April 9, 2009 (74 FR 16191), August 3, 2010 (75 FR 45608), May 26, 2011 (76 FR 30695), February 6, 2012 (77 FR 5781), February 11, 2013 (78 FR 9678), July 16, 2015 (80 FR 42094) and February 17, 2016 (81 FR 8060), DOE further revised the August 23, 2004 list by removing a total of 21 AWE facilities, and formally designating one additional AWE facility, without republishing the list in its entirety.

Following the amendments to EEOICPA that were enacted as subtitle E of Title XXXI of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108–375, 118 Stat. 1811, 2178 (October 28, 2004), OWCP promulgated final regulations governing its expanded responsibilities under EEOICPA on December 29, 2006 (71 FR 78520). One of those regulations, 20 CFR 30.5(x)(2), indicates that OWCP has adopted the list of DOE facilities that was published by DOE on August 23, 2004, and notes that OWCP ''will periodically update this list as it deems appropriate in its sole discretion by publishing a revised list of covered [DOE] facilities in the **Federal Register**.'' In making these updates, § 30.5(x)(1) specifies that the Director of OWCP is solely responsible for determining if a particular work site under consideration meets the statutory definition of a *Department of Energy facility.* This sole responsibility is derived from the grant of primary authority to DOL to administer the EEOICPA claims process contained in section 2(a)(i) of Executive Order 13179.

II. Purpose

Since OWCP last published a notice listing all DOE facilities covered under EEOICPA in the January 20, 2015 **Federal Register**, the Director of OWCP has made a number of determinations in connection with claims filed under EEOICPA. Those determinations are briefly described in this Supplementary Information and are memorialized in the two updated lists of DOE facilities published by OWCP today.

Specifically, the Director of OWCP has determined that the Enewetak RADLAB, located on Enewetak Atoll and now within the Republic of the Marshall Islands, meets the definition of a *Department of Energy facility* for the purposes of claims filed under EEOICPA because a predecessor agency of DOE entered into a contract with an entity to provide radiological support during the remediation of the Pacific Proving Ground by the Defense Department. In addition, OWCP's research has led the Director to clarify or otherwise modify the designation of two other work sites that have appeared in OWCP's prior published lists. The first of these appears in List 1 published below as the Dayton Project, and the Director has modified the designation for this multiple-location work site so it includes another location in Dayton, Ohio known as floors 4, 5 and 6 of the Warehouse located at 601 East Third Street because OWCP's research shows that the DOE contractor for the Dayton Project also performed work under a contract with a predecessor agency of DOE at that additional location. This expansion does not have any effect on the other locations associated with the Dayton Project, or on the covered time period for the Dayton Project. The Director has also clarified the designation of a second work site, which previously appeared in List 1 as the Stanford Linear Accelerator Center, Stanford University in Palo Alto, California. This work site now appears as the SLAC National Accelerator Laboratory in Menlo Park, California in this publication. This clarification does not have any effect on the status of the work site in question, and is only intended to more precisely identify that facility and its location. And finally, OWCP has moved one work site that appeared in previous publications in List 2 to List 1 in this publication. The Middlesex Municipal Landfill in Middlesex, New Jersey now appears in the list of work sites that have only been DOE facilities following DOE's decision to remove that work site's status as an AWE facility in its July 16, 2015 **Federal Register** notice. This move from List 2 to List 1 does not have any effect on the status of the work site as a *Department of Energy facility* for remediation purposes in 1984 and 1986.

By updating the two lists found below, OWCP is presenting the public with the most current listing of DOE facilities in order to assist potential claimants and their families. OWCP is continuing its efforts in this area as it adjudicates claims filed under EEOICPA, and further revisions of these lists should be expected. Although DOE maintains a website (*https://ehss.energy.gov/Search/Facility/findfacility.aspx*) that provides information on AWE facilities, Beryllium Vendor facilities and DOE facilities to the public, the information on that website regarding DOE facilities should not be relied upon as it may not be up to date, nor is it binding on OWCP's adjudication of claims filed under EEOICPA. Instead, OWCP is solely authorized to give the public notice of the Director's determinations regarding DOE facilities.

III. Introduction to the Lists

The five complete lists previously published by DOE included all three types of work sites described in Executive Order 13179, *i.e.,* AWE facilities, Beryllium Vendor facilities, and DOE facilities. On the other hand, the lists published on June 23, 2009, November 24, 2010, March 6, 2012, April 8, 2013, January 20, 2015 and again today by OWCP only include work sites that meet the definition of a *Department of Energy facility,* because the authority to designate both AWE facilities and Beryllium Vendor facilities has been granted to DOE. However, since some work sites can meet the definition of more than just one type of covered work site during either the same or differing time periods, simply presenting one list of DOE facilities (without also differentiating among them in some easily understood fashion) could lead the reader to wrongly conclude that a listed work site has always been a DOE facility when, in fact, it only had that status during a brief period. To lessen the potential for this type of misunderstanding, OWCP has decided to continue its practice of presenting two separate lists of DOE facilities.

The first list consists exclusively of work sites that have only been DOE facilities for purposes of coverage under EEOICPA, and the second list consists of work sites that have also been at least one other type of covered work site in addition to a DOE facility. To see what other types of covered work sites the DOE facilities appearing in the second list are or have been, readers can refer to the **Federal Register** notices published by DOE on August 23, 2004 (69 FR 51825), November 30, 2005 (70 FR 71815), June 28, 2007 (72 FR 35448), April 9, 2009 (74 FR 16191), August 3,

2010 (75 FR 45608), May 26, 2011 (76 FR 30695), February 6, 2012 (77 FR 5781), February 11, 2013 (78 FR 9678), July 16, 2015 (80 FR 42094) and February 17, 2016 (81 FR 8060). Since covered time periods for a particular DOE facility are statutorily limited to periods during which ''operations'' are or were performed by or on behalf of DOE (or its predecessor agencies) at that DOE facility, *and* when DOE (or its predecessor agencies) either had a proprietary interest in the facility or had entered into a particular type of contract with an entity regarding the facility, the lists below include date ranges during which covered employment at each work site could have been performed. These date ranges, however, often do not reflect the exact day and month that a work site either acquired or lost its status as a DOE facility, and are not considered binding on OWCP in its adjudication of individual claims under EEOICPA. Rather, they are presented in this notice for the sole purpose of informing the public of the current results of OWCP's research into the operational histories of these work sites, some of which extend back to the establishment of the Manhattan Engineer District of the U.S. Army Corps of Engineers on August 13, 1942. OWCP's efforts in this area are continuing, and it expects that the date ranges included in this notice will change with the publication of future notices.

DOE facilities appearing on the lists that have undergone environmental remediation at the direction of or directly by DOE are identified by the following symbol—†—after the date range during which such environmental remediation occurred. During those periods, only the work of employees of DOE contractors who actually performed the remediation is ''covered work'' under EEOICPA.

LIST 1—WORK SITES THAT ARE/WERE DOE FACILITIES EXCLUSIVELY

Facility name	Location	Dates
Alaska DOE Facilities		
Amchitka Island Nuclear Explosion Site	Amchitka Island	1965–9/30/1973; 5/25/2001–10/13/2001.†
Project Chariot Site	Cape Thompson	1962; 1993.†
California DOE Facilities		
Area IV of the Santa Susanna Field Laboratory	Ventura County	1955–1988; 1988–Present.†
Canoga Complex	Los Angeles County	1955–1960.
De Soto Complex	Los Angeles County	1959–1995; 1998.†
Downey Facility	Los Angeles County	1948–1955.
High Energy Rate Forging (HERF) Facility	Oxnard	1984–6/30/1997.
Laboratory for Energy-Related Health Research, University of California (Davis).	Davis	1958–1989; 1991–Present.†
Laboratory of Biomedical and Environmental Sciences, University of California (Los Angeles).	Los Angeles	1947–Present.
Laboratory of Radiobiology and Environmental Health, University of California (San Francisco).	San Francisco	1951–1999.
Lawrence Berkeley National Laboratory	Berkeley	8/13/1942–Present.
Lawrence Livermore National Laboratory	Livermore	1950–Present.
Sandia National Laboratories, Salton Sea Test Base	Imperial County	1946–1961.
Sandia National Laboratories-Livermore	Livermore	1956–Present.
SLAC National Accelerator Laboratory	Menlo Park	1962–Present.
Colorado DOE Facilities		
Grand Junction Facilities	Grand Junction	8/1/1943–10/30/2001; 11/1/2001–Present.†
Project Rio Blanco Nuclear Explosion Site	Rifle	1973–1976.
Project Rulison Nuclear Explosion Site	Grand Valley	1969–1971; 1972–1978.†
Rocky Flats Plant	Golden	1951–2006.
Florida DOE Facilities		
Pinellas Plant	Clearwater	1957–1997; 1999†; 2008–2009.†
Hawaii DOE Facilities		
Kauai Test Facility, U.S. Navy Pacific Missile Range	Kauai	1962–Present.
Idaho DOE Facilities		
Argonne National Laboratory-West	Scoville	1949–2005.
Idaho National Laboratory	Scoville	1949–Present.
Illinois DOE Facilities		
Argonne National Laboratory-East	Argonne	1946–Present.
Fermi National Accelerator Laboratory	Batavia	1967–Present.
Indiana DOE Facilities		
Dana Heavy Water Plant	Dana	1943–5/31/1957.

LIST 1—WORK SITES THAT ARE/WERE DOE FACILITIES EXCLUSIVELY—Continued

Facility name	Location	Dates
Iowa DOE Facilities		
Ames Laboratory, Iowa State University	Ames	8/13/1942–Present.
Iowa Ordnance Plant (Line 1 and Associated Activities)	Burlington	1947–1974.
Kentucky DOE Facilities		
Paducah Gaseous Diffusion Plant	Paducah	1951–7/28/98; 7/29/98–10/20/14†; 10/21/14–Present.
Massachusetts DOE Facilities		
Winchester Engineering and Analytical Center	Winchester	1952–1961.
Michigan DOE Facilities		
Adrian Facility	Adrian	5/25/54–1962; 1995.†
Minnesota DOE Facilities		
Elk River Reactor	Elk River	1962–1968.
Mississippi DOE Facilities		
Salmon Nuclear Explosion Site	Hattiesburg	1964–6/29/1972.
Missouri DOE Facilities		
Kansas City Plant	Kansas City	11/5/1948–Present.
Mallinckrodt Chemical Co., Destrehan Street Facility	St. Louis	8/13/1942–1962; 1995.†
St. Louis Airport Storage Site (SLAPS)	St. Louis	1/3/1947–1973; 1984–1998.
Weldon Spring Plant	Weldon Spring	1955–1966; 10/1/1985–2002†.
Weldon Spring Quarry	Weldon Spring	1958–1966; 1967–10/31/2002.†
Weldon Spring Raffinate Pits	Weldon Spring	1955–1966; 1967–2002.†
Nebraska DOE Facilities		
Hallam Sodium Graphite Reactor	Hallam	1960–1971.
Nevada DOE Facilities		
Nevada Site Office	North Las Vegas	3/6/1962–Present.
Nevada Test Site	Mercury	195–Present.
Project Faultless Nuclear Explosion Site	Central Nevada Test Site	1967–1974.
Project Shoal Nuclear Explosion Site	Fallon	1962–1/31/1964.
Tonopah Test Range	Tonopah	1956–Present.
Yucca Mountain Site Characterization Project	Yucca Mountain	1987–Present.
New Jersey DOE Facilities		
Middlesex Municipal Landfill	Middlesex	1984†; 1986.†
Middlesex Sampling Plant	Middlesex	1943–1967; 1980–1982†; 4/1/1986–8/30/1986.†
New Brunswick Laboratory	New Brunswick	1948–1977.
Princeton Plasma Physics Laboratory, James Forrestal Campus of Princeton University.	Princeton	1951–Present.
New Mexico DOE Facilities		
Albuquerque Operations Office	Albuquerque	8/13/1942–Present.
Chupadera Mesa	White Sands Missile Range	1945.
Hangar 481, Kirtland AFB	Albuquerque	3/1/1984–2/29/1996.
Kirtland Operations Office, Kirtland AFB	Albuquerque	1964–Present.
Los Alamos Medical Center	Los Alamos	1952–1963.
Los Alamos National Laboratory	Los Alamos	8/13/1942–Present.
Lovelace Respiratory Research Institute, Kirtland AFB	Albuquerque	1960–6/20/2013.
Project Gasbuggy Nuclear Explosion Site	Farmington	2/11/1967–1973; 1978; 1992–Present.†
Project Gnome Nuclear Explosion Site	Carlsbad	7/1/1960–6/30/1962.
Sandia National Laboratories	Albuquerque	1945–Present.
South Albuquerque Works	Albuquerque	1951–1967.
Trinity Nuclear Explosion Site, Alamogordo Bombing and Gunnery Range.	White Sands Missile Range	1945; 1952†; 1967.†

LIST 1—WORK SITES THAT ARE/WERE DOE FACILITIES EXCLUSIVELY—Continued

Facility name	Location	Dates
Waste Isolation Pilot Plant	Carlsbad	3/26/1999–Present.
New York DOE Facilities		
Brookhaven National Laboratory	Upton	1947–Present.
Electro Metallurgical Co.	Niagara Falls	8/13/1942–1953.
Environmental Measurements Laboratory	New York	1946–2003.
Haist Property	Tonawanda	6/25/1943–1948.
Lake Ontario Ordnance Works	Niagara County	1944–1997.
Linde Ceramics Plant (Buildings 30, 31, 37 and 38 only)	Tonawanda	11/16/1942–1953; 1988–1992†; 1996.†
Peek Street Facility (Knolls Atomic Power Laboratory)	Schenectady	1947–1954.
Sacandaga Facility	Glenville	1947–1953.
SAM Laboratories, Columbia University	New York	8/13/1942–1947.
Separations Process Research Unit (Knolls Atomic Power Laboratory)	Schenectady	1950–1965; 2007–2011.†
University of Rochester Atomic Energy Project	Rochester	1943–1986.
Ohio DOE Facilities		
Dayton Project (Units I, III, IV and floors 4, 5 and 6 of the Warehouse only).	Dayton and Oakwood	7/14/1943–1950.
Extrusion Plant (Reactive Metals Inc.)	Ashtabula	1962–11/1/2006.
Feed Materials Production Center (FMPC)	Fernald	1951–Present.
Mound Plant	Miamisburg	1947–Present.
Piqua Organic Moderated Reactor	Piqua	1963–2/28/69.
Portsmouth Gaseous Diffusion Plant	Piketon	1952–7/28/98; 7/29/98–Present.†
Oregon DOE Facilities		
Albany Metallurgical Research Center, U.S. Bureau of Mines	Albany	1987–1993†; 1995–Present.
Pennsylvania DOE Facilities		
Shippingport Atomic Power Plant	Shippingport	1984–1995.†
Puerto Rico DOE Facilities		
BONUS Reactor Plant	Punta Higuera	1964–1968.
Puerto Rico Nuclear Center	Mayaguez	1957–1976; 1987.†
South Carolina DOE Facilities		
Savannah River Site	Aiken	1950–Present.
Tennessee DOE Facilities		
Clarksville Modification Center, Ft. Campbell	Clarksville	1949–1967.
Clinton Engineer Works (CEW)	Oak Ridge	1943–1949.
Oak Ridge Gaseous Diffusion Plant (K–25)	Oak Ridge	1943–1987; 1988–Present.†
Oak Ridge Hospital	Oak Ridge	1943–1959.
Oak Ridge Institute for Science Education	Oak Ridge	1946–Present.
Oak Ridge National Laboratory (X–10)	Oak Ridge	1943–Present.
Office of Scientific and Technical Information (OSTI)	Oak Ridge	1957–Present.
S–50 Oak Ridge Thermal Diffusion Plant	Oak Ridge	1944–1951.
Y–12 Plant	Oak Ridge	8/13/1942–Present.
Texas DOE Facilities		
Medina Modification Center	San Antonio	1958–1966.
Pantex Plant	Amarillo	1951–Present.
Virginia DOE Facilities		
Thomas Jefferson National Accelerator Facility	Newport News	1994–Present.
Washington DOE Facilities		
Hanford Engineer Works	Richland	8/13/1942–Present.
Pacific Northwest National Laboratory	Richland	2005–Present.
West Virginia DOE Facilities		
Reduction Pilot Plant	Huntington	1951–1963; 11/27/1978–5/18/1979.†

LIST 1—WORK SITES THAT ARE/WERE DOE FACILITIES EXCLUSIVELY—Continued

Facility name	Location	Dates
Wisconsin DOE Facilities		
LaCrosse Boiling Water Reactor	LaCrosse	1967–1969.
Territorial DOE Facilities		
Enewetak RADLAB	Enewetak Atoll (now part of the Republic of the Marshall Islands).	2/16/1977–9/30/1979.
Pacific Proving Ground	Bikini and Enewetak Atolls (now part of the Republic of the Marshall Islands), Johnston Island and Christmas Island.	1946–1962.

LIST 2—WORK SITES THAT ARE/WERE DOE FACILITIES (FOR THE YEARS IDENTIFIED IN THE LAST COLUMN ONLY) AND ALSO ANOTHER TYPE OF EEOICPA-COVERED FACILITY

Facility name	Location	Dates
Arizona DOE Facilities		
Ore Buying Station at Globe	Globe	7/1/1955–1957.
Uranium Mill in Monument Valley	Monument Valley	5/1/1989–2/28/1990†; 9/1/1992–5/31/1994.†
Uranium Mill in Tuba City	Tuba City	1/1/1985–2/28/1986†; 1/1/1988–4/30/1990.†
California DOE Facilities		
General Atomics (Torrey Pines Mesa and Sorrento West)	La Jolla	1996–1999.†
General Electric Vallecitos	Pleasanton	1998–6/7/2010.†
Colorado DOE Facilities		
Climax Uranium Mill in Grand Junction	Grand Junction	12/1/1988–8/31/1994.†
Green Sludge Plant in Uravan	Uravan	1943–1945.
New Uranium Mill in Rifle	Rifle	9/1/1988–9/30/1989†; 4/1/1992–10/31/1996.†
Old Uranium Mill in Rifle	Rifle	9/1/1988–9/30/1989†; 4/1/1992–10/31/1996.†
Uranium Mill in Durango	Durango	1948–1953; 10/1/1986–5/31/1991.†
Uranium Mill in Gunnison	Gunnison	9/1/1991–12/31/1995.†
Uranium Mill in Maybell	Maybell	5/1/1995–9/30/1998.†
Uranium Mill in Naturita	Naturita	5/1/1994–11/30/1994†; 6/1/1996–9/30/1998.†
Uranium Mill No. 1 in Slick Rock (East)	Slick Rock	1995–1996.†
Uranium Mill No. 2 in Slick Rock (West)	Slick Rock	1995–1996.†
Connecticut DOE Facilities		
Connecticut Aircraft Nuclear Engine Laboratory (CANEL)	Middletown	1958–7/8/1966.
Seymour Specialty Wire	Seymour	1992–1993.†
Idaho DOE Facilities		
Uranium Mill in Lowman	Lowman	1992†; 1994–Present.
Illinois DOE Facilities		
General Steel Industries (South Plant)	Granite City	1993.†
Metallurgical Laboratory, University of Chicago (Eckhart Hall, Jones Laboratory and Ryerson Hall only).	Chicago	1982–1984†; 1987.†
National Guard Armory (Washington Park Armory)	Chicago	1987.†
Massachusetts DOE Facilities		
Chapman Valve Manufacturing Co.	Indian Orchard	1995.†
Hood Building	Cambridge	1946–1963.
Ventron Corporation	Beverly	1986†; 9/1/1995–3/30/1997.†

LIST 2—WORK SITES THAT ARE/WERE DOE FACILITIES (FOR THE YEARS IDENTIFIED IN THE LAST COLUMN ONLY) AND ALSO ANOTHER TYPE OF EEOICPA-COVERED FACILITY—Continued

Facility name	Location	Dates
Missouri DOE Facilities		
Latty Avenue Properties	Hazelwood	1984–1986.†
New Jersey DOE Facilities		
Du Pont Deepwater Works	Deepwater	1996.†
Kellex/Pierpont	Jersey City	1979–1980.†
Rare Earths/W.R. Grace	Wayne	1985–1987.†
New Mexico DOE Facilities		
Ore Buying Station at Grants	Grants	7/1/1956–1958.
Ore Buying Station at Shiprock	Shiprock	7/1/1952–1/31/1954.
Uranium Mill in Ambrosia Lake	Ambrosia Lake	7/1/1987–4/30/1989 †; 10/1/1992–7/31/1995.†
Uranium Mill in Shiprock	Shiprock	10/1/1984–11/30/1986.†
New York DOE Facilities		
Baker and Williams Warehouses (Pier 38)	New York	1991–1993.†
Colonie Interim Storage Site (National Lead Co.)	Colonie	1984–1998.†
West Valley Demonstration Project	West Valley	1980–Present.
Ohio DOE Facilities		
Alba Craft	Oxford	1994–1995.†
Associated Aircraft Tool and Manufacturing Co.	Fairfield	1994–1995.†
B & T Metals	Columbus	1996.†
Baker Brothers	Toledo	1995.†
Battelle Laboratories-King Avenue	Columbus	1986–2000.†
Battelle Laboratories-West Jefferson	Columbus	1986–Present.†
Beryllium Production Plant (Brush Luckey Plant)	Luckey	1949–1961; 1992–Present.†
General Electric Co. (Ohio)	Cincinnati/Evendale	1961–6/30/1970.
Herring-Hall Marvin Safe Co.	Hamilton	1994–1995.†
Oregon DOE Facilities		
Uranium Mill and Disposal Cell in Lakeview	Lakeview	1986–1989.†
Pennsylvania DOE Facilities		
Aliquippa Forge	Aliquippa	1988 †; 1993–1994.†
C.H. Schnorr & Company	Springdale	1994.†
Vitro Manufacturing (Canonsburg)	Canonsburg	1983–1985 †; 1996.†
South Dakota DOE Facilities		
Ore Buying Station at Edgemont	Edgemont	11/1/1952–7/12/1956.
Texas DOE Facilities		
Uranium Mill in Falls City	Falls City	1/1/1992–6/30/1994.†
Utah DOE Facilities		
Ore Buying Station at Marysvale	Marysvale	3/1/1950–1957.
Ore Buying Station at Moab	Moab	5/1/1954–1960.
Ore Buying Station at White Canyon	White Canyon	10/1/1954–1957.
Uranium Mill in Mexican Hat	Mexican Hat	7/1/1987 –10/31/1987†; 9/1/1992–2/28/1995.†
Uranium Mill in Moab (Atlas Site)	Moab	2001–Present.
Uranium Mill in Monticello	Monticello	1948–6/30/2000.
Wyoming DOE Facilities		
Ore Buying Station at Crooks Gap	Crooks Gap	12/1/1956–7/31/1957.
Ore Buying Station at Riverton	Riverton	3/1/1955–1957.
Uranium Mill in Converse County (Spook Site)	Converse County	4/1/1989–9/30/1989.†
Uranium Mill in Riverton	Riverton	5/1/1988–9/30/1990.†

† Denotes a period of environmental remediation.

Signed at Washington, DC, on October 30, 2018.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2018–24202 Filed 11–2–18; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Government Information Services

[NARA–2019–006]

Freedom of Information Act (FOIA) Advisory Committee; Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: We are announcing an upcoming Freedom of Information Act (FOIA) Advisory Committee meeting, in accordance with the Federal Advisory Committee Act and the second United States Open Government National Action Plan.

DATES: The meeting will be on November 29, 2018, from 10 a.m. to 1 p.m. EDT. You must register by 5 p.m. EDT on November 27, 2018, to attend.

Location: National Archives and Records Administration (NARA), 700 Pennsylvania Avenue NW, William G. McGowan Theater, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Kirsten Mitchell, Designated Federal Officer for this committee, by mail at National Archives and Records Administration; Office of Government Information Services, 8601 Adelphi Road—OGIS, College Park, MD 20740–6001, by telephone at 202–741–5770, or by email at *foia-advisory-committee@nara.gov*.

SUPPLEMENTARY INFORMATION:

Agenda and meeting materials: This is the second meeting of the third committee term. We will review the work of the committee's three subcommittees, working on records management, FOIA vision, and time/volume. We have posted the meeting materials online at *https://www.archives.gov/ogis/foia-advisory-committee/2018-2020-term/meetings*.

Procedures: The meeting is open to the public. Due to building access restrictions, you must register through Eventbrite in advance if you wish to attend. You will also go through security screening when you enter the building. To register, use this link: *https://foia-advisory-committee-meeting.eventbrite.com*. We will also live-stream the meeting on the National Archives' YouTube channel at *https://www.youtube.com/user/usnationalarchives,* and include a captioning option. To request additional accommodations (*e.g.,* a transcript), email *foia-advisory-committee@nara.gov* or call 202–741–5770. Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Kirsten Mitchell (contact information listed above).

Miranda J. Andreacchio,

Committee Management Officer.

[FR Doc. 2018–24088 Filed 11–2–18; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL LABOR RELATIONS BOARD

Notice of Appointments of Individuals To Serve as Members of Performance Review Boards

AGENCY: National Labor Relations Board.

ACTION: The National Labor Relations Board is issuing this notice that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 2017 and ending September 30, 2018.

Name and Title

Elizabeth Tursell—Associate to the General Counsel, Division of Operations Management
Linda Dreeben—Deputy Associate General Counsel, Division of Enforcement Litigation
John Kyle—Deputy General Counsel, Office of the General Counsel
Christine Lucy—Associate Board Counsel, Office of the Chairman
Jayme Sophir—(Alternate)—Associate General Counsel, Division of Advice
Mark Arbesfeld—(Alternate)—Director, Office of Appeals
Lara Zick—Deputy Chief Counsel to Member Emanuel
Rachel Lennie—(Alternate)—Deputy Chief Counsel to Kaplan

FOR FURTHER INFORMATION CONTACT: Roxanne Rothschild, Acting Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, (202) 273–2917 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD).

Authority: 5 U.S.C. 4314(c)(4).

Dated: October 31, 2018.

By Direction of the Board,

Farah Z. Qureshi,

Associate Executive Secretary.

[FR Doc. 2018–24133 Filed 11–2–18; 8:45 am]

BILLING CODE 7545–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request received and permit issued.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated and permits issued under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of a requested permit modification and permit issued.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8224; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

NSF issued a permit (ACA 2018–024) to Joseph A. Covi on December 15, 2017. The issued permit allows the permit holder to enter Antarctic Specially Protected Areas (ASPAs). The permit holder and agents are permitted to enter ASPA 125, Fildes Peninsula; ASPA 132, Potter Peninsula; ASPA 150, Ardley Island, Maxwell Bay; and ASPA 171 Narebski Point, Barton Peninsula for the purposes of collecting small sediment samples from freshwater lakes and ephemeral ponds. The permit holder and agents are required to adhere to the management plans for each of the ASPAs that they enter. The permit is set to expire on March 1, 2019.

Now the permit holder proposes a permit modification to extend the expiration date to March 15, 2019. The

Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

Dates of Permitted Activities: January 23, 2018–March 15, 2019.

The permit modification was issued on October 23, 2018.

Nadene Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2018–24136 Filed 11–2–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0218]

Report on Changes to Low-Level Waste Burial Charges

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment Revision 17 of draft NUREG–1307, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities.'' This report, which is revised periodically, explains the formula acceptable to the NRC for determining the minimum decommissioning fund requirements for nuclear power reactors. Specifically, this report provides escalation factors, and updates to these values, for the labor, energy, and waste components of the minimum formula.

DATES: Submit comments by December 5, 2018. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

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

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0218. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Emil Tabakov, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6814, email: *Emil.Tabakov@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0218 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0218.
- *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*. NUREG–1307, Revision 17, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities,'' is available in ADAMS under Accession No. ML18270A412.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0218 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

NUREG–1307, Revision 17, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities,'' modifies the previous revision to this report issued in March 2017 (ADAMS Accession No. ML17060A362) and incorporates updates to the escalation factors for the labor, energy, and waste components of the NRC minimum decommissioning fund formula. As a result of these changes, the minimum decommissioning fund formula amounts calculated by licensees, based on revised low-level waste burial cost factors presented in this report and revised national labor and energy price information, will likely reflect (on average) higher minimum decommissioning fund requirements than those previously reported by licensees in 2017.

Dated at Rockville, Maryland, this 30th day of October 2018.

For the Nuclear Regulatory Commission.

Anthony R. Bowers,

Chief, Financial Projects Branch, Division of Licensing Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–24079 Filed 11–2–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–61]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 6, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service has filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The requests(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request.[1] For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[2]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2015–61; *Filing Title:* USPS Notice of Amendment to Priority Mail Express & Priority Mail Contract 18, Filed Under Seal: October 29, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* November 6, 2018.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–24060 Filed 11–2–18; 8:45 am]

BILLING CODE 7710–FW–P

[1] While the Postal Service cites no specific authority for its filing, the Commission construes the request as filed under 39 CFR 3015.5 which governs amendments to rates or classes not of general applicability.

[2] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84502; File No. 4–694]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amended Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and NYSE National, Inc.

October 30, 2018.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on September 27, 2018, pursuant to Rule 17d–2 of the Act,[2] by the Financial Industry Regulatory Authority, Inc. (''FINRA'') and NYSE National, Inc. (''NYSE National'') (collectively, ''Participating Organizations'' or ''parties''). This Agreement amends and restates the agreement entered into between the parties on December 22, 2015, entitled ''Agreement Among Financial Industry Regulatory Authority, Inc. and National Stock Exchange, Inc. Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On February 9, 2016, the Commission declared effective the Plan entered into between FINRA and the National Stock Exchange, Inc. (n/k/a NYSE National, Inc.) for allocating regulatory responsibility pursuant to Rule 17d–2.[11] The Plan is intended to reduce regulatory duplication for firms that are dual members of FINRA and NYSE National by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations that are common among them. Included in the Plan is an exhibit that lists every NYSE National rule for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to NYSE National members that are also members of FINRA and the associated persons therewith.

III. Proposed Amendment to the Plan

On September 27, 2018, the parties submitted a proposed amendment to the Plan (''Amended Plan''). The primary purposes of the Amended Plan are to (1) reflect the name change of National Stock Exchange, Inc. to NYSE National, Inc., (2) update the SRO rules that are covered by the agreement, and (3) to the extent that it becomes a member of NYSE National, allocate regulatory responsibility to FINRA for NYSE National's affiliated routing broker-dealer, Archipelago Securities. The text of the proposed Amended Plan is as follows (additions are *underlined;* deletions are [bracketed]):

* * * * *

Agreement Between Financial Industry Regulatory Authority, Inc. and NYSE National [Stock Exchange], Inc. Pursuant to Rule 17d–2 Under the Securities Exchange Act of 1934

This Agreement, by and between the Financial Industry Regulatory Authority, Inc. (''FINRA'') and the *NYSE* National [Stock Exchange], Inc. (''[[NSX]NYSE NATIONAL]*NYSE National*''), is made this [22nd]*26th* day of *September*[December], 201[5]*8* (the ''Agreement''), pursuant to Section 17(d) of the Securities Exchange Act of 1934, as amended (the ''Exchange Act'') and Rule 17d–2 thereunder, which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA and [NSX]*NYSE National* may be referred to individually as a ''party'' and together as the ''parties.''

This Agreement replaces and restates the agreement entered into between the parties on [June 20, 1977 as amended, entitled ''Agreement Between the National Association of Securities Dealers, Inc. and the Cincinnati Stock Exchange] *December 22, 2015 entitled ''Agreement between Financial Industry Regulatory Authority, Inc. and National Stock Exchange, Inc.* Pursuant to SEC Rule 17d–2 Under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

WHEREAS, FINRA and [NSX]*NYSE National* desire to reduce duplication in the examination of their Dual Members (as defined herein) and in the filing and processing of certain registration and membership records; and

WHEREAS, FINRA and [NSX]*NYSE National* desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d–2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') for its approval.

NOW, THEREFORE, in consideration of the mutual covenants contained hereinafter, FINRA and [NSX]*NYSE National* hereby agree as follows:

1. *Definitions.* Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) ''*[NSX]NYSE National Rules*'' or ''*FINRA Rules*'' shall mean: (i) The rules of [NSX]*NYSE National* or (ii) the rules of FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) ''*Common Rules*'' shall mean [NSX]*NYSE National* Rules that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on *Exhibit 1* in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the provision or rule, or a Dual Member's activity, conduct, or output in relation to such provision or rule; provided, however Common Rules shall not include the application of the SEC, [NSX]*NYSE National* or FINRA rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among the Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc., and Investors Exchange LLC, approved by the SEC on August 3, 2016 as the same may be amended from time to time. *Common Rules shall not include provisions regarding (i) notice, reporting or any other filings made directly to or from NYSE National, (ii) incorporation by reference of other NYSE National Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion, including, but not limited to exercise of exemptive authority, by NYSE National, (iv) prior written approval of NYSE National, and (v) payment of fees or fines to NYSE National.*

(c) ''*Dual Members*'' shall mean those [NSX]*NYSE National* members that are also members of FINRA and the associated persons therewith.

(d) ''*Effective Date*'' shall be the date this Agreement is approved by the Commission.

(e) ''*Enforcement Responsibilities*'' shall mean the conduct of appropriate proceedings, in accordance with FINRA's Code of Procedure (the Rule 9000 Series) and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 77089 (February 9, 2016), 81 FR 7871 (February 16, 2016).

imposition of appropriate sanctions as specified under FINRA's Code of Procedure and sanctions guidelines.

(f) ''*Regulatory Responsibilities*'' shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the Dual Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on *Exhibit 1* attached hereto.

2. *Regulatory and Enforcement Responsibilities.* FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for Dual Members. Attached as *Exhibit 1* to this Agreement and made part hereof, [NSX]*NYSE National* furnished FINRA with a current list of Common Rules and certified to FINRA that such rules that are [NSX]*NYSE National* Rules are substantially similar to the corresponding FINRA Rules (the ''Certification''). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in either the rules of [NSX]*NYSE National* or FINRA, [NSX]*NYSE National* shall submit an updated list of Common Rules to FINRA for review which shall add [NSX]*NYSE National* Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete [NSX]*NYSE National* Rules included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be [NSX]*NYSE National* Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibilities'' does not include, and [NSX]*NYSE National* shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) (collectively, the ''Retained Responsibilities'') the following:

(a) surveillance, examination, investigation and enforcement with respect to trading activities or practices involving [NSX]*NYSE National*'s own marketplace;

(b) registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules);

(c) discharge of its duties and obligations as a Designated Examining Authority pursuant to Rule 17d–1 under the Exchange Act; and

(d) any [NSX]*NYSE National* Rules that are not Common Rules*, except for NYSE National rules for any NYSE National affiliate that is a member that operates as a facility (as defined in Section 3(a)(2) of the Exchange Act), acts as a router for NYSE National and is a member of FINRA (''Router Member'') as provided in paragraph 6. As of the date of this Agreement, Archipelago Securities is the only Router Member.*

3. *Dual Members.* Prior to the Effective Date, [NSX]*NYSE National* shall furnish FINRA with a current list of Dual Members, which shall be updated no less frequently than once each quarter.

4. *No Charge.* There shall be no charge to [NSX]*NYSE National* by FINRA for performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as hereinafter provided. FINRA shall provide [NSX]*NYSE National* with ninety (90) days advance written notice in the event FINRA decides to impose any charges to [NSX]*NYSE National* for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, [NSX]*NYSE National* shall have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

5. *Applicability of Certain Laws, Rules, Regulations or Orders.* Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission. To the extent such statute, rule, order or action is inconsistent with this Agreement, the statute, rule, order or action shall supersede the provision(s) hereof to the extent necessary for them to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

6. *Notification of Violations.*

(a) In the event that FINRA becomes aware of apparent violations of any [NSX]*NYSE National* Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify [NSX]*NYSE National* of those apparent violations for such response as [NSX]*NYSE National* deems appropriate. *With respect to apparent violations of any NYSE National Rules by any Router Member, FINRA shall not make referrals to NYSE National pursuant to this paragraph 6. Such apparent violations shall be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA as provided in this agreement.*

(b) In the event that [NSX]*NYSE National* becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, [NSX]*NYSE National* shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement.

(c) Apparent violations of Common Rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Dual Member is the subject of an investigation relating to a transaction on [NSX]*NYSE National,* [NSX]*NYSE National* may in its discretion assume concurrent jurisdiction and responsibility.

(d) Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

7. *Continued Assistance.*

(a) FINRA shall make available to [NSX]*NYSE National* all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder with respect to the Dual Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish [NSX]*NYSE National* any information it obtains about Dual Members which reflects adversely on their financial condition. [NSX]*NYSE National* shall make available to FINRA any information coming to its attention that reflects adversely on the financial condition of Dual Members or indicates possible violations of applicable laws, rules or regulations by such firms.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations. Neither party shall assert regulatory or other privileges as against the other with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating

to the discovery of documents or information.

8. *Statutory Disqualifications.* When FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Dual Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep [NSX]*NYSE National* advised of its actions in this regard for such subsequent proceedings as [NSX]*NYSE National* may initiate.

9. *Customer Complaints.* [NSX]*NYSE National* shall forward to FINRA copies of all customer complaints involving Dual Members received by [NSX]*NYSE National* relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

10. *Advertising.* FINRA shall assume responsibility to review the advertising of Dual Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

11. *No Restrictions on Regulatory Action.* Nothing contained in this Agreement shall restrict or in any way encumber the right of either party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Dual Members, as either party, in its sole discretion, shall deem appropriate or necessary.

12. *Termination.* This Agreement may be terminated by [NSX]*NYSE National* or FINRA at any time upon the approval of the Commission after one (1) year's written notice to the other party, except as provided in paragraph 4.

13. *Arbitration.* In the event of a dispute between the parties as to the operation of this Agreement, [NSX]*NYSE National* and FINRA hereby agree that any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other party. In the event of a dispute between the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in this Section 13 shall interfere with a party's right to terminate this Agreement as set forth herein.

14. *Separate Agreement.* This Agreement is wholly separate from the following agreements: (1) The multiparty agreement for insider trading activities, which is covered by a separate 17d–2 Agreement by and among Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca Inc., and Investors Exchange LLC effective August 3, 2016, as may be amended from time to time and (2) the multiparty 17d–2 agreement relating to Regulation NMS rules by and among Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., BOX Options Exchange LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, The NASDAQ Stock Market LLC, NASDAQ BX, Inc., NASDAQ PHLX, Inc., National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. effective February 2, 2017 as may be amended from time to time.

15. *Notification of Members.* [NSX]*NYSE National* and FINRA shall notify Dual Members of this Agreement after the Effective Date by means of a uniform joint notice.

16. *Amendment.* This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

17. *Limitation of Liability.* Neither FINRA nor [NSX]*NYSE National* nor any of their respective directors, governors, officers or employees shall be liable to the other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or the other of FINRA or [NSX]*NYSE National* and caused by the willful misconduct of the other party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by FINRA or [NSX]*NYSE National* with respect to any of the responsibilities to be performed by each of them hereunder.

18. *Relief from Responsibility.* Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d-2 thereunder, FINRA and [NSX]*NYSE National* join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve [NSX]*NYSE National* of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

19. *Severability.* Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

20. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

In witness whereof, each party has executed or caused this Agreement to be executed on its behalf by a duly authorized officer as of the date first written above.

* * * * *

Exhibit 1

Note: The entire existing table of rules should be deleted and replaced with the table below and for the remainder of the exhibit new text is italicized and deleted text is in brackets.

NYSE National [Stock Exchange] (''[NSX] NYSE National'') Rules Certification for 17d–2 Agreement With FINRA

[NSX]*NYSE National* hereby certifies that the requirements contained in the rules listed below are identical to, or substantially similar to, the comparable

FINRA Rule, NASD Rule, Exchange Act provision or SEC rule identified (''Common Rules'').

#*Common Rules shall not include provisions regarding (i) notice, reporting or any other filings made directly to or from NYSE National, (ii) incorporation by reference to other NYSE National Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion, including but not limited to exercise of exemptive authority, by NYSE National, (iv) prior written approval of NYSE National, and (v) payment of fees or fines to NYSE National.*

NYSE national rule:	*FINRA rule, NASD rule, Exchange Act provision or SEC rule:*
Rule 2.2(e) Obligations of ETP Holders and the Exchange#	*FINRA Rule 1250 Continuing Education Requirements.*
Rule 2.2 Obligations of ETP Holders and the Exchange Commentary .05#.	*FINRA Rule 1010(a), (c) Electronic Filing Requirements for Uniform Forms, and FINRA By-Laws Article V, Sec. 2 and Sec. 3 Registered Representatives and Associated Persons.*
Rule 3.10(b) Notice of Expulsion or Suspension#	*FINRA Rule 4530(a)(1)(D) Reporting Requirements.*[1]
Rule 6.7410 Definitions(a)–(o)	*FINRA Rule 7410 Definitions.*
Rule 6.7420 Applicability	*FINRA Rule 7420 Applicability.*[2]
Rule 6.7430 Synchronization of ETP Holder Business Clocks#	*FINRA Rule 4590 Synchronization of member Business Clocks.*[3]
Rule 6.7440 Recording of Order Information#	*FINRA Rule 7440 Recording of Order Information.*
Rule 6.7450 Order Data Transmission Requirements	*FINRA Rule 7450 Order Data Transmission Requirements.*
Rule 6.7460 Violation of Order Audit Trail System Rules	*FINRA Rule 7460 Violation of Order Audit Trail System Rules.*
Rule 6.7470 Exemption to the Order Recording and Data Transmission Requirements#.	*FINRA Rule 7470 Exemption to the Order Recording and Data Transmission Requirements.*
Rule 7.3 (b) and (c) Commissions	*FINRA Rule 2232 Customer Confirmations and SEA Rule 10b–10 Confirmation of Transactions.*
Rule 7.34(d)(3) Trading Sessions	*FINRA Rule 2265 Extended Hours Trading Risk Disclosure.*
Rule 11.2111 Suitability	*FINRA Rule 2111 Suitability.*
Rule 11.2210 Communications with the Public	*FINRA Rule 2210 Communications with the Public.*
Rule 11.2232 Customer Confirmations	*FINRA Rule 2232 Customer Confirmations and SEA Rule 10b 10 Confirmation of Transactions.*
*Rule 11.3.1 Business Conduct of ETP Holders**	*FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade.**[4]
Rule 11.3.2 Violations Prohibited#*	*FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade and FINRA Rule 3110 Supervision.**[5]
*Rule 11.3.3 Use of Fraudulent Devices**	*FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Device.**
Rule 11.3.5(a) Advertising Practices	*FINRA Rule 2210(d)(1)(B) Communications with the Public.*
Rule 11.3.5(c) Advertising Practices	*FINRA Rule 2210(d)(1) Communications with the Public.*
Rule 11.3.6 Fair Dealing with Customers	*FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Device, FINRA 2010 Standards of Commercial Honor and Principles of Trade, and FINRA Rule 2111 Suitability.*[6]
Rule 11.3.8(a) The Prompt Receipt and Delivery of Securities	*FINRA Rule 11860 COD Orders.*
Rule 11.3.9 Charges for Services Performed	*FINRA Rule 2122 Charges for Services Performed.*
Rule 11.3.10 Use of Information	*FINRA Rule 2060 Use of Information Obtained in Fiduciary Capacity.*
Rule 11.3.11 Publication of Transactions and Quotations#	*FINRA Rule 5210 Publication of Transactions and Quotations.*
Rule 11.3.12 Offers at Stated Prices	*FINRA Rule 5220 Offers at Stated Prices.*
Rule 11.3.13 Payment Designed to Influence Market Prices, Other than Paid Advertising.	*FINRA Rule 5230 Payments Involving Publications that Influence the Market Price of a Security.*[7]
Rule 11.3.15 Disclosure of Control	*FINRA Rule 2262 Disclosure of Control Relationship With Issuer.*
Rule 11.3.16 Discretionary Accounts	*NASD Rule 2510 Discretionary Accounts.*[8]
Rule 11.3.17 Customer's Securities or Funds	*FINRA Rule 2150(a) Customers' Securities or Funds—Improper Use.*
Rule 11.3.18 Prohibition Against Guarantees	*FINRA Rule 2150(b) Customers' Securities or Funds—Prohibition Against Guarantees.*
Rule 11.3.19 Sharing in Accounts; Extent Permissible	*FINRA Rule 2150(c)(1) Customers' Securities or Funds—Sharing in Accounts; Extent Permissible.*
Rule 11.3.21 Telephone Solicitation	*FINRA Rule 3230 Telemarketing.*
Rule 11.3310 Anti-Money Laundering Compliance Program#	*FINRA Rule 3310 Anti-Money Laundering Compliance Program.*
Rule 11.4.1 Requirements#*	*FINRA Rule 4511 General Requirements.**
Rule 11.4.3 Record of Written Complaints	*FINRA Rule 4513 Records of Written Customer Complaints.*
Rule 11.5.1 Written Procedures#*	*FINRA Rule 3110(b) Supervision—Written Procedures.**
Rule 11.5.2 Responsibility of ETP Holders	*FINRA Rule 3110(a) and (b)(7) Supervision.**
*Rule 11.5.3 Records**	*FINRA Rule 3110(a) and (b) Supervision;* and FINRA Rule 4511 General Requirements.*
Rule 11.5.4 Review of Activities and Annual Inspections	*FINRA Rule 3110(c) and (d) Supervision—Internal Inspections/Review of Transactions and Correspondence.**[9]
Rule 11.5.7 Annual Certification of Compliance and Supervisory Processes#.	*FINRA Rule 3130 Annual Certification of Compliance and Supervisory Processes.*
Rule 11.5220 Disruptive Quoting and Trading Activity Prohibited#	*FINRA Rule 5210 .03 Disruptive Quoting and Trading Activity Prohibited.*
Rule 11.5320 Prohibition Against Trading Ahead of Customer Orders	*FINRA Rule 5320 Prohibition Against Trading Ahead of Customer Orders.*
Rule 11.12.10 Best Execution	*FINRA Rule 5310 Best Execution and Interpositioning.*[10]ROW≤

NYSE national rule:	FINRA rule, NASD rule, Exchange Act provision or SEC rule:
Rule 11.12.3 Excessive Sales by an ETP Holder	FINRA Rule 6140(c) Other Trading Practices.

* FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE MKT LLC, and NYSE Arca, Inc. effective August 3, 2016, as may be amended from time to time.

[1] *FINRA shall only have Regulatory Responsibilities to the extent NYSE National has adopted or accepts interpretations consistent with FINRA Rule 4530 regarding the specific timing and thresholds for reporting.*

[2] *Applies only to NYSE National ETP Holders and their associated persons, as that term is defined in FINRA's By-laws Art. I(rr).*

[3] *FINRA shall not have regulatory responsibilities to the extent NYSE National prescribes additional procedures not required by FINRA.*

[4] *FINRA shall not have Regulatory Responsibilities regarding .01 of NYSE National Rule 11.3.1.*

[5] *FINRA shall only have Regulatory Responsibilities regarding the first phrase of the NYSE National Rule regarding prohibitions from violating the Securities Exchange Act of 1934 and the rules and regulations thereunder; responsibility for the remainder of the Rule shall remain with NYSE National.*

[6] *FINRA shall not have Regulatory Responsibilities regarding .01 of NYSE National Rule 11.3.6.*

[7] *FINRA shall not have Regulatory Responsibilities with regard to the prohibitions set forth under subsection (a) of FINRA Rule 5230 to the extent subsections (b)(2) or (b)(3) of the Rule apply.*

[8] *FINRA shall not have Regulatory Responsibilities for the NYSE National rule to the extent the exception in FINRA Rule 2510(d)(2) applies.*

[9] *FINRA shall not have Regulatory Responsibilities regarding the NYSE National requirement to annually inspect each office of the ETP Holder (other than as required by the FINRA rule to annually inspect each OSJ and any branch office that supervises one or more non-branch locations).*

[10] *FINRA shall not have Regulatory Responsibilities regarding .01 of NYSE National Rule 11.12.10.*

[In addition, the following provisions shall be part of this 17d–2 Agreement:] *[Securities Exchange Act of 1934:*] [Section 15(f)]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 4–694 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 4–694. 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 plan that are filed with the Commission, and all written communications relating to the proposed plan 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. Copies of the plan also will be available for inspection and copying at the principal offices of FINRA and NYSE National. 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 *4–694* and should be submitted on or before November 26, 2018.

V. Discussion

The Commission finds that the proposed Amended Plan is consistent with the factors set forth in Section 17(d) of the Act [12] and Rule 17d–2(c) thereunder [13] in that the proposed Amended Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Amended Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Dual Members that would otherwise be performed by NYSE National and FINRA. Accordingly, the proposed Amended Plan promotes efficiency by reducing costs to Dual Members. Furthermore, because NYSE National and FINRA will coordinate their regulatory functions in accordance with the Amended Plan, the Amended Plan should promote investor protection.

The Commission notes that, under the Amended Plan, NYSE National and FINRA have allocated regulatory responsibility for those NYSE National rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Dual Member's activity, conduct, or output in relation to such rule. The Common Rules covered by the Amended Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Amended Plan, NYSE National will review the Certification, at least annually, or more frequently if required by changes in either the rules of NYSE National or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add NYSE National rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete NYSE National rules included in the then-current list of Common Rules that no longer qualify as common rules; and confirm that the remaining rules on the list of Common Rules continue to be NYSE National rules that qualify as common rules.[14] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Amended Plan. Under the Amended Plan, NYSE

[12] 15 U.S.C. 78q(d).

[13] 17 CFR 240.17d–2(c).

[14] *See* paragraph 2 of the Amended Plan.

National will also provide FINRA with a current list of Dual Members and shall update the list no less frequently than once each quarter.[15] The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all NYSE National rules that are substantially similar to the rules of FINRA for Dual Members of NYSE National and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the Parties are only adding to, deleting from, or confirming changes to NYSE National rules in the Certification in conformance with the definition of Common Rules provided in the Amended Plan. However, should the Parties decide to add an NYSE National rule to the Certification that is not substantially similar to a FINRA rule; delete an NYSE National rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification an NYSE National rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.[16]

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purposes of the amendment are to (1) reflect the name change of National Stock Exchange, Inc. to NYSE National, Inc., (2) update the SRO rules that are covered by the agreement, and (3) to the extent that it becomes a member of NYSE National, allocate regulatory responsibility to FINRA for NYSE National's affiliated routing broker-dealer, Archipelago Securities. By declaring it effective today, the Amended Plan can become effective and be implemented without undue delay. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[17] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the Amended Plan filed with the Commission in File No. 4–694. The Parties shall notify all members affected by the Amended Plan of their rights and obligations under the Amended Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Amended Plan in File No. 4–694, between the FINRA and NYSE National, filed pursuant to Rule 17d-2 under the Act, hereby is approved and declared effective.

It is further ordered that NYSE National is relieved of those responsibilities allocated to FINRA under the Amended Plan in File No. 4–694.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[15] *See* paragraph 3 of the Amended Plan.

[16] The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, Dual Members, also would constitute an amendment to the Amended Plan.

[17] *See supra* note 11 (citing to Securities Exchange Act Release No. 77089).

[18] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84505; File No. SR–NASDAQ–2018–080]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the BrandywineGLOBAL—Global Total Return ETF, a Series of Legg Mason ETF Investment Trust Under Nasdaq Rule 5735

October 30, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 17, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares of the BrandywineGLOBAL—Global Total Return ETF (the ''Fund''), a series of Legg Mason ETF Investment Trust (the ''Trust'') under Nasdaq Rule 5735 (''Managed Fund Shares'').[3] The shares of the Fund are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). There are already multiple actively-managed funds listed on the Exchange. *See, e.g.,* Securities Exchange Act Release Nos. 80946 (June 15, 2017), 82 FR 28126 (June 20, 2017) (SR–NASDAQ–2017–039) (order approving listing and trading of Guggenheim Limited Duration ETF); 78592 (August 16, 2016), 81 FR 56729 (August 22, 2016) (SR–NASDAQ–2016–061) (order approving listing and trading of First Trust Equity Market Neutral ETF); 78443 (July 29, 2016), 81 FR 51517 (August 4, 2016) (SR–NASDAQ–2016–064) (order approving listing and trading of First Trust Strategic Mortgage REIT ETF); 71913 (April 9, 2014), 79 FR 21333 (April 15, 2014) (SR–NASDAQ–2014–019) (order approving listing and trading of First Trust Managed Municipal ETF); 69464 (April 26, 2013), 78 FR 25774 (May 2, 2013) (SR–NASDAQ–2013–036) (order approving listing and trading of First Trust Senior Loan Fund); 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund); *see also* filings for similar ETFs listed on other national securities exchanges: Securities Exchange Act Release Nos. 80657 (May 11, 2017) 82 FR 22702 (May 17, 2017) (SR–NYSE Arca–2017–09) (order approving listing and trading of Janus Short Duration Income ETF); 79683 (December 23, 2016), 81 FR 96539 (December 30, 2016) (SR–NYSEArca–2016–82) (order approving listing and trading of JPMorgan Diversified Event Driven ETF); 77904 (May 25, 2016), 81 FR 35101 (SR–NYSE Arca–2016–17) (order approving listing and trading of JPMorgan Diversified Alternative ETF); 68870 (February 8 2013), 78 FR 11245 (February 15, 2013) (SR–NYSEArca–2012–139) (order approving listing and trading of First Trust Preferred Securities and Income ETF). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares [4] on the Exchange. The Fund will be an exchange-traded fund (''ETF'') that is actively-managed. The Shares will be offered by the Trust, which was established as a Maryland statutory trust on June 8, 2015.[5] The Exchange notes that other actively-managed, broad market fixed-income ETFs have been previously approved by the SEC prior to the adoption of ''generic'' listing standards for actively-managed ETFs.[6] The Trust is registered with the Commission as an investment company under the 1940 Act and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission with respect to the Fund.[7] The Fund will be a series of the Trust. The Fund intends to qualify each year as a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.

Legg Mason Partners Fund Advisor, LLC will be the investment adviser to the Fund (the ''Manager'').[8] Brandywine Global Investment Management, LLC will serve as the sub-adviser to the Fund (the ''Sub-Adviser'').[9] Legg Mason Investor Services, LLC (the ''Distributor'') will be the distributor of the Fund's Shares. The Investment Adviser, the Sub-Adviser and the Distributor are wholly-owned subsidiaries of Legg Mason, Inc. (''Legg Mason''). An entity that is not affiliated with Legg Mason, and which is named in the Registration Statement, will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company's portfolio.[10] In addition, paragraph (g) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company's portfolio.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment and maintenance of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable investment company's portfolio, not an underlying benchmark index, as is the case with index-based funds. Neither the Manager nor the Sub-Adviser is a broker-dealer, but each is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

In addition, personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In the event (a) the Manager or the Sub-Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new investment adviser or any new sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement

[4] A Managed Fund Share is a security that represents an interest in a company, which is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the ''1940 Act'') and organized as an open-end investment company or similar entity, that invests in a portfolio of securities selected by its investment adviser consistent with the company's investment objective and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 32391 (December 13, 2016) (File No. 812–14547) (the ''Exemptive Relief''). In addition, on December 6, 2012, the staff of the Commission's Division of Investment Management (''Division'') issued a no-action letter (''No-Action Letter'') relating to the use of derivatives by actively-managed ETFs. *See* No-Action Letter dated December 6, 2012 from Elizabeth G. Osterman, Associate Director, Office of Exemptive Applications, Division of Investment Management. The No-Action Letter stated that the Division would not recommend enforcement action to the Commission under applicable provisions of and rules under the 1940 Act if actively-managed ETFs operating in reliance on specified orders (which include the Exemptive Relief) invest in options contracts, futures contracts or swap agreements provided that they comply with certain representations stated in the No-Action Letter.

[6] *See, e.g.,* Securities Exchange Act Release Nos. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR–NYSEArca–2015–73) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund (now known as the PIMCO Active Bond Exchange-Traded Fund)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR–NYSEArca–2013–122) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund); *see also infra* notes 86 and 104.

[7] *See* Post-Effective Amendment No. 50 to the Registration Statement on Form N–1A for the Trust (File Nos. 333–206784 and 811–23096) as filed on June 5, 2018. The Trust will file additional amendments to the Registration Statement as necessary to conform to the representations in this filing. The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[8] Legg Mason Partners Fund Advisor, LLC describes its role as ''investment manager,'' rather than as ''investment adviser'' in applicable Fund-related documents, including the Registration Statement, in its investment management agreement with the Fund and in connection with its annual approval process by the board of trustees for the Trust (the ''Board''). As a result, the defined term ''Manager'' is used in this filing with respect to a proposed rule change instead of the term ''investment adviser,'' which is the term used by certain other investment advisers to ETFs in their filings with respect to proposed rule changes under Rule 19b–4 of the Act.

[9] The Sub-Adviser is responsible for the day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings regardless of where the instruments are traded. The Manager has ongoing oversight responsibility.

[10] An investment adviser to an investment company is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Manager and the Sub-Adviser, as registered investment advisers, and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. Rule 204A–1 requires investment advisers (such as the Manager and the Sub-Adviser) to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by the Manager and the Sub-Adviser must be consistent with the Advisers Act and Rule 204A–1 thereunder. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser (such as the Manager and the Sub-Adviser) to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

BrandywineGLOBAL—Global Total Return ETF

Principal Investments

The investment objective of the Fund will be to seek to maximize total return, consisting of income and capital appreciation. Although the Fund may invest in securities and Debt (as defined below) of any maturity, the Fund will normally maintain an effective duration as set forth in the prospectus.[11] Effective duration seeks to measure the expected sensitivity of market price to changes in interest rates, taking into account the anticipated effects of structural complexities (for example, some bonds can be prepaid by the issuer).

Under Normal Market Conditions,[12] the Fund will seek to achieve its investment objective by investing at least 80% of its assets in a portfolio comprised of U.S. or foreign fixed income securities; U.S. or foreign Debt (as defined below);[13] ETFs[14] that provide exposure to such U.S. or foreign fixed income securities, Debt or other Principal Investments (defined below); derivatives[15] that (i) provide exposure to such U.S. or foreign fixed income securities, Debt and other Principal Investments, (ii) are used to risk manage the Fund's holdings, and/or (iii) are used to enhance returns, such as through covered call strategies;[16] U.S. or foreign equity securities of any type acquired in reorganizations of issuers of fixed income securities or Debt held by the Fund (''Work Out Securities'');[17] U.S. or foreign non-convertible preferred securities (other than trust preferred securities, which the Fund may invest in, but which are treated as fixed income securities[18] (''Non-Convertible Preferred Securities'');[19] warrants,[20] comprised of: Warrants on

[11] The effective duration of the Fund may fall outside of its expected range due to market movements. If this happens, the Sub-Adviser will take action to bring the Fund's effective duration back within its expected range within a reasonable period of time.

[12] The term ''Normal Market Conditions'' has the meaning set forth in Nasdaq Rule 5735(c)(5). The Fund may vary from ordinary parameters on a temporary basis, including for defensive purposes, during the initial invest-up period (*i.e.,* the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (*i.e.,* rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's assets as of the opening of business on the first day of such periods). In those situations, the Fund may depart from its principal investment strategies and may, for example, hold a higher than normal proportion of its assets in cash and cash equivalents. During such periods, the Fund may not be able to achieve its investment objective. The Fund may also adopt a defensive strategy and hold a significant portion of its assets in cash and cash equivalents when the Manager or the Sub-Adviser believes securities, Debt and other instruments in which the Fund normally invests have elevated risks due to political or economic factors, heightened market volatility or in other extraordinary circumstances that do not constitute ''Normal Market Conditions''. The Fund's investments in cash equivalents are described in greater detail in note 22 *infra.*

[13] As noted below, the Fund's fixed income security and Debt investments will satisfy specific diversification requirements set forth in the Fund's prospectus that are not included in Nasdaq Rule 5735, including, without limitation, that each issuer of securities or borrower in respect to Debt have economic exposure to at least three countries. *See infra* ''Investment Restrictions.

[14] The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705(b)), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705(a)), and Managed Fund Shares (as described in Nasdaq Rule 5735). The Fund will not invest in ETFs that are not registered as investment companies under the 1940 Act. The ETFs held by the Fund will invest in fixed income securities, Debt, money-market instruments and other Principal Investments to which the Fund seeks exposure. All such ETFs will trade in markets that are members of the ISG or exchanges that are parties to a comprehensive surveillance sharing agreement with the Exchange. The Fund will not invest in leveraged ETFs, inverse ETFs, or inverse leveraged ETFs. Other fixed-income funds have been approved to include ETFs in their 80% principal investment category. *See, e.g.,* Securities Exchange Act Release No. 80946 (June 15, 2017), 82 FR 28126 (June 20, 2017) (SR–NASDAQ–2017–039) (approving fund seeking to meet its investment objective of having at least 80% of assets invested in a portfolio of debt instruments in part through investments in ETFs that invest substantially all of their assets in such debt instruments).

[15] Derivatives will include: (i) Swaps and security-based swaps, futures, options, options on futures, and swaptions that are traded on an exchange, trading facility, swap execution facility or alternative trading system (''Exchange-Traded Derivatives'') (A) that is a member of the Intermarket Surveillance Group (''ISG''), which includes all U.S. national securities exchanges and most futures exchanges, (B) that is subject to a comprehensive surveillance sharing agreement with the Exchange, or (C) that is not an ISG member and with which the Exchange does not have a comprehensive surveillance sharing agreement; and (ii) swaps and security-based swaps, options, options on futures, swaptions, forwards and similar instruments that are traded in the over-the-counter market and are either centrally cleared or cleared bilaterally (''OTC Derivatives''), as further described below. For the purposes of describing the scope of the Fund's potential investments in derivatives, the terms ''swaps'' and ''security-based swaps'' shall have the meanings set forth in the Commodity Exchange Act (''CEA''), as amended by The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010) (''Dodd-Frank''), and regulations thereunder, and references to swaps and forwards on foreign exchange or currencies shall include ''foreign exchange forwards'' and ''foreign exchange swaps'', as such terms are defined in Sections 1a(24)–(25) of the CEA. The terms ''exchange-traded'' and ''exchange-listed'', when used with respect to swaps and security-based swaps, shall include swaps and security-based swaps that are executed on swap execution facilities and security-based swap execution facilities and cleared through regulated, central clearing facilities. The types of derivatives in which the Fund may invest and the reference assets for such derivatives are described in greater detail below. Exchange-Traded Derivatives and OTC Derivatives may reference Principal Investments and other investments. Those Exchange-Traded Derivatives and OTC Derivatives that reference Principal Investments will be treated as Principal Investments and those that do not will not be treated as Principal Investments. For purposes of the 80% Principal Investments measure, the Fund will value Exchange-Traded Derivatives and OTC Derivatives based on the mark-to-market value of such derivatives. This approach is consistent with the valuation methodology for asset coverage purposes in Rule 18f–4 under the 1940 Act proposed by the Commission. *See* Investment Company Act Release No. 31933 (December 11, 2015); 80 FR 80884 (December 28, 2015) (the ''Derivatives Rule Proposing Release''); *see also infra* note 107. No more than 10% of the assets of the Fund will be invested in Exchange-Traded Derivatives and exchange-listed securities whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

[16] *See also infra* ''The Fund's Use of Derivatives.''

[17] Work Out Securities will generally be traded in the OTC market but may be listed on an exchange that may or may not be an ISG member. To the extent that the Work Out Securities are exchange-listed, they will be subject to the 10% limit on the Fund's total assets that can be listed on a market that is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement. *See infra* ''Investment Restrictions.''

[18] *See* Nasdaq Rule 5735(b)(1)(B).

[19] Non-convertible preferred stock, such as that comprising the Non-Convertible Preferred Securities, provides holders with a fixed or variable distribution and a status upon bankruptcy of the issuer that is subordinated to debt holders but preferred over common shareholders. Non-Convertible Preferred Securities may be listed on either an ISG member exchange (or an exchange with which the Exchange has a comprehensive surveillance sharing agreement) or a non-ISG member exchange or be unlisted and trade in the over-the-counter market. Non-Convertible Preferred Securities that are listed and traded on a non-ISG member exchange or on an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement, together with all other exchange-listed securities and Exchange-Traded Derivatives held by the Fund that are listed on a non-ISG member exchange or exchange with which the Exchange does not have a comprehensive surveillance sharing agreement, are limited to 10% of the Fund's total assets. *See infra* ''Investment Restrictions.''

[20] Warrants are equity securities that provide the holder with the right to purchase specified securities of the issuer of the warrants at a specified exercise price until the expiration date of the warrant. The Fund may hold warrants that provide the right to purchase fixed income securities or equity securities and expects that most of the warrants it holds will be attached to related fixed income securities. Warrants held by the Fund may be traded in the OTC market or may be listed on

U.S. or foreign fixed income securities (''Fixed-Income Related Warrants'') and warrants on U.S. or foreign equity securities (''Equity-Related Warrants''),[21] both fixed income and equity securities of which are generally issued by the issuer of the warrants, and both types of warrants of which are generally attached to, accompany or are purchased alongside investments in U.S. or foreign fixed income securities; cash and cash equivalents; [22] and foreign currencies (together, the ''Principal Investments'' and the equity elements of the Principal Investments, which consist of Work Out Securities, ETFs that provide exposure to fixed income securities, Debt or other Principal Investments, Equity-Related Warrants [23] and Non-Convertible Preferred Securities, are referred to as the ''Principal Investment Equities'').[24]

The Manager or Sub-Adviser (as applicable) may select from any of the following types of fixed income securities: (i) U.S. or foreign corporate debt securities, including notes, bonds, debentures, trust preferred securities, and commercial paper issued by corporations, trusts, limited partnerships, limited liability companies and other types of non-governmental legal entities; (ii) U.S. government securities, including obligations of, or guaranteed by, the U.S. government, its agencies or government-sponsored entities (other than MBS described below); (iii) sovereign debt securities, which include fixed income securities issued by governments, agencies or instrumentalities and their political subdivisions, securities issued by government-owned, controlled or sponsored entities, interests in entities organized and operated for the purpose of restructuring the investment instruments issued by such entities, Brady Bonds,[25] and fixed income securities issued by supranational entities such as the World Bank; [26] (iv) municipal securities, which include general obligation bonds, revenue bonds, housing authority bonds, private activity bonds, industrial development bonds, residual interest bonds, tender option bonds, tax and revenue anticipation notes, bond anticipation notes, tax-exempt commercial paper, municipal leases, participation certificates and custodial receipts; (v) zero coupon securities, which are securities that pay no interest during the life of the obligation but are issued at prices below their stated maturity value; (vi) pay-in-kind securities, which have a stated coupon, but the interest is generally paid in the form of obligations of the same type as the underlying pay-in-kind securities (*e.g.,* bonds) rather than in cash; (vii) deferred interest securities, which are obligations that generally provide for a period of delay before the regular payment of interest begins and are issued at a significant discount from face value; (viii) U.S. or foreign structured notes and indexed securities, including securities that have demand, tender or put features, or interest rate reset features; (ix) U.S. or foreign inflation-indexed or inflation-protected securities, which are fixed income securities that are structured to provide protection against inflation and whose principal value or coupon is periodically adjusted according to the rate of inflation and which include, among others, treasury inflation protected securities; and (x) fixed income securities issued by securitization vehicles (''Securitized Products'').[27] Securitized Products include: (A) U.S. or foreign mortgage-backed securities (''MBS''), which are securities that represent direct or indirect participations in, or are collateralized by and payable from, mortgage loans secured by real property and which may be issued or guaranteed by government-sponsored entities (''GSEs'') [28] such as Fannie Mae (formally known as the Federal National Mortgage Association) or Freddie Mac (formally known as the Federal Home Loan Mortgage Corporation) or issued or guaranteed by agencies of the U.S. government, such as the Government National Mortgage Association (''Ginnie Mae''); [29] (B) U.S. or foreign asset-

an exchange. Warrants that are listed on a non-ISG member exchange or an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement, together with all other exchange-listed securities and Exchange-Traded Derivatives held by the Fund that are listed on a non-ISG member exchange or exchange with which the Exchange does not have a comprehensive surveillance sharing agreement, are limited to 10% of the Fund's total assets. *See infra* ''Investment Restrictions.''

[21] The Fund's interests in Equity-Related Warrants are similar to the Fund's interest in Work Out Securities in that they reflect interests in equity securities that are held solely in connection with investments in fixed income securities.

[22] Cash equivalents consist of the following, all of which have maturities of less than 360 days: U.S. government securities; certificates of deposit issued against funds deposited in a bank or savings and loan association; bankers' acceptances (which are short-term credit instruments used to finance commercial transactions); repurchase agreements and reverse repurchase agreements; and bank time deposits (which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest). Cash equivalents also consist of money market funds registered under the 1940 Act and money market funds that are not registered under the 1940 Act but that comply with Rule 2a–7 under the 1940 Act (together, ''Money Market Funds''), money market ETFs and commercial paper, which are short-term unsecured promissory notes, having maturities of 360 days or less. The Exchange notes that, while the Fund treats commercial paper having maturities of 360 days or less as cash equivalents for the purposes of the 80% Principal Investments measure, the Fund will apply the definition of cash equivalents in Nasdaq Rule 5735(b)(1)(C) (which is limited to instruments with maturities of less than three months) for purposes of compliance with Nasdaq Rule 5735(b)(1) and will comply with the applicable requirements of Nasdaq Rule 5735(b)(1) with respect to all commercial paper held by the Fund. Investments in cash equivalents that are Money Market Funds will be made in accordance with Rule 12d1–1 under the 1940 Act.

[23] For purposes of this proposed rule change, Fixed-Income Related Warrants are treated as fixed income securities and not as Principal Investment Equities. Fixed-Income Related Warrants will be subject to and comply with the generic listing requirements for fixed income securities rather than the requirements applicable to equity securities.

[24] The Manager and Sub-Adviser will manage the Fund to ensure that the weight of Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities (which are generally traded solely in the over-the-counter market) together does not exceed 15% of the Fund's assets.

[25] Brady Bonds are debt securities issued under the framework of the Brady Plan as a means for debtor nations to restructure their outstanding external indebtedness.

[26] A supranational entity is a bank, commission or company established or financially supported by the national government of one or more countries to promote reconstruction or development.

[27] As defined in Rule 6710(m) of the Financial Industry Regulatory Authority, Inc. (''FINRA''), the term Securitized Product means a security collateralized by any type of financial asset, such as a loan, a lease, a mortgage, or a secured or unsecured receivable, and includes but is not limited to an asset-backed security as defined in Section 3(a)(79)(A) of the Act, a synthetic asset-backed security, any residual tranche or interest of any security specified above, which tranche or interest is a fixed income security for purposes of FINRA Rule 6700 and paragraph (a) of FINRA Rule 6710. Consistent with the requirements applicable to other fixed income securities listed pursuant to this proposed rule change, Securitized Products are subject to limits set forth in Nasdaq Rule 5735(b)(1)(B)(i), (ii), (iii), (iv) and (v), except that, with respect to the Fund's investments in ABS/Private MBS (as defined below), the Fund will not comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv) and CDOs (as defined below) will not be subject to the limits set forth in Nasdaq Rule 5735(b)(1)(B)(v) but will be required to comply with the tests in Nasdaq Rule 5735(b)(1)(B)(i)–(iv), including, without limitation, the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv). Investments in CDOs will separately be subject to a limit of 10% of total assets of the Fund. In addition, the Fund's total investments in Securitized Products (including CDOs) will be subject to the restrictions applicable to all fixed income securities and Debt holdings of the Fund, including that: No more than 30% of the Debt and fixed income securities held by the Fund will be below investment grade, and no more than 25% of the total assets of the Fund will be invested in Debt or fixed income or equity securities of issuers in any one industry. *See infra* ''Investment Restrictions.''

[28] A ''GSE'' is a type of financial services corporation created by the United States Congress. GSEs include Fannie Mae and Freddie Mac but not Sallie Mae, which is no longer a government entity.

[29] MBS include collateralized mortgage obligations (''CMOs''), which are debt obligations collateralized by mortgage loans or mortgage pass-through securities. Typically, CMOs are collateralized by Ginnie Mae, Fannie Mae or Freddie Mac certificates, but they may also be

Continued

backed securities (''ABS'') [30] and (C) U.S. or foreign collateralized debt obligations (''CDOs'').[31]

The securities in which the Fund invests may pay fixed, variable or floating rates of interest or, in the case of instruments such as zero coupon bonds, do not pay current interest but are issued at a discount from their face values. Securitized Products in which the Fund will invest make periodic payments of interest and/or principal on underlying pools of mortgages, in the case of MBS, loans, leases and receivables other than real estate, in the case of ABS, and government and corporate bonds or non-real estate related loans, in the case of CDOs. The Fund may also invest in stripped Securitized Products, which represent the right to receive either payments of principal or payments of interest on real estate receivables. Interests in CDOs and ABS will not be stripped so as to provide the right to receive only payments of principal or payments of interest.

Investments by the Fund in debt instruments that are not characterized as ''securities'' under applicable case law (''Debt''),[32] are comprised primarily of the following: (i) U.S. or foreign loans made by banks and participations in such loans, loans made by commercial non-bank lenders and participations in such loans, loans made by governmental entities and participations in such loans and/or other extensions of credit, such as guarantees made by any of the foregoing lenders; and (ii) U.S. or foreign loans on real estate secured by mortgages and participations in such loans. Debt may be partially or fully secured by collateral supporting the payment of interest and principal, or unsecured and/or subordinated to other instruments.[33] Debt may relate to financings for highly-leveraged borrowers.

With respect to fixed income securities, the Fund may invest in restricted instruments which are subject to resale restrictions that limit purchasers to qualified institutional buyers, as defined in Rule 144A under the Securities Act of 1933, as amended (the ''Securities Act'') or to non-U.S. persons, within the meaning of Regulation S under the Securities Act.

The Fund will use derivatives to (i) provide exposure to U.S. or foreign fixed income securities, Debt and other Principal Investments, (ii) risk manage the Fund's holdings,[34] and/or (iii) enhance returns, such as through covered call strategies.[35] The Fund will not use derivatives for the purpose of seeking leveraged returns or performance that is the multiple or inverse multiple of a benchmark. Derivatives that the Fund may enter into include: (i) Over-the-counter deliverable and non-deliverable foreign exchange forward contracts; (ii) exchange-listed futures contracts on securities (including Treasury Securities [36] and foreign government securities), Debt, commodities, securities-, commodities-, or combined-asset-class-related indices, interest rates, financial rates and currencies; (iii) exchange-listed or over-the-counter options or swaptions (*i.e.,* options to enter into a swap) on securities, Debt, commodities, securities-, commodities-, or combined-asset-class-related indices, interest rates, financial rates, currencies and futures contracts; (iv) exchange-listed or over-the-counter swaps (including total return swaps) on securities, Debt, commodities, securities-, commodities-, or combined-asset-class-related indices, interest rates, financial rates, and currencies; and (v) credit default swaps on single names, baskets and indices (both as protection seller and as protection buyer). As a result of the Fund's use of derivatives and to serve as collateral, the Fund may also hold significant amounts of Treasury Securities, cash and cash equivalents and, in the case of derivatives that are payable in a foreign currency, the

collateralized by whole loans or pass-through securities issued by private issuers (*i.e.,* issuers other than U.S. government agencies or GSEs) (referred to as ''Private MBS''). Payments of principal and of interest on the mortgage-related instruments collateralizing the MBS, and any reinvestment income thereon, provide the funds to pay debt service on the CMOs. In a CMO, a series of bonds or certificates is issued in multiple classes. Each class of CMOs, often referred to as a ''tranche'' of securities, is issued at a specified fixed or floating coupon rate and has a stated maturity or final distribution date.

[30] As defined by FINRA Rule 6710(cc), ABS are Securitized Products in connection with which the securities issued, which may be issued by either a U.S. or a foreign entity, are collateralized by any type of financial asset, such as a consumer or student loan, a lease, or a secured or unsecured receivable. ABS exclude (per the FINRA definition, which is applicable for purposes of reporting and as used herein): (i) A Securitized Product that is backed by residential or commercial mortgage loans, mortgage-backed securities, or other financial assets derivative of mortgage-backed securities; (ii) a small business administration backed ABS traded ''To Be Announced'' or in a specified pool transaction as defined in FINRA Rule 6710(x) and (iii) CDOs (as defined in note 31 *infra*). Consistent with the requirements of Nasdaq Rule 5735(b)(1)(B)(v), the Fund will limit investments in ABS and Private MBS (together, ''ABS/Private MBS'') to 20% of the weight of the fixed income portion of the Fund's portfolio.

[31] For purposes of this proposed rule change, CDOs are excluded from the definition of ABS and, for purposes of this proposed rule change only, are comprised exclusively of collateralized loan obligations (''CLOs'') and collateralized bond obligations (''CBOs''). CLOs are securities issued by a trust or other special purpose entity that are collateralized by a pool of loans by U.S. banks and participations in loans by U.S. banks that are unsecured or secured by collateral other than real estate. CBOs are securities issued by a trust or other special purpose entity that are backed by a diversified pool of fixed income securities issued by U.S. or foreign governmental entities or fixed income securities issued by U.S. or corporate issuers. CDOs are distinguishable from ABS because they are collateralized by bank loans or by corporate or government fixed income securities and not by consumer, and other loans made by non-bank lenders, including student loans. For purposes of this proposed rule change, CDOs will not be subject to the 20% limit set forth in Nasdaq Rule 5735(b)(1)(B)(v). However, the Exchange believes that the 10% limit on the Fund's holdings in CDOs will help to ensure that the Fund maintains a diversified portfolio and will mitigate the risk of manipulation. *See infra* ''Investment Restrictions.''

[32] Although bank loans are included as ''fixed income securities'' for purposes of the ''generic'' listing requirements of Nasdaq Rule 5735(b)(1), the types of bank loans in which the Fund invests are not treated as ''securities'' under applicable case law and, as a result, the Fund intends to treat bank loans as Debt and not as fixed income securities. *See, e.g., Banco Espanol de Credito et al.* v. *Security Pacific National Bank,* 973 F.2d 51(2d Cir. 1992), *cert. denied,* 509 U.S. 903 (1993). Accordingly, the Fund will not seek to comply with the parameters on investments in fixed income securities under Nasdaq Rule 5735(b)(1)(B) with respect to the Fund's holdings in bank loans, but instead will comply with the alternative limitations applicable to Debt with respect to such holdings, as set forth herein. *See infra* ''Investment Restrictions.''

[33] As discussed *infra* in ''Investment Restrictions,'' at least 75% of the Fund's investments fixed income securities (including convertible fixed income and preferred securities) and Debt (together constituting the fixed income weight of the portfolio) shall have a minimum principal amount outstanding of $100 million or more. In addition, consistent with the Fund's Registration Statement, the following diversification requirements will apply: During Normal Market Conditions, the Fund: (i) Will not invest more than 25% of its total assets in securities or Debt in any one foreign country, other than the United States, Canada, the United Kingdom, Japan, Australia and member countries of the European Union, or denominated in any one currency, other than the U.S. dollar, the Canadian dollar, the British pound, the yen, the Australian dollar, or the euro; and (ii) will have ''economic exposure'' to at least three countries. ''Economic exposure'' means that an issuer of a security or a borrower in respect to Debt: (A) Will have a class of securities whose principal securities market is in the country; (B) is organized under the laws of, or has a principal office in, the country; (iii) [sic] derives 50% or more of its total revenue or profit from goods produced, sales made or services provided in the country; or (D) maintains 50% of more of its assets in that country. In addition, no more than 30% of the Debt and fixed income securities held by the Fund, will be below investment grade (as defined *infra* in ''Investment Restrictions''); and (iii) [sic] no more than 25% of the total assets of the Fund will be invested in Debt or fixed income or equity securities of issuers in any one industry.

[34] The risk management uses of derivatives will include managing (i) investment-related risks, (ii) risks due to fluctuations in securities prices, interest rates, or currency exchanges rates, (iii) risks due to the credit-worthiness of an issuer, and (iv) the effective duration of the Fund's portfolio.

[35] *See also infra* ''The Fund's Use of Derivatives.''

[36] The term ''Treasury Securities'' has the meaning set forth in Nasdaq Rule 5735(b)(1)(B).

foreign currency in which the derivatives are payable.

The Fund may, without limitation, enter into repurchase arrangements and borrowing and reverse repurchase arrangements, purchase and sale contracts, buybacks [37] and dollar rolls [38] and spot currency transactions. The Fund may also, subject to required margin and without limitation, purchase securities and other instruments under when-issued, delayed delivery, to be announced or forward commitment transactions, where the securities or instruments will not be delivered or paid for immediately.[39] To the extent required under applicable federal securities laws (including the 1940 Act), rules, and interpretations thereof, the Fund will ''set aside'' liquid assets or engage in other measures to ''cover'' open positions held in connection with the foregoing types of transactions, as well as derivative transactions.

Other Investments

Under Normal Market Conditions, the Fund will seek its investment objective by investing at least 80% of its assets in a portfolio of the Principal Investments. The Fund may invest its remaining assets exclusively in: (i) U.S. or foreign exchange-listed [40] or over-the counter convertible fixed income and preferred securities; [41] and (ii) OTC Derivatives and Exchange-Traded Derivatives for which the underlying reference asset is not a Principal Investment.[42]

The Fund's Use of Derivatives

The types of derivatives in which the Fund may invest and the reference assets for such derivatives are described in greater detail in ''Principal Investments'' and ''Other Investments'' above. Exchange-Traded Derivatives will primarily be traded on exchanges that are ISG members or exchanges with which the Exchange has a comprehensive surveillance sharing agreement. The Fund may, however, invest up to 10% of the assets of the Fund in Exchange-Traded Derivatives and exchange-listed, securities whose principal market is not a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value of such Exchange-Traded Derivatives.

The Fund will limit the weight of its investments in OTC Derivatives to 10% of the assets of the Fund, with the exception of Interest Rate Derivatives [43] and Currency Derivatives [44] (together, ''Interest Rate and Currency Derivatives'') entered into with broker-dealers, banks and other financial intermediaries. Investments in Interest Rate and Currency Derivatives (whether the instruments are Exchange-Traded Derivatives or OTC Derivatives) will not be subject to a limit. The Exchange believes that this exception, which is generally consistent with the requirement in a previous filing for the listing of an ETF approved by the Commission,[45] is appropriate in light of the fact that Interest Rate and Currency Derivatives are among the most liquid investment instruments (including not only derivatives but also securities) in the market [46] (and are even more liquid than most non-government or government-guaranteed securities). Based on the data compiled by the Sub-Adviser in respect to its liquidity policy, these derivatives are among the most liquid investments traded. In addition, most Interest Rate Derivatives traded by the Fund are centrally cleared by regulated clearing firms, and Interest Rate and Currency Derivatives are

[37] A buyback refers to a TBA transaction that incorporates a special feature for addressing a failure by the seller to deliver the mortgages promised under the contract. A buyback feature typically provides that, in the event a TBA seller fails to deliver the MBS that is the subject of the transaction to the TBA buyer on the scheduled settlement date, the TBA buyer will be entitled to close-out its payment obligations by either (i) selling the deliverable MBS back to the seller at a price established under the buyback or (ii) accepting assignment from the seller of its right to receive the specified MBS from the third-party entity that failed to deliver the MBS to the TBA seller.

[38] A dollar roll transaction is a simultaneous sale and purchase of an Agency Pass-Through Mortgage-Backed Security (as defined in FINRA Rule 6710(v), which is the only reference security for such transaction) for different settlement dates, where the initial seller agrees to take delivery, upon settlement of the re-purchase transaction, of the same or substantially similar securities. *See* FINRA Rule 6710(z).

[39] FINRA Rule 4210 is scheduled to begin requiring broker-dealers to impose margin requirements on investors in TBAs and certain other delayed delivery transactions beginning March 25, 2019.

[40] No more than 10% of the Fund's total assets will be invested in exchange-listed securities or Exchange-Traded Derivatives that are listed on an exchange that is not an ISG-member or an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement. *See infra* ''Investment Restrictions.''

[41] The Fund's investment in U.S. or foreign fixed income or preferred securities would include contingent convertible securities, which are also referred to as ''CoCos.'' CoCos are fixed income instruments that are convertible into equity if a pre-specified trigger event occurs. The type of event that causes a CoCo to be convertible occurs when capital of the issuer falls below a designated threshold. The Fund will limit investments in convertible securities to 20% of the Fund's assets under Normal Market Conditions.

[42] Investments in OTC Derivatives and Exchange-Traded Derivatives will also be subject to the limitations described in the ''The Fund's Use of Derivatives'' section below. As is the case with respect to the Fund's investments in OTC Derivatives and Exchange-Traded Derivatives for which the underlying reference asset is a Principal Investment, the Fund will invest in OTC Derivatives and Exchange-Traded Derivatives whose underlying reference asset is not a Principal Investment in order to (i) provide exposure to non-Principal Investments instruments; (ii) to risk manage the Fund's holdings; and/or (iii) to enhance returns.

[43] ''Interest Rate Derivatives'' are comprised of interest rate swaps, swaptions (*i.e.,* options on interest rate swaps), rate options and other similar derivatives, and may be Exchange-Traded Derivatives or OTC Derivatives. As reflected in statistics compiled by the Bank for International Settlements, as of June 30, 2017 there were approximately $416 trillion (notional amount) of total interest rate contracts outstanding in the over-the-counter markets alone. As reflected by the statistics, the market is wide, deep and liquid. *See https://www.bis.org/statistics/d7.pdf* (accessed November 2017). Interest Rate Derivatives may trade on trading platforms that are not ISG members or that are not subject to a comprehensive surveillance sharing agreement with the Exchange. Holdings in Exchange-Traded Derivatives (together with exchange-listed securities) that are listed on an exchange that is not an ISG member or on a market with which the Exchange does not have a comprehensive surveillance sharing agreement are limited to 10% of the Fund's assets.

[44] ''Currency Derivatives'' are comprised of deliverable forwards, which are agreements between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate, non-deliverable forwards, which are agreements to pay the difference between the exchange rates specified for two currencies at a future date, swaps and options on currencies, and similar currency or foreign exchange derivatives. As reflected in statistics compiled by the Bank for International Settlements, as of June 30, 2017 there were approximately $77 trillion (notional amount) of Currency Derivatives outstanding in the over-the-counter markets alone. As reflected by the statistics, the market is wide, deep and liquid. *See https://www.bis.org/statistics/d6.pdf* (accessed November 2017). Currency Derivatives may trade on trading platforms that are not ISG members or that are not subject to a comprehensive surveillance sharing agreement with the Exchange. Holdings in Exchange-Traded Derivatives (together with exchange-listed securities) that are listed on an exchange that is not an ISG member or on a market with which the Exchange does not have a comprehensive surveillance sharing agreement are limited to 10% of the Fund's assets.

[45] *See* Securities Exchange Act Release No. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR–NYSEArca–2017–09) (approving up to 50% of the fund's assets (calculated on the basis of aggregate gross notional value) to be invested in over-the-counter derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund's investments, including forwards, over-the-counter options, and over-the-counter swaps).

[46] Trading in foreign exchange markets averaged $5.1 trillion per day in April 2016, and 67% of this trading activity was in derivatives contracts such as currency or foreign exchange forwards, options and swaps (with the other 33% consisting of spot transactions). *See* Bank for International Settlements, *Triennal* [sic] *Central Bank Survey, Foreign Exchange Turnover in April 2016, available at http://www.bis.org/publ/rpfx16fx.pdf* (accessed November 2017). Trading in OTC interest rate derivatives averaged $2.7 trillion per day in April 2016. *See* Bank for International Settlements, *Triennal* [sic] *Central Bank Survey, OTC Interest Rate Derivatives Turnover in April 2016, available at http://www.bis.org/publ/rpfx16ir.pdf* (accessed November 2017).

subject to trade reporting,[47] and other robust regulation.[48] Given the size of the trading market and the regulatory oversight of the markets, the Exchange believes that Interest Rate and Currency Derivatives are not readily subject to manipulation. The Exchange also believes that allowing the Fund to risk manage its portfolio through the use of Interest Rate and Currency Derivatives without limit is necessary to allow the Fund to achieve its investment objective and protect investors.

For purposes of the 10% limit applicable generally to OTC Derivatives (other than Interest Rate and Currency Derivatives), the weight of such OTC Derivatives will be calculated based on the mark-to-market value of such OTC Derivatives.[49] The mark-to-market methodology is consistent with the methodology proposed by the SEC in proposed Rule 18f–4 for the purposes of asset coverage requirements [50] and in keeping with disclosures regarding compliance with Section 18 of the 1940 Act made by other registered investment companies and reviewed by the SEC staff for a number of years.[51] In that regard, the SEC expressly noted in the Derivatives Rule Proposing Release that reliance on a mark-to-market valuation of a derivatives position for purposes of calculating the required coverage amount ''would generally correspond to the amount of the fund's liability with respect to the derivatives transaction'' and, therefore, be consistent with the appropriate valuation of the derivatives transaction.[52] The mark-to-market value is also the measure on which collateral posting is based under the Master Agreement published by the International Swaps and Derivatives Association, Inc. (''ISDA''), which is the predominant agreement used to trade derivatives.[53] This value measures gain and loss to the Fund of the Fund's derivatives positions on a daily basis, as well as on a net basis across all transactions covered by a master netting agreement and, as a result, accurately reflects the actual economic exposure of the Fund to the counterparty on each derivative (as compared to notional amount, which may overstate or understate economic risk).

The Fund may choose not to make use of derivatives.

Generally, derivatives are financial contracts whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index, and may relate to stocks, bonds, interest rates, currencies or currency exchange rates, commodities, and related indexes. As described above, the Fund will use derivatives to (i) provide exposure to the Principal Investments, (ii) risk manage the Fund's holdings,[54] and/or (iii) enhance returns, such as through covered call strategies. The Fund will not use derivatives for the purpose of seeking leveraged returns or performance that is the multiple or inverse multiple of a benchmark. The Fund will enter into derivatives only with counterparties that the Fund reasonably believes are financially and operationally able to perform the contract or instrument, and the Fund will collect collateral from the counterparty in accordance with credit considerations and margining requirements under applicable law.[55]

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To limit the potential risk (including leveraging risk) associated with such transactions, the Fund will segregate or ''earmark'' assets determined to be liquid by the Manager and/or the Sub-Adviser in accordance with procedures established by the Board and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that transactions of the Fund, including the Fund's use of derivatives, may give rise to additional leverage, causing the Fund to be more volatile than it would have if it had not been leveraged. Because the markets for securities or Debt, or the securities or Debt themselves, may be unavailable, cost prohibitive or tax-inefficient as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

The Manager and the Sub-Adviser believe that derivatives can be an economically attractive substitute for an underlying physical security or Debt that the Fund would otherwise

[47] Transactions in Interest Rate and Currency Derivatives are required to be reported to a swap data repository, and transactions in Interest Rate Derivatives and certain Currency Derivatives (*i.e.,* Currency Derivatives that are not excluded from the definition of a ''swap'', as described below) are also publicly reported pursuant to rules issued by the Commodity Futures Trading Commission (''CFTC''). *See* 17 CFR parts 43, 45 and 46. Pursuant to Section 1(a)(47)(E) of the CEA and a related determination by the Department of the Treasury, physically-settled Currency Derivatives that meet the definition of ''foreign exchange forwards'' or ''foreign exchange swaps'' under Sections 1a(24)–(25) of the CEA that are entered into between eligible contract participants (as defined in the CEA) (''Excluded Currency Derivatives'') are excluded from the definition of a ''swap'' under the CEA. *See* Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act, 77 FR 69694 (Nov. 20, 2012). Transactions in such Excluded Currency Derivatives are required to be reported to a swap data repository, but they are not subject to the public reporting requirements.

[48] Interest Rate Derivatives and Currency Derivatives other than Excluded Currency Derivatives are comprehensively regulated as swaps under the CEA and regulations issued thereunder by the CFTC and other federal financial regulators. *See, e.g.,* 17 CFR part 23 (capital and margin requirements for swap dealers, business conduct standards for swap dealers, and swap documentation requirements); 17 CFR part 50 (clearing requirements for swaps). While Excluded Currency Derivatives are not subject to all swap regulations, they are subject to the ''business conduct standards'' adopted by the CFTC pursuant to the CEA. *See* Section 1(a)(47)(E) of the CEA; Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act, 77 FR 69694 (Nov. 20, 2012).

[49] The mark-to-market value reflects the Fund's actual delivery or payment obligation under the derivative. This measure differs from that referenced in Nasdaq Rule 5735(b)(1)(E), which bases its 20% limit of assets in the portfolio applicable for funds issuing Managed Fund Shares on the aggregate gross national value of the over-the-counter derivatives rather than on the mark-to-market value.

[50] *See* Derivatives Rule Proposing Release at 157–158; *see also infra* note 107.

[51] *See* Derivatives Rule Proposing Release at n.58, citing Comment Letter on SEC Concept Release (November 11, 2011) (File No. S7–33–11), Davis Polk & Wardwell LLP, *available at http://www.sec.gov/comments/s7-33-11/s73311-49.pdf* (''[F]und registration statements indicate that, in recent years, the Staff has not objected to the adoption by funds of policies that require segregation of the mark-to-market value, rather than the notional amount . . . [for asset segregation purposes].'').

[52] *See* Derivatives Rule Proposing Release at 157–158.

[53] The Credit Support Annex to the ISDA Master Agreement bases the collateral amount owed by a party to a derivatives contract, which is defined as a party's ''exposure,'' by reference to the replacement value of the party's net positions. Replacement value, which has the same meaning as ''mark-to-market'' value, is the amount owed by a party at a point in time determined based on the net termination payment due under the outstanding transaction.

[54] The risk management uses of derivatives will include managing (i) investment-related risks, (ii) risks due to fluctuations in securities prices, interest rates, or currency exchanges rates, (iii) risks due to the credit-worthiness of an issuer, and (iv) the effective duration of the Fund's portfolio.

[55] The Fund will seek, where practicable, to trade with counterparties whose financial status is such that the risk of default is reduced. The Sub-Adviser will monitor the financial standing of counterparties on an ongoing basis. This monitoring may include reliance on information provided by credit agencies or of credit analysts employed by the Sub-Adviser. The analysis may include earnings updates, the counterparty's reputation, past experience with the dealer, market levels for the counterparty's debt and equity, credit default swap levels for the counterparty's debt, the liquidity provided by the counterparty and its share of market participation.

purchase. For example, the Fund could purchase futures contracts on Treasury Securities instead of investing directly in Treasury Securities or could sell credit default protection on a corporate bond instead of buying a physical bond. Economic benefits include potentially lower transactions costs, attractive relative valuation of a derivative versus a physical bond (*e.g.,* differences in yields) or economic exposure without incurring transfer or similar taxes.

The Manager and the Sub-Adviser further believe that derivatives can be used as a more liquid means of adjusting portfolio duration, as well as targeting specific areas of yield curve exposure, with potentially lower transaction costs than the underlying securities or Debt (*e.g.,* interest rate swaps may have lower transaction costs than the physical bonds). Similarly, money market futures can be used to gain exposure to short-term interest rates in order to express views on anticipated changes in central bank policy rates. In addition, derivatives can be used to protect client assets through selectively hedging downside (or ''tail risks'') in the Fund.

The Fund also can use derivatives to increase or decrease credit exposure. Index credit default swaps can be used to gain exposure to a basket of credit risk by ''selling protection'' against default or other credit events, or to hedge broad market credit risk by ''buying protection.'' Single name credit default swaps can be used to allow the Fund to increase or decrease exposure to specific issuers, saving investor capital through lower trading costs. The Fund can use total return swap contracts to obtain the total return of a reference asset or index in exchange for paying financing costs. A total return swap may be more efficient than buying underlying securities or Debt, potentially lowering transaction costs.

The Fund expects to manage foreign currency exchange rate risk by entering into Currency Derivatives.

The Sub-Adviser may use options strategies to meet the Fund's investment objectives. Option purchases and sales can also be used to hedge specific exposures in the portfolio and can provide access to return streams available to long-term investors such as the persistent difference between implied and realized volatility. Options strategies can generate income or improve execution prices (*e.g.,* covered calls).

Investment Restrictions

At least 75% of the Fund's investments in Debt and fixed income securities shall have a minimum principal amount outstanding of $100 million or more. In addition, consistent with the Fund's Registration Statement, the following diversification requirements will apply: During Normal Market Conditions, the Fund: (i) Will not invest more than 25% of its total assets in securities or Debt in any one foreign country, other than the United States, Canada, the United Kingdom, Japan, Australia and member countries of the European Union, or denominated in any one currency, other than the U.S. dollar, the Canadian dollar, the British pound, the yen, the Australian dollar, or the euro; and (ii) will have ''economic exposure'' to at least three countries. ''Economic exposure'' means an issuer of a security or a borrower in respect to Debt: (A) Will have a class of securities whose principal securities market is in the country; (B) is organized under the laws of, or has a principal office in, the country; (iii) [sic] derives 50% or more of its total revenue or profit from goods produced, sales made or services provided in the country; or (D) maintains 50% of more of its assets in that country.

The Fund may invest up to 15% of its assets in Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities. The Fund will not invest in equity securities other than Principal Investment Equities.[56] Principal Investment Equities consist of (i) Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities, which are subject to the 15% limit noted above and (ii) shares of ETFs that provide exposure to fixed income securities, Debt or other Principal Investments, which are subject to no limits.

While the Fund will invest principally in fixed income securities and Debt that are, at the time of purchase, investment grade, the Fund may invest up to 30% of its assets in below investment grade fixed income securities and Debt. For these purposes, ''investment grade'' is defined as investments with a rating at the time of purchase in one of the four highest rating categories of at least one nationally recognized statistical ratings organization (''NRSRO'') (*e.g.,* BBB- or higher by S&P Global Ratings (''S&P''), and/or Fitch Ratings (''Fitch''), or Baa3 or higher by Moody's Investors Service, Inc. (''Moody's'')).[57] Unrated fixed income securities or Debt may be considered investment grade if, at the time of purchase, and under Normal Market Conditions, the applicable Sub-Adviser determines that such securities are of comparable quality based on a fundamental credit analysis of the unrated security or Debt instrument and comparable NRSRO-rated securities.

The Fund may invest in fixed income or equity securities and Debt issued by both U.S. and non-U.S. issuers (including issuers in emerging markets [sic]. Consistent with the Fund's Registration Statement, the following diversification requirements will apply: During Normal Market Conditions, the Fund: (i) Will not invest more than 25% of its total assets in securities or Debt in any one foreign country, other than the United States, Canada, the United Kingdom, Japan, Australia and member countries of the European Union, or denominated in any one currency, other than the U.S. dollar, the Canadian dollar, the British pound, the yen, the Australian dollar, or the euro; and (ii) will have ''economic exposure'' to at least three countries. ''Economic exposure'' means that an issuer of a security or a borrower in respect to Debt: (A) Will have a class of securities whose principal securities market is in the country; (B) is organized under the laws of, or has a principal office in, the country, (iii) [sic] derives 50% or more of its total revenue or profit from goods produced, sales made or services provided in the country, or (D) maintains 50% of more of its assets in that country. *See infra* ''Investment Restrictions.'' [sic]

The Fund will not invest more than 20% of the fixed income portion of the Fund's portfolio [58] in ABS/Private MBS or more than 10% of the Fund's total

[56] The convertible fixed income securities (including CoCos) and convertible preferred securities will comply with the tests set forth in Nasdaq Rule 5735(b)(1)(B) and will be limited to 20% of the total assets of the Fund. In addition, no more than 10% of such convertible fixed income and convertible preferred securities or Exchange Traded Derivatives on such securities, together with all other listed securities and Exchange Traded Derivatives in which the Fund will invest, will be traded on an exchange that is not an ISG member or an exchange with which the Exchange has comprehensive surveillance sharing agreement.

[57] For the avoidance of doubt, if a security or Debt is rated by multiple NRSROs and receives different ratings, the Fund will treat the security or Debt as being rated in the highest rating category received from any one NRSRO. If a security or Debt is not rated, the Fund may determine its rating by reference to other securities issued by the issuer or comparable NRSRO-rated securities.

[58] The Exchange notes that the terms ''fixed income weight of the portfolio'' and ''weight of the fixed income portion of the portfolio'' are used synonymously in Nasdaq Rule 5735. For purposes of this proposed rule change, the ''fixed income weight of the Fund's portfolio'' includes all fixed income securities (including convertible fixed income and preferred securities, even though such instruments are not Principal Investments) and Debt held by the Fund and excludes equity securities (including ETFs), derivatives and cash and cash equivalents.

assets in CDOs.[59] The Fund will also not invest more than 20% of its total assets in Debt that is unsecured and subordinated.

The Fund may not concentrate its investments (*i.e.,* invest more than 25% of the value of its total assets) in Debt of borrowers in any one industry or in fixed income or equity securities of issuers in any one industry as provided in the Registration Statement.[60] The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment),[61] including Rule 144A securities deemed illiquid by the Manager or the Sub-Adviser.[62] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities or other illiquid assets. Illiquid securities and other illiquid assets include those subject to contractual or other restrictions on resale and other instruments or assets that lack readily available markets as determined in accordance with Commission staff guidance.[63]

As noted in ''The Fund's Use of Derivatives,'' the Fund's investments in derivatives will be consistent with the Fund's investment objective and will not be used for the purpose of seeking leveraged returns or performance that is the multiple or inverse multiple of a benchmark (although derivatives have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a ''leveraged ETF,'' (*i.e.,* it will not be operated in a manner designed to seek a multiple or inverse multiple of the performance of an underlying reference index). The Fund may engage in frequent and active trading of portfolio securities, Debt, and derivatives to achieve its investment objective.

Under Normal Market Conditions, the Fund will satisfy the following requirements, on a continuous basis measured at the time of purchase: (i) Component fixed income securities and Debt that in the aggregate account for at least 75% of the fixed income weight of the Fund's portfolio each shall have a minimum original principal amount outstanding of $100 million or more; (ii) no fixed income security held in the portfolio (excluding Treasury Securities and GSE-sponsored securities) will represent more than 30% of the fixed income weight of the Fund's portfolio, and the five most heavily weighted portfolio securities (excluding Treasury Securities and GSE-sponsored securities) will not in the aggregate account for more than 65% of the fixed income weight of the Fund's portfolio; and (iii) the Fund's portfolio of fixed income securities (excluding exempted securities) will include a minimum of 13 non-affiliated issuers.[64] Under Normal Market Conditions, the Fund will also satisfy the following requirements, on a continuous basis measured at the time of purchase: (x) At least 75% of the Fund's investments in fixed income securities issued by emerging market issuers shall have a minimum original principal amount outstanding of $200 million or more; and (y) at least 75% of the Fund's investments in Debt shall be in senior loans with an initial deal size of $100 million or greater.[65]

Those exchange-listed securities and Exchange-Traded Derivatives held by the Fund that are listed and traded on a non-ISG member exchange or an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement are limited to 10% of the Fund's assets.

In addition, the Fund will impose the limits described in the following section, which describes differences between the ''generic'' listing requirements of Nasdaq Rule 5735(b)(1) and those applicable to the Fund.

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[59] As discussed above, CDOs would be excluded from the 20% limit on ABS/Private MBS but would be subject to a separate limit of 10%, measured with respect to the total assets of the Fund. *See supra* note 31. The Exchange believes that the 10% limit on the Fund's holdings in CDOs will help to ensure that the Fund maintains a diversified portfolio and will mitigate the risk of manipulation.

[60] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975). For these purposes and as described above, Debt is comprised of loans that do not constitute securities (consistent with applicable case law) whereas fixed income securities would include loans and other fixed income instruments that are characterized as securities under applicable case law. *See supra* note 32.

[61] *See* Rule 22e–4(b)(1)(iv). ''No fund or In-Kind ETF may acquire any illiquid investment if, immediately after the acquisition, the fund or In-Kind ETF would have invested more than 15% of its *net assets* in illiquid investments that are assets.'' (emphasis added)

[62] In reaching liquidity decisions, the Manager or Sub-Adviser (as applicable) may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[63] Long-standing Commission guidelines have required investment companies to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), FN 34; *see also* Investment Company Act Release Nos. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); and 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). The Commission also recently adopted Rule 22e–4 under the 1940 Act, which requires that each registered open-end management investment company, including ETFs but not including money market mutual funds, to establish a liquidity risk management program that includes limitations on illiquid investments. *See* Investment Company Act Release No. 32315 (October 13, 2016), 81 FR 82142 (November 18, 2016). Under Rule 22e–4, a fund's portfolio security is illiquid if it cannot be sold or disposed of in current market conditions in seven calendar days or less without the sale or disposition significantly changing the market value of the investment. *See* 17 CFR 270.22e–4(a)(8).

[64] These requirements are consistent with the ''generic'' listing requirements under Nasdaq Rule 5735(b)(1)(B)(i)–(iii), which require: (i) For fixed income securities, that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each have a minimum principal amount outstanding of $100 million or more (*see* Nasdaq Rule 5735(b)(1)(B)(i)); (ii) for component fixed-income securities (excluding Treasury Securities and GSE-sponsored securities) that no component represent more than 30% of the fixed income weight of the portfolio (*see* Nasdaq Rule 5735(b)(1)(B)(ii)); (iii) that the five most heavily weighted component fixed income securities in the portfolio (excluding Treasury Securities and GSE-sponsored securities) not in the aggregate account for more than 65% of the fixed income weight of the portfolio) (*see* Rule 5735(b)(1)(B)(ii)); and (iv) that an underlying portfolio (excluding exempted securities) that includes fixed income securities include a minimum of 13 non-affiliated issuers (*see* Nasdaq Rule 5735(b)(1)(B)(iii)). Nasdaq Rule 5735(b)(1)(B)(iv) includes the following requirement: Component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country. Nasdaq Rule 5735(b)(1)(B)(v) requires: non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

[65] The Exchange notes that Nasdaq Rule 5735(b)(1)(F) provides that, to the extent that derivatives are used to gain exposure to individual fixed income securities or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rule 5735(b)(1)(B). The Exchange proposes, however, as further described below, that for the purposes of the requirements in this paragraph and any requirements under Nasdaq Rule 5735(b)(1), the Fund will use the mark-to-market value of its derivatives rather than gross notional value.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the Fund will not meet all of the ''generic'' listing requirements of Nasdaq Rule 5735(b)(1). The Fund will meet all such requirements except the requirements described below,[66] and the Exchange proposes that the Fund will comply with the alternative limits described below.

(i) The Fund will not comply with the requirements in Nasdaq Rule 5735(b)(1) regarding the use of aggregate gross notional value of derivatives when calculating the weight of such derivatives or the exposure that such derivatives provide to underlying reference assets, including the requirements in Rules 5735(b)(1)(D)(i),[67] 5735(b)(1)(D)(ii),[68] 5735(b)(1)(E)[69] and 5735(b)(1)(F).[70] Instead, the Exchange proposes that, except as otherwise provided herein, for the purposes of any applicable requirements under Nasdaq Rule 5735(b)(1), and any alternative requirements proposed by the Exchange, the Fund will use the mark-to-market value of its derivatives in calculating the weight of such derivatives or the exposure that such derivatives provide to their reference assets.[71] The Exchange believes that this alternative requirement is appropriate because the mark-to-market value is a more accurate measurement of the actual exposure incurred by the Fund in connection with a derivatives position.[72]

(ii) The Fund will not comply with the requirement that securities comprising at least 90% of the fixed income weight of the Fund's portfolio meet one of the criteria in Nasdaq Rule 5735(b)(1)(B)(iv) in respect to its investments in ABS/Private MBS.[73] Instead, ABS/Private MBS will be limited to 20% of the weight of the fixed income portion of the Fund's portfolio.[74] Other than ABS/Private MBS, which will not meet the criteria in Nasdaq Rule 5735(b)(1)(B)(iv) but will be subject to the 20% limit on aggregate holdings in ABS/Private MBS, all fixed income securities held by the Fund (which, for purposes of this proposed rule change, include convertible fixed income and preferred securities (including CoCos)) will satisfy this 90% requirement. As a result, other than ABS/Private MBS, which will not satisfy the 90% requirement, and CDOs, which will be excluded from the requirement in Nasdaq Rule 5735(b)(1)(B)(v) and, instead, be limited to 10% of the total assets of the Fund, all fixed income securities held by the Fund will comply with all of the requirements of Nasdaq Rule 5735(b)(1)(B)(i)–(v). The Exchange believes that this exception is appropriate for the reasons stated below in this proposed rule change.[75]

(iii) The Exchange has classified bank loans as Debt for purposes of this proposed rule change and not as ''fixed income securities'' as they are classified in Nasdaq Rule 5735(b)(1)(B). As a result, the Fund's investments in bank loans will comply with the limitations or restrictions applicable to the Fund's investments in Debt as set forth herein with respect to such holdings and not with the restrictions for fixed income securities set forth in Nasdaq Rule 5735(b)(1)(B)(i)–(v).[76] The Exchange believes that this exception is appropriate for the reasons stated below in this proposed rule change.[77]

(iv) The Fund will not comply with the equity requirements in Nasdaq Rules 5735(b)(1)(A)(i)[78] and

[66] The Exchange notes that, while the Fund treats commercial paper having maturities of 360 days or less as cash equivalents for the purposes of its 80% Principal Investments measure, the Fund will comply with the applicable requirements of Nasdaq Rule 5735(b)(1) with respect to all commercial paper held by the Fund. Further, in accordance with Nasdaq Rule 5735(b)(1)(B), to the extent that the Fund holds securities that are convertible into fixed income securities, the fixed income securities into which any such securities are converted shall meet the criteria of Nasdaq Rule 5735(b)(1)(B) after converting.

[67] Nasdaq Rule 5735(b)(1)(D)(i) provides that, at least 90% of the weight of a portfolio's holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options and swaps for which the Exchange may obtain information via the ISG, from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement; for the purposes of calculating this limitation, a portfolio's investment in such listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives.

[68] Nasdaq Rule 5735(b)(1)(D)(ii) provides that, the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).

[69] Nasdaq Rule 5735(b)(1)(E) provides that, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in over-the-counter derivatives, including forwards, options, and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; for purposes of calculating this limitation, the Fund's investment in OTC Derivatives will be calculated as the aggregate gross notional value of the OTC Derivatives.

[70] Nasdaq Rule 5735(b)(1)(F) provides that, to the extent that listed or over-the-counter derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rules 5735(b)(1)(A) and 5735(b)(1)(B), respectively.

[71] Further, as described further below, the Exchange is proposing that the Fund will comply with alternative requirements rather than Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), and 5735(b)(1)(E).

[72] *See infra* note 107.

[73] Nasdaq Rule 5735(b)(1)(B)(iv) provides that, component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

[74] ABS/Private MBS are generally issued by special purpose vehicles, so the criteria in Nasdaq Rule 5735(b)(1)(B)(iv) regarding an issuer's market capitalization and the remaining principal amount of an issuer's securities are typically unavailable with respect to ABS/Private MBS, even though such ABS/Private MBS may own significant assets.

[75] *See infra* ''Statutory Basis.''

[76] For a listing of such restrictions, *see supra* ''Investment Restrictions.''

[77] *See infra* ''Statutory Basis.''

[78] Nasdaq Rule 5735(b)(1)(A)(i) provides that, the components stocks of the equity portion of a portfolio that are U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) shall meet the following criteria initially and on a continuing basis: (a) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) each shall have a minimum market value of at least $75 million; (b) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted component stock (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) shall not exceed 65% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively, constitute, at least in part, components underlying a series of Managed Fund Shares (as defined in Nasdaq Rule 5735), or (ii) one

Continued

5735(b)(1)(A)(ii) [79] with respect to the Fund's investment in Non-Convertible Preferred Securities, Work Out Securities, and warrants.[80] Instead, the Exchange proposes that (i) the Fund's investments in convertible fixed income and preferred securities shall be limited to 20% of the Fund's portfolio; and (ii) the weight of Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants in the Fund's portfolio shall together not exceed 15% of the Fund's assets. The Exchange believes that these alternative limitations are appropriate in light of the fact that the Non-Convertible Preferred Securities, Equity Related Warrants and Work Out Securities are providing debt-oriented exposures or are received in connection with the Fund's previous investment in Debt or fixed income securities, and all of the other equity securities held by the Fund will comply with the requirements of Nasdaq Rule 5735(b)(1)(A).[81]

(v) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(E) that no more than 20% of the assets in the Fund's portfolio may be invested in over-the-counter derivatives. Instead, the Exchange proposes that there shall be no limit on the Fund's investment in Interest Rate and Currency Derivatives, and the weight of all OTC Derivatives other than Interest Rate and Currency Derivatives shall not exceed 10% of the Fund's assets. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value of such OTC Derivatives. The Exchange believes that this exception for Interest Rate and Currency Derivatives is appropriate for the reasons stated below in this proposed rule change.[82]

(vi) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(i) that at least 90% of the weight of the Fund's holdings in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options and swaps for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. Instead, the Exchange proposes that no more than 10% of the assets of the Fund will be invested in Exchange-Traded Derivatives and exchange-listed securities whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value of such Exchange-Traded Derivatives. The Exchange believes that this exception is appropriate for the reasons stated below in this proposed rule change.[83]

(vii) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(ii) that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures). Instead, the Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in futures and options (including options on futures) referencing eurodollars and sovereign debt issued by the United States (*i.e.,* Treasury Securities) and other ''Group of Seven'' countries [84] where such futures and options contracts are listed on an exchange that is an ISG member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement (''Eurodollar and G–7 Sovereign Futures and Options''). The Fund may maintain significant positions in Eurodollar and G–7 Sovereign Futures and Options, and such investments will not be subject to the concentration limits provided in Nasdaq Rule 5735(b)(1)(D)(ii). For purposes of this requirement, the weight of the applicable Exchange-Traded Derivatives will be calculated based on the mark-to-market value of such Exchange-Traded Derivatives. The Exchange believes that this exception is appropriate for the reasons stated below in this proposed rule change.[85]

The Exchange believes that, notwithstanding that the Fund would not meet a limited number of ''generic'' listing requirements of Nasdaq Rule 5735(b)(1) in order to be able to satisfy its investment objective, the Exchange will be able to appropriately monitor and surveil trading in the underlying investments, including those that do not meet the ''generic'' listing requirements. The Exchange also notes that the parameters around the Fund's portfolio holdings are generally consistent with the parameters approved by the Commission prior to adoption of ''generic'' listing requirements for

or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rule 5735(c)(6) and 5710, respectively, account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; (e) except as otherwise provided, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act; and (f) American Depositary Receipts (''ADRs'') in a portfolio may be exchange-traded or non-exchange-traded; however, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

[79] Nasdaq Rule 5735(b)(1)(A)(ii) provides that, the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) shall meet the following criteria initially and on a continuing basis: (a) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) each shall have a minimum market value of at least $100 million; (b) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted Non-U.S. Component Stock (as such term is defined in Nasdaq Rule 5705) shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) shall not exceed 60% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio includes Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705), the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively, constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively, account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and (e) Each Non-U.S. Component Stock (as such term is defined in Nasdaq Rule 5705) shall be listed and traded on an exchange that has last-sale reporting.

[80] As noted above, convertible fixed income securities (including CoCos) and convertible preferred securities are treated as fixed income securities for purposes of this proposed rule change. *See supra* section (ii).

[81] Other equities consist of ETFs (including money market ETFs) that provide exposure to fixed income securities, Debt and other Principal Investments. The weight of such ETFs in the Fund's portfolio shall not be limited. As noted above, Fixed-Income Related Warrants are treated as fixed income securities for purposes of this proposed rule change and will be subject to and comply with the generic listing requirements for fixed-income securities, rather than the generic listing requirements for equity securities. *See supra* note 23.

[82] *See infra* notes 114–117 and accompanying text.

[83] *See infra* ''Statutory Basis.''

[84] The ''Group of Seven'' or G–7 countries consist of the United States, Canada, France, Germany, Italy, Japan and the United Kingdom.

[85] *See infra* note 118 and accompanying text.

actively-managed ETFs.[86] In addition, the Fund will be well diversified. For these reasons, the Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange.

As further described in ''Statutory Basis,'' deviations from the generic requirements are necessary for the Fund to achieve its investment objective and efficiently manage the risks associated with its investments, and any possible risks have been fully mitigated and addressed through the alternative limits proposed by the Exchange. In addition, many of the changes requested are generally consistent with previous filings approved by the Commission.[87]

Net Asset Value

The Fund's administrator will calculate the Fund's net asset value (''NAV'') per Share as of the close of regular trading (normally 4:00 p.m., Eastern time (''E.T.'')) on each day the New York Stock Exchange is open for business. NAV per Share will be calculated for the Fund by taking the value of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share (although creations and redemptions will be processed using a price denominated to the fifth decimal point, meaning that rounding to the nearest cent may result in different prices in certain circumstances).

Impact on Arbitrage Mechanism

The Manager and the Sub-Adviser believe there will be minimal, if any, impact on the arbitrage mechanism for the Fund as a result of its use of derivatives. The Manager and the Sub-Adviser understand that market makers and other market participants should be able to value derivatives held by the Fund as long as the Fund's positions are disclosed. The Manager and the Sub-Adviser believe that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability for authorized participants (''APs'') to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Manager and the Sub-Adviser do not believe that there will be any significant impact on the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will typically be substituted with a ''cash in lieu'' amount when the Fund processes purchases or redemptions of creation units in-kind.

Creation and Redemption of Shares

The Fund will issue Shares of the Fund at NAV only to APs and only in aggregations of at least 50,000 shares (each aggregation is called a ''Creation Unit'') or multiples thereof, on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt, on any Business Day, of an order in proper form. A ''Business Day'' is defined as any day that the Trust is open for business, including as required by Section 22(e) of the 1940 Act.

Although the Fund reserves the right to issue Creation Units on a partial or fully ''in kind'' basis, the Fund expects that it will primarily issue Creation Units solely for cash. As a result, APs seeking to purchase Creation Units will generally be required to transfer to the Fund cash in an amount equal to the value of the Creation Unit(s) purchased and the applicable transaction fee. To the extent that the Fund elects to issue Creation Units on an ''in-kind'' basis, the applicable AP will be required to deposit with the Fund a designated portfolio of securities and/or instruments (the ''Deposit Securities'') that will conform *pro rata* to the holdings of the Fund (except in the circumstances described in the Fund's Statement of Additional Information (the ''SAI'')) and/or an amount of cash. If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Securities or Redemption Securities (defined below) exchanged for the Creation Unit, the party conveying the instruments with the lower value will pay to the other an amount in cash equal to that difference (the ''Cash Component''). Together, the Deposit Securities and the Cash Component will constitute the ''Fund Deposit,'' which will represent the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Fund also expects to effect redemptions of Creation Units primarily on a cash basis, although it reserves the right to effect redemption on a partial or wholly ''in-kind'' basis. In connection with a cash redemption, the AP will be

[86] *See, e.g.,* Securities Exchange Act Release Nos. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR–NYSEArca–2015–73) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund (now known as the PIMCO Active Bond Exchange-Traded Fund)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR–NYSEArca–2013–122) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund). The investments of the Guggenheim Total Return Bond ETF include a wide variety of U.S. and foreign fixed income instruments (including Private ABS/MBS), preferred securities, cash equivalents, other ETFs and listed and over-the-counter derivatives and are managed in a manner that appears to be generally consistent with that proposed for the Fund. Consistent with the requests made in this proposed rule change, the Commission's approval of the listing of shares of the Guggenheim Total Return Bond ETF did not include many of the conditions imposed by the generic listing standards under Nasdaq Rule 5735; the Commission's approval did not impose limits regarding the total notional size of the ETF's investment in over-the-counter derivatives, did not impose concentration limits on the ETF's investment in listed derivatives and did not require compliance with the same criteria as the fixed income criteria in Nasdaq Rule 5735(b)(1)(B). The order approving investments in derivatives by the PIMCO Total Return Exchange Traded Fund described investments in both over-the-counter and listed derivatives, but did not impose limits regarding the total notional size of the ETF's investments in over-the-counter derivatives, did not impose concentration limits on the ETF's investments in listed derivatives, and did not impose limitations on investments in listed derivatives whose principal market is not a member of ISG or is a market with which its listing exchange does not have a comprehensive surveillance sharing agreement.

[87] *See, e.g.,* Securities Exchange Act Release Nos. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR–NYSEArca–2017–09) (approving up to 50% of the fund's assets (calculated on the basis of aggregate gross notional value) to be invested in over-the-counter derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund's investments, including forwards, over-the-counter options, and over-the-counter swaps); 78592 (August 16, 2016), 81 FR 56729 (August 22, 2016) (SR–NASDAQ–2016–061) (approving investment of up to 20% of the fund's assets in, among other things, non-exchange-traded equity securities acquired in conjunction with the fund's event-driven strategy, including securities acquired by the fund as a result of certain corporate events including reorganizations); 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR–NYSEArca–2015–73) (permitting (i) investments in over-the-counter and listed derivatives without imposing limits on the total notional size of the ETF's investments in over-the-counter derivatives and without imposing concentration limits on the ETF's investments in listed derivatives and (ii) permitting investments in a wide variety of fixed income instruments without compliance with the same criteria as the fixed income criteria in Nasdaq Rule 5735(b)(1)(B)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR–NYSEArca–2013–122) (permitting investments in both over-the-counter and listed derivatives, but without imposing limits regarding the total notional size of the ETF's investments in over-the-counter derivatives, without imposing concentration limits on the ETF's investments in listed derivatives, and without imposing limitations on investments in listed derivatives whose principal market is not a member of ISG or is a market with which its listing exchange does not have a comprehensive surveillance sharing agreement); and 69061 (March 7, 2013), 78 FR 15990 (March 13, 2013) (SR–NYSEArca–2013–01) (approving investments in non-agency commercial MBS and non-agency residential MBS without a fixed limit but consistent with the fund's objective of investing up to 80% of its assets in investment grade fixed-income securities).

required to transfer to the Fund, Creation Units and cash equal to the transaction fee. To the extent that the Fund elects to utilize an ''in-kind'' redemption, it will deliver to the redeeming AP, in exchange for a Creation Unit, securities and/or instruments that will conform *pro rata* to the holdings of the Fund (''Redemption Securities'') plus the Cash Component.

To be eligible to place orders with respect to creations and redemptions of Creation Units, an entity must have executed an agreement with the Distributor, subject to acceptance by the transfer agent, with respect to creations and redemptions of Creation Units. Each such entity (an AP) must be (i) a broker-dealer or other participant in the clearing process through the continuous net settlement system of the National Securities Clearing Corporation (''NSCC'') or (ii) a Depository Trust Company participant.

When the Fund permits Creation Units to be issued principally or partially in-kind, the Fund will cause to be published, through the NSCC, on each Business Day, at or before 9:00 a.m. E.T., the identity and the required principal amount or number of each Deposit Security and the amount of the Cash Component (if any) to be included in the current Fund Deposit (based on information at the end of the previous Business Day).

All orders to create Creation Units must be received by the Distributor within a one-hour window from 9:00 a.m. E.T. to 10:00 a.m. E.T. on a given Business Day in order to receive the NAV determined on the Business Day on which the order was placed.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a Business Day and only through an AP. The Fund will not redeem Shares in amounts less than a Creation Unit unless the Fund is being liquidated.

When the Fund permits Creation Units to be redeemed principally or partially in-kind, the Fund will cause to be published, through the NSCC, at or before 9:00 a.m. E.T. on each Business Day, the identity of the Redemption Securities and/or an amount of cash that will be applicable to redemption requests received in proper form on that day. The Redemption Securities will be identical to the Deposit Securities.

In order to redeem Creation Units of the Fund, an AP must submit an order to redeem for one or more Creation Units. All such orders must be received by the Distributor within a one-hour window from 9:00 a.m. E.T. to 10:00 a.m. E.T. on a given Business Day in order to receive the NAV determined on the Business Day on which the order was placed.

Availability of Information

The Fund's website (*www.leggmason.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include the Shares' ticker, CUSIP and exchange information, along with additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior Business Day's NAV per share and the market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV per share (the ''Bid/Ask Price''),[88] and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV per share; and (2) a table showing the number of days of such premium or discount for the most recently completed calendar year, and the most recently completed calendar quarters since that year (or the life of Fund, if shorter).

On each Business Day, before commencement of trading in Shares in the Regular Market Session [89] on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'' as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[90] The Fund's disclosure of derivative positions in the Disclosed Portfolio will include sufficient information for market participants to use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's website the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding), the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio.[91] The website information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the Nasdaq Information LLC proprietary index data service,[92] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendor and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices provided by a dealer who makes a market in those instruments. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a ''real time'' update of the NAV per Share of the Fund, which is calculated only once a day.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the Business Day.

Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the Business Day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via Nasdaq

[88] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[89] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., E.T.).

[90] Under accounting procedures to be followed by the Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[91] *See* Nasdaq Rule 5735(c)(2).

[92] Currently, the Nasdaq Global Index Data Service (''GIDS'') is the Nasdaq global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade Nasdaq indexes, listed ETFs, or third-party partner indexes and ETFs.

proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association (''CTA'') plans for the Shares and for the following U.S. securities, to the extent that they are exchange-listed securities: Work Out Securities, Non-Convertible Preferred Securities, warrants, convertible fixed income and preferred securities and ETFs. Price information for U.S. exchange-listed options will be available via the Options Price Reporting Authority and for other U.S. Exchange-Traded Derivatives will be available from the applicable listing exchange and from major market data vendors. Price information for TRACE-Eligible Securities [93] sold in transactions under Rule 144A under the Securities Act will generally be available through FINRA's Trade Reporting and Compliance Engine (''TRACE'') and information regarding transactions in non-TRACE-Eligible Securities or transactions not otherwise subject to TRACE reporting is generally available from major market data vendors and broker-dealers. For most of the U.S. dollar denominated corporate bonds, GSE-sponsored securities, Securitized Products and other U.S. dollar denominated fixed income securities in which the Fund invests, price information will be available from TRACE and EMMA (as defined below).[94] For those instruments for which FINRA does not disseminate price information from TRACE, such as CDOs and fixed income securities denominated in foreign currencies, pricing information will generally be available from major market data vendors and broker-dealers. Money Market Funds are typically priced once each Business Day and their prices will be available through the applicable fund's website or from major market data vendors.

For other exchange-listed securities (to be comprised primarily of ETFs, warrants and structured notes and which may include exchange-listed securities of both U.S. and non-U.S. issuers), equities traded in the over-the-counter market (including Work Out Securities, and Non-Convertible Preferred Securities), Exchange-Traded Derivatives (including U.S. or foreign), OTC Derivatives, Debt and fixed income securities (including convertible fixed income and convertible preferred securities), and the small number of Securitized Products that are not reported to TRACE,[95] intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Price information for such securities and instruments will also be available from feeds from major market data vendors, published or other public sources, or online information services. As noted above, TRACE will be a source of price information for most of the U.S. dollar denominated corporate bonds, GSE-sponsored securities, Securitized Products and other U.S. dollar denominated fixed income securities in which the Fund invests. Intraday and other price information related to foreign government securities, Money Market Funds, and other cash equivalents that are traded over-the-counter and other Non-TRACE Eligible Securities as well as prices for Treasury Securities, CDOs, commercial mortgage-backed securities, or CMOs purchased through transactions that do not qualify for periodic dissemination by FINRA [96] will be available through major market data vendors, such as Bloomberg, Markit, IDC and Thomson Reuters, which can be accessed by APs and other investors. Electronic Municipal Market Access (''EMMA'') will be a source of price information for municipal bonds. Pricing for repurchase transactions and reverse repurchase agreements entered into by the Fund are not publicly reported. Prices are determined by negotiation at the time of entry with counterparty brokers, dealers and banks.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings' disclosure policies, distributions and taxes will be included in the Registration Statement. Investors will also be able to obtain the SAI, the Fund's annual and semi-annual reports (together, ''Shareholder Reports''), and its Form N–CSR and Form N–SAR, filed twice a year, except the SAI, which is filed at least annually. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A–3 [97] under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity

[93] For the definition of ''TRACE-Eligible Security,'' *see* FINRA Rule 6710(a).

[94] FINRA generally disseminates information on all transactions in TRACE-Eligible Securities, including those effected pursuant to Rule 144A of the Securities Act, immediately upon receipt of the transaction reports. Exceptions to this dissemination schedule are: (i) In respect to CMOs transacted pursuant to Rule 144A under the Securities Act, where the transaction value is $1 million or more and there have been five or more transactions of $1 million or more in the period reported by at least two different market participant identifiers (where FINRA will disseminate information weekly and monthly); (ii) certain transactions with affiliates, certain transfers in connection with mergers and not in furtherance of a trading strategy; and certain primary offerings; (iii) transactions in CDOs, collateralized mortgage backed securities and CMOs, if the transaction value is $1 million or more and does not qualify for periodic dissemination; and (iv) Treasury Securities. *See* FINRA Rule 6750.

[95] Non-TRACE Eligible Securities, which are Securitized Products, in which the Fund may invest will primarily consist of fixed income securities issued by foreign entities and denominated in foreign currencies. For such securities that are not TRACE-eligible, pricing information will generally be available from major market data vendors and broker-dealers.

[96] *See supra* note 94.

[97] *See* 17 CFR 240.10A–3.

securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m., E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[98] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund (including exchange-listed equities and Exchange-Traded Derivatives) with other markets and other entities that are members of ISG[99] and with which the Exchange has comprehensive surveillance sharing agreements,[100] and FINRA and the Exchange both may obtain information regarding trading in the Shares, the exchange-listed securities, derivatives and other instruments held by the Fund from markets and other entities that are members of ISG, which include securities and futures exchanges and swap execution facilities, or with which the Exchange has in place a comprehensive surveillance sharing agreement.[101] Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for most of the fixed income securities held by the Fund through reporting on FINRA's TRACE and, with respect to municipal securities, EMMA.

The majority of the Fund's investments in exchange-listed, equity securities (*i.e.,* Non-Convertible-Preferred Securities, Equity-Related Warrants and ETFs) will constitute securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. Up to 10% of the Fund's assets may be held in exchange-listed securities and Exchange-Traded Derivatives that are listed and traded on markets that are not members of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's website.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and

[98] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[99] Exchange-listed securities and Exchange-Traded Derivatives held by the Fund that are listed and traded on a non-ISG member exchange or on an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement together are limited to 10% of the assets of the Fund.

[100] For a list of the current members of ISG, *see http://www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[101] As noted above, no more than 10% of the assets of the Fund may be invested in Exchange-Traded Derivatives and exchange-listed securities whose principal market is not a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement.

open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both the Exchange and FINRA, on behalf of the Exchange, which are designed to deter and detect violations of Exchange rules and applicable federal securities laws and are adequate to properly monitor trading in the Shares in all trading sessions.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company's portfolio. In addition, paragraph (g) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company's portfolio.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment and maintenance of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable investment company's portfolio, not an underlying benchmark index, as is the case with index-based funds. Neither the Manager nor any of the Sub-Advisers is a broker-dealer, but each is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

In addition, personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In the event (a) the Manager or any of the Sub-Advisers registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new investment adviser or any new sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Fund's investments, including derivatives, will be consistent with the Fund's investment objectives, applicable legal requirements [102] and will not be used for the purpose of seeking leveraged returns or performance that is the multiple or inverse multiple of a benchmark (although derivatives may have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a ''leveraged ETF,'' *i.e.,* it will not be operated in a manner designed to seek leveraged returns or a multiple or inverse multiple of the performance of an underlying reference index.[103] The Fund may engage in frequent and active trading of portfolio investments to achieve its investment objective.

The Exchange believes that, notwithstanding that the Fund would not meet all of the ''generic'' listing requirements of Nasdaq Rule 5735(b)(1), the Fund will not be subject to manipulation, the investments of the Fund will be able to be monitored and surveilled by the Exchange and risks will be mitigated by alternative limits imposed by the Exchange and by the voluntary limits imposed by the Fund (*see supra* ''Investment Restrictions''). As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein. Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a cost-effective manner that maximizes investors' returns and to manage the risks associated with its investments, and the Exchange proposes that the Fund will be required to comply with alternative requirements that are customized to address the objectives of Section 6(b)(5) of the Act, as described herein. Further, the strategy and investments of the Fund are substantially similar to those of other ETFs previously approved by the Commission, which have operated safely and without disrupting the market for several years.[104]

The Fund will not comply with the requirements in Nasdaq Rule 5735(b)(1) regarding the use of aggregate gross notional value of derivatives when calculating the weight of such derivatives or the exposure that such derivatives provide to underlying reference assets, including the requirements in Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), 5735(b)(1)(E) and 5735(b)(1)(F).[105] Instead, the Exchange proposes that, except as otherwise provided herein, for the purposes of any applicable requirements under Nasdaq Rule 5735(b)(1), and any alternative requirements proposed by the Exchange, the Fund will use the mark-to-market value of its derivatives in calculating the weight of such derivatives or the exposure that such derivatives provide to their reference assets.[106] The Exchange believes that this alternative requirement is appropriate because the mark-to-market value is a more accurate measurement of the actual exposure incurred by the Fund in connection with a derivatives position.[107]

The Fund will not comply with the requirement that securities comprising at least 90% of the fixed income weight of the Fund's portfolio meet one of the criteria in Nasdaq Rule 5735(b)(1)(B)(iv) in respect to its investments in ABS/

[102] As noted above, the Fund will limit its investments in illiquid securities or other illiquid assets to an aggregate amount of 15% of its net assets (calculated at the time of investment), as required by the Commission.

[103] As noted above, the Fund will not invest in leveraged, inverse or inverse leveraged ETFs.

[104] *See, e.g.,* Securities Exchange Act Release Nos. 66321 (February 3, 2012) 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund); 72666 (July 24, 2014) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund); and 76719 (December 21, 2015) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF).

[105] *See supra* notes 67–70.

[106] *See supra* note 71.

[107] As previously noted, the mark-to-market approach is consistent with the valuation methodology for derivatives for asset coverage purposes advocated by the Commission in proposed Rule 18f–4 under the 1940 Act. *See* Derivatives Rule Proposing Release. In a white paper published by staff of the Division of Economic and Risk Analysis of the SEC (''DERA'') in connection with the proposal of Rule 18f–4 under the 1940 Act, the staff of DERA noted that a derivative's notional amount does not accurately reflect the risk of the derivative. *See* Daniel Deli, Paul Hanouna, Christof Stahel, Yue Tang and William Yost, *Use of Derivatives by Registered Investment Companies* (December 2015) at 10 (''On the other hand, there are drawbacks to using notional amounts. First, because of differences in expected volatilities of the underlying assets, notional amounts of derivatives across different underlying asset generally do not represent the same unit of risk. For example, the level of risk associated with a $100 million notional of a S&P500 index futures is not equivalent to the level of risk of a $100 million notional of interest rate swaps, currency forwards or commodity futures.'').

Private MBS.[108] Instead, ABS/Private MBS will be limited to 20% of the weight of the fixed income portion of the Fund's portfolio.[109] The Exchange proposes, in the alternative, to require the Fund to ensure that all of the investments in the fixed income portion of the Fund's portfolio, other than ABS/Private MBS, comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv).[110] The Exchange believes that this alternative limitation is appropriate because Nasdaq Rule 5735(b)(1)(B)(iv) does not appear to be designed for structured finance vehicles such as ABS/Private MBS, and the overall weight of ABS/Private MBS held by the Fund will be limited to 20% of the fixed income portion of the Fund's portfolio, as described above. As discussed above, although ABS/Private MBS will be excluded for the purposes of compliance with Nasdaq Rule 5735(b)(1)(B)(iv), the Fund's portfolio is consistent with the statutory standard as a result of the diversification provided by the investments and the Sub-Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards and relies on the higher investment levels in these instruments during periods of U.S. economic strength.

As discussed above, the Exchange has determined to make an exception solely in respect of the Fund such that CDOs will not be deemed to be included in the definition of ABS for purposes of the limitation in Nasdaq Rule 5735(b)(1)(B)(v) and, as a result, will not be subject to the restriction on aggregate holdings of ABS/Private MBS contained in such Rule, which limits such holdings to no more than 20% of the weight of the fixed income portion of the Fund's portfolio. However, the Fund's holdings in CDOs will be limited such that they do not account, in the aggregate, for more than 10% of the total assets of the Fund. The Exchange believes that the 10% limit on the Fund's holdings in CDOs will help to ensure that the Fund maintains a diversified portfolio and will mitigate the risk of manipulation.

The Exchange has classified bank loans as Debt for purposes of this proposed rule change and not as ''fixed income securities'' as they are classified in Nasdaq Rule 5735(b)(1)(B). As a result, the Fund's investments in bank loans will comply with the limitations or restrictions applicable to the Fund's investments in Debt as set forth herein with respect to such holdings and not with the restrictions for fixed income securities set forth in Nasdaq Rule 5735(b)(1)(B)(i)–(v).[111] The Exchange believes that this approach is appropriate given that the ''generic'' listing requirements in Nasdaq Rule 5735(b)(1)(B) generally appear to be tailored to fixed income instruments that are ''securities'', as defined in the Act, rather than loans and other debt instruments that are not characterized as ''securities'' under applicable case law.

The Fund will not meet the equity requirements in Nasdaq Rule 5735(b)(1)(A) with respect to Non-Convertible Preferred Securities, Work Out Securities and warrants.[112] Instead, the Exchange proposes that (i) the Fund's investment in convertible fixed income and preferred securities shall be limited to 20% of the Fund's portfolio; and (ii) the weight of Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants in the Fund's portfolio shall together not exceed 15% of the Fund's assets. The Exchange believes that these alternative limitations are appropriate in light of the fact that the Non-Convertible Preferred Securities, Equity Related Warrants and Work Out Securities are providing debt-oriented exposures or are received in connection with the Fund's previous investment in Debt or fixed income securities, and all of the other equity securities held by the Fund will comply with the requirements of Nasdaq Rule 5735(b)(1)(A).[113]

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(E) that no more than 20% of the assets in the Fund's portfolio may be invested in over-the-counter derivatives. Instead, the Exchange proposes that there shall be no limit on the Fund's investment in Interest Rate and Currency Derivatives, and the weight of all OTC Derivatives other than Interest Rate and Currency Derivatives shall not exceed 10% of the Fund's Assets. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value of such OTC Derivatives. The Exchange believes that this exception for Interest Rate and Currency Derivatives, which is generally consistent with the requirement in a previous filing for the listing of an ETF approved by the Commission,[114] is appropriate in light of the fact that Interest Rate and Currency Derivatives are among the most liquid investment instruments (including not only derivatives but also securities) in the market [115] (and the instruments are even more liquid than most non-government or government-guaranteed securities). Based on the data compiled by the Sub-Adviser in respect to its liquidity policy, these derivatives are among the most liquid investment instruments traded. In addition, most Interest Rate Derivatives traded by the Fund are centrally cleared by regulated clearing firms, and Interest Rate and Currency Derivatives are subject to trade reporting,[116] and other

[108] *See supra* note 73.

[109] *See supra* note 74.

[110] For purposes of this requirement, the weight of the Fund's exposure to any fixed income securities referenced in derivatives shall be calculated based on the mark-to-market value of such derivatives. CDOs, in which the Fund invests, would comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv) but would be limited in amount to 10% of the Fund's total assets. The Exchange believes that the 10% limit on the Fund's holdings in CDOs will help to ensure that the Fund maintains a diversified portfolio and will mitigate the risk of manipulation.

[111] For a listing of such restrictions, *see supra* ''Investment Restrictions.''

[112] As noted above, convertible fixed income securities (including CoCos) and convertible preferred securities are treated as fixed income securities for purposes of this proposed rule change. *See supra* ''Application of Generic Listing Requirements'' section (ii) and note 80.

[113] Other equities consist of ETFs (including money market ETFs) that provide exposure to fixed income securities, Debt and other Principal Investments. The weight of such ETFs in the Fund's portfolio shall not be limited. As noted above, Fixed-Income Related Warrants are treated as fixed income securities for purposes of this proposed rule change and will be subject to and comply with the generic listing requirements for fixed-income securities, rather than the generic listing requirements for equity securities. *See supra* note 23.

[114] *See* Securities Exchange Act Release No. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR–NYSEArca–2017–09) (approving up to 50% of the fund's assets (calculated on the basis of aggregate gross notional value) to be invested in over-the-counter derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund's investments, including forwards, over-the-counter options, and over-the-counter swaps).

[115] Trading in foreign exchange markets averaged $5.1 trillion per day in April 2016, and 67% of this trading activity was in derivatives contracts such as currency or foreign exchange forwards, options and swaps (with the other 33% consisting of spot transactions). *See* Bank for International Settlements, *Triennal* [sic] *Central Bank Survey, Foreign Exchange Turnover in April 2016, available at http://www.bis.org/publ/rpfx16fx.pdf* (accessed November 2017). Trading in OTC interest rate derivatives averaged $2.7 trillion per day in April 2016. *See* Bank for International Settlements, *Triennal* [sic] *Central Bank Survey, OTC Interest Rate Derivatives Turnover in April 2016, available at http://www.bis.org/publ/rpfx16ir.pdf* (accessed November 2017).

[116] Transactions in Interest Rate and Currency Derivatives are required to be reported to a swap data repository, and transactions in Interest Rate Derivatives and certain Currency Derivatives (*i.e.,* Currency Derivatives that are not excluded from the definition of a ''swap'', as described below) are also publicly reported pursuant to rules issued by the CFTC. *See* 17 CFR parts 43, 45 and 46. Pursuant to Section 1(a)(47)(E) of the CEA and a related determination by the Department of the Treasury, Excluded Currency Derivatives are excluded from the definition of a ''swap'' under the CEA. *See* Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity

robust regulation.[117] Given the size of the trading market and the regulatory oversight of the markets, the Exchange believes that Interest Rate and Currency Derivatives are not readily subject to manipulation. The Exchange also believes that allowing the Fund to risk manage its portfolio through the use of Interest Rate and Currency Derivatives without limit is necessary to allow the Fund to achieve its investment objective and protect investors.

The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(i) that at least 90% of the weight of the Fund's holdings in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. Instead, the Exchange proposes that no more than 10% of the assets of the Fund will be invested in Exchange-Traded Derivatives and exchange-listed securities whose principal market is not a member of ISG or is not a market with which the Exchange has a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value of such Exchange-Traded Derivatives. The Exchange believes that this alternative limitation is appropriate because the overall limit on Exchange-Traded Derivatives and exchange-listed securities whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement will still be low relative to the overall size of the Fund.

The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(ii) that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures). Instead, the Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in Eurodollar and G–7 Sovereign Futures and Options. The Fund may maintain significant positions in Eurodollar and G–7 Sovereign Futures and Options, and such investments will not be subject to the concentration limits provided in Nasdaq Rule 5735(b)(1)(D)(ii). For purposes of this [sic] requirements, the weight of the applicable Exchange-Traded Derivatives will be calculated based on the mark-to-market value of such Exchange-Traded Derivatives. The Manager has indicated that obtaining exposure to these investments through futures contracts is often the most cost efficient method to achieve such exposure. The Exchange notes that Eurodollar and G–7 Sovereign Futures and Options are highly liquid investments [118] and are not subject to the same concentration risks as Exchange-Traded Derivatives referencing other assets because of such liquidity. Further, the Exchange notes that the significantly diminished risk of Treasury Securities is reflected in their exclusion from the concentration requirements applicable to fixed income securities in Nasdaq Rule 5735(b)(1)(B)(ii). The Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in Eurodollar and G–7 Sovereign Futures and Options. The Exchange believes that this alternative limitation is appropriate to provide the Fund with sufficient flexibility and because of the highly liquid and transparent nature of Eurodollar and G–7 Sovereign Futures and Options. Further, as described above, the G–7 Sovereign Futures and Options in which the Fund invests will be listed on an exchange that is an ISG

Exchange Act, 77 FR 69694 (Nov. 20, 2012). However, as noted above, transactions in such Excluded Currency Derivatives are required to be reported to a swap data repository, but they are not subject to the public reporting requirements.

[117] Interest Rate Derivatives and Currency Derivatives other than Excluded Currency Derivatives are comprehensively regulated as swaps under the CEA and regulations issued thereunder by the CFTC and other federal financial regulators. *See, e.g.,* 17 CFR part 23 (capital and margin requirements for swap dealers, business conduct standards for swap dealers, and swap documentation requirements); 17 CFR part 50 (clearing requirements for swaps). While Excluded Currency Derivatives are not subject to all swap regulations, they are subject to the ''business conduct standards'' adopted by the CFTC pursuant to the CEA. *See* Section 1(a)(47)(E) of the CEA; Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act, 77 FR 69694 (Nov. 20, 2012).

[118] *See* CME Group, Interest Rate Futures Liquidity Metrics Reach New Highs (October 6, 2017), *available at http://www.cmegroup.com/education/interest-rates-liquidity-metrics-reach-new-highs.html (accessed November 2017) (*providing statistics regarding liquidity and open interest in futures and options on eurodollars and Treasury Securities, including that during the first three quarters of 2017, eurodollar futures and options traded through CME Group had an average daily open interest of approximately 53 million contracts and futures and options on Treasury Securities had an average daily open interest of approximately 15 million contracts); The Montreal Exchange, Statistics for Interest Rate Derivatives, Index Derivatives and Equity Derivatives (September 2017), *available at https://www.m-x.ca/f_stat_en/1709_stats_en.pdf (accessed November 2017)* (providing statistics regarding liquidity and open interest in futures and options on Canadian sovereign debt, including that, as of September 2017, the open interest in futures and options on Canadian sovereign debt traded on The Montreal Exchange was approximately 560,000 contracts); Eurex Exchange, Benchmark Fixed Income Derivatives, *available at https://www.eurexchange.com/blob/115654/4c51e4b8bc77355475b3b6f46afc0ef1/data/factsheet_eurex_benchmark_fixed_income_derivatives.pdf (accessed November 2017)* (providing statistics regarding liquidity and open interest in futures and options on German sovereign debt, including that, as of July 2015, the open interest in futures on German sovereign debt traded on Eurex was approximately 3,000,000 contracts and the open interest in options on German sovereign debt futures traded on Eurex was approximately 3,000,000 contracts); Eurex Exchange, Eurex Exchange Euro-BTP Futures, Italian Government Bond Futures, *available at http://www.eurexchange.com/blob/115624/6a1281939d15ddbab960af40da6f11dc/data/factsheet_eurex_euro_btp_futures_on_italian_government_bonds.pdf (accessed November 2017)* (providing statistics regarding liquidity and open interest in futures on Italian sovereign debt, including that the open interest peaks in 2017 for futures on long-term and short-term Italian sovereign debt traded on Eurex was approximately 450,000 and 270,000 contracts, respectively); Eurex Exchange, Euro-OAT Derivatives, French Government Bond Futures and Options, *available at http://www.eurexchange.com/blob/115652/48198ec577f7b3b0ac44d4c5a39ed0de/data/factsheet_eurex_euro_oat_futures_on_french_government_bonds.pdf (accessed November 2017)* (providing statistics regarding liquidity and open interest in futures on French sovereign debt, including that, as of July 2017, the open interest in futures on long-term French sovereign debt traded on Eurex was approximately 600,000 contracts); Intercontinental Exchange, Gilt Futures Overview, *available at https://www.theice.com/publicdocs/futures/Gilt_Futures_Overview.pdf (accessed November 2017)* (providing statistics regarding liquidity and open interest in futures on British sovereign debt, including that, as of the third quarter of 2014, the open interest in futures on long-term British sovereign debt traded on the Intercontinental Exchange was approximately 400,000 contracts); Osaka Exchange, Japanese Government Bond Futures & Options, *available at http://www.jpx.co.jp/english/derivatives/products/jgb/jgb-futures/tvdivq0000003n94-att/JGB_FUT_OP_E.pdf (accessed November 2017)* (providing statistics regarding liquidity and open interest in futures and options on Japanese sovereign debt, including that as of July 2016, the open interest in futures on 10-year Japanese sovereign debt traded on the Osaka Exchange was approximately 80,000 contracts). The Exchange also notes that the Commission has previously granted exemptions under the Act to facilitate the trading of futures on sovereign debt issued by each of the Group of Seven countries (among other countries) and that such exemptions were based in part on the Commission's assessment of the sufficiency of the credit ratings and liquidity of such sovereign debt. *See* 17 CFR 240.3a12–8; Securities Exchange Act Release No. 41453 (May 26, 1999), 64 FR 29550 (June 2, 1999).

member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily every Business Day that the Fund is traded, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Moreover, the Intraday Indicative Value, available on the Nasdaq Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Market Session. On each Business Day, before commencement of trading in the Shares in the Regular Market Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio of the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the Business Day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the CTA plans for the Shares and for the following U.S. securities, to the extent they are exchange-listed: Work Out Securities, Non-Convertible Preferred Securities, warrants, convertible fixed income and convertible preferred securities and ETFs. Price information for U.S. exchange-listed options will be available via the Options Price Reporting Authority and for other U.S. Exchange-Traded Derivatives will be available from the applicable listing exchange and from major market data vendors. Price information for restricted securities will be available from major market data vendors, broker-dealers and trading platforms, as well as for most fixed income securities sold in transactions under Rule 144A under the Securities Act, from TRACE and EMMA. Money Market Funds are typically priced once each Business Day and their prices will be available through the applicable fund's website or from major market data vendors.

For other exchange-listed securities (to be comprised primarily of ETFs, warrants and structured notes and which may include exchange-listed securities of both U.S. and non-U.S. issuers), equities traded in the over-the-counter market (including Work Out Securities and Non-Convertible Preferred Securities), Exchange-Traded Derivatives (including U.S. or foreign), OTC Derivatives, Debt and fixed income securities (including convertible fixed income and convertible preferred securities), and the small number of Securitized Products that are not reported to TRACE, intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). TRACE will be a source of price information for most of the U.S. dollar denominated corporate bonds,[119] GSE-sponsored securities, Securitized Products and other U.S. dollar denominated fixed income securities in which the Fund invests.[120] Intraday and other price information related to foreign government securities, Money Market Funds, and other cash equivalents that are traded over-the-counter and other Non-TRACE Eligible Securities as well as prices for Treasury Securities, CDOs, commercial mortgage-backed securities, or CMOs purchased through transactions that do not qualify for periodic dissemination by FINRA [121] will be available through major market data vendors, such as Bloomberg, Markit, IDC and Thomson Reuters, which can be accessed by APs and other investors. EMMA will be a source of price information for municipal bonds. Pricing for repurchase transactions and reverse repurchase agreements entered into by the Fund are not publicly reported. Prices are determined by negotiation at the time of entry with counterparty brokers, dealers and banks.

The Fund's website will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Trading in the Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed ETF that will enhance competition among market participants, to the benefit of investors and the marketplace.

For the above reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed ETF that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[119] Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year. For fixed income securities that are not reported to TRACE, (i) intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable) and (ii) price information will be available from feeds from market data vendors, published or other public sources, or online information services, as described above.

[120] Broker-dealers that are FINRA member firms have an obligation to report transactions in TRACE-Eligible Securities to TRACE. For the definition of ''TRACE-Eligible Security,'' *see* FINRA Rule 6710(a).

[121] *See supra* note 94.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2018–080 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–080. 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–NASDAQ–2018–080, and should be submitted on or before November 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[122]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24068 Filed 11–2–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84507; File No. SR–CboeBZX–2018–079]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Establish How the BZX Official Closing Price Would Be Determined for BZX-Listed Securities

October 30, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 18, 2018, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') 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 Exchange.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change to establish how the BZX Official Closing Price would be determined for BZX-listed securities.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BZX Rule 11.23, Auctions, to amend how the BZX Official Closing Price[4] would be determined for any BZX-listed security that is not a corporate security (a ''Derivative Securities Product'')[5] if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot (collectively, an ''Illiquid Auction''). Rule 11.23(c)(2)(B) currently provides how the Exchange determines the price of the Closing Auction and the BZX Official Closing Price. This proposed functionality is very similar to functionality that has already been approved by the Commission and is operational on NYSE Arca, Inc. (''Arca'') (the ''Arca Rule'')[6] and the Exchange believes that it raises no new

[122] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On October 29, 2018, the Exchange filed Amendment No. 1 to the proposed rule change to specify the date upon which the Exchange's President (or designee) approved the proposed rule change, pursuant to delegated authority.

[4] As defined in Rule 11.23(a)(3), the term ''BZX Official Closing Price'' shall mean the price disseminated to the consolidated tape as the market center closing trade.

[5] With respect to equities traded on the Exchange, the term ''new derivative securities product'' means a security that meets the definition of ''new derivative securities product'' in Rule 19b–4(e) under the Securities Exchange Act of 1934. *See* BZX Rule 14.11(j). For purposes of Rule 19b–4(e), a ''new derivative securities product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest, in, an underlying instrument. 17 CFR 240.19b–4(e).

[6] *See* Securities Exchange Act Release No. 82907 (March 20, 2018), 83 FR 12980 (March 26, 2018) (SR–NYSEArca–2018–08) (order approving proposed changes to Arca Rule 1.1(ll) related to determining an Official Closing Price).

substantive issues for the Commission to review.

Current Rule 11.23(c)(2)(B) outlines the process for determining the price level at which the Closing Auction will occur [7] and provides that the Closing Auction price will be the BZX Official Closing Price or, in the event that there is no Closing Auction for an issue, the BZX Official Closing Price will be the price of the Final Last Sale Eligible Trade.[8]

The Exchange proposes to amend Rule 11.23(c)(2)(B) in order to change how the BZX Official Closing Price for an Exchange-listed security that is a Derivative Securities Product would be determined in the event of an Illiquid Auction. The proposed rule change is intended to make the BZX Official Closing Price more reflective of the value of such a Derivative Securities Product. Specifically, if a security is thinly traded or generally illiquid, it's currently possible that the BZX Official Closing Price for such Derivatives Securities Product will be based on a Final Last Sale Eligible Trade that may be hours, days, or even months old and therefore not necessarily reflect the true and current value of the security.

The Exchange believes that an execution that qualifies as a Final Last Sale Eligible Trade that occurs in the last five minutes of trading during Regular Trading Hours [9] is sufficiently recent as to be reflective of the current market value of a Derivative Securities Product and, in the event of an Illiquid Auction, should be used as the BZX Official Closing Price. Where no such execution occurs, however, the Exchange believes that a time-weighted value based on the midpoint of the NBBO [10] leading into the close is likely to be more indicative of the true and current value of the security than a Final Last Sale Eligible Trade that occurred more than five minutes prior to the close. As such, in the event that there is an Illiquid Auction in a BZX-listed Derivative Securities Product, the Exchange proposes that the BZX Official Closing Price would be the time-weighted average price of the midpoint of the NBBO over the last five minutes of trading before the end of Regular Trading Hours (the ''TWAP''). Based on the foregoing, the Exchange notes that it is proposing to use only the Final Last Sale Eligible Trade or the TWAP and not any weighting or combination of the two.

In order to implement these proposed changes, the Exchange is proposing to amend Rule 11.23(c)(2)(B) to make clear that for a BZX-listed corporate security, the Closing Auction price will be the BZX Official Closing Price, which is consistent with current functionality. The Exchange is further proposing to amend Rule 11.23(c)(2)(B) in order to add a three part test for determining the BZX Official Closing Price for Derivative Securities Products, as follows.

Proposed new Rule 11.23(c)(2)(B)(i) would provide that where at least one round lot is executed in the Closing Auction, the Closing Auction price will be the BZX Official Closing Price.

Proposed new Rule 11.23(c)(2)(B)(ii) would provide that in the event that the BZX Official Closing Price for an issue that is a Derivative Securities Product cannot be determined under paragraph (B)(i) of this Rule, the BZX Official Closing Price for such security will depend on when the last Final Last Sale Eligible Trade occurs. If a trade that would qualify as a Final Last Sale Eligible Trade occurred: (a) Within the final five minutes before the end of Regular Trading Hours, the Final Last Sale Eligible Trade will be the BZX Official Closing Price; or (b) prior to five minutes before the end of Regular Trading Hours, the time-weighted average price of the NBBO midpoint measured over the last 5 minutes before the end Regular Trading Hours will be the BZX Official Closing Price.

Proposed new Rule 11.23(c)(2)(B)(iii) would provide that if the BZX Official Closing Price cannot be determined under proposed paragraphs (B)(i) or (B)(ii) of this Rule, the Final Last Sale Eligible Trade will be the BZX Official Closing Price.

As noted above, the Exchange believes that the proposed functionality is very similar to the Arca Rule and does not raise any substantive issues not already considered by the Commission. The only substantive difference between the proposal and the Arca Rule relates to the Exchange proposing only to use one of the TWAP or the Final Last Sale Eligible Trade for the BZX Official Closing Price and to exclude, contrary to the Arca Rule, any scenarios that would result in a blended price by changing the weight of the TWAP and the Final Last Sale Eligible Trade depending on how many minutes prior to the end of the trading day such Final Last Sale Eligible Trade occurs.

There are also two differences that the Exchange believes are non-substantive. First, the Exchange's proposed functionality for determining the BZX Official Closing Price applies to all securities listed on the Exchange that are not corporate securities, while the Arca Rule applies to all ''derivative securities products.'' [11] Substantively, however, there is no practical difference between these definitions because the Exchange only offers listing of corporate securities (which it has excluded from the proposed new functionality) and products that would fall under the definition of derivative securities products. Second, the Arca Rule references the ''consolidated last-sale eligible trade'' in several instances where the Exchange proposed rule references the Final Last Sale Eligible Trade. The only difference between the definition of the consolidated last-sale eligible trade and the Final Last Sale Eligible Trade for purposes of this application is that the value of the Final Last Sale Eligible Trade will default to any execution on the Exchange that occurs within the last one second prior to the Closing Auction. For purposes of this proposal, the definitions are otherwise identical. The Exchange does not believe that this is a substantive difference because it is unlikely that securities for which this functionality is intended to improve a BZX Official Closing Price because of a lack of trading activity will have trading activity in the final second prior to the Closing Auction.

Implementation

The Exchange will implement the proposed rule change for determining the BZX Official Closing Price as soon as is practicable after the approval date of this proposed rule change and will announce the implementation date via Trade Desk Notice.

[7] The Exchange notes that it is not proposing to make changes to the process for determining the price level at which the Closing Auction will occur.

[8] As defined in Rule 11.23(a)(9), the term ''Final Last Sale Eligible Trade'' shall mean the last trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last trade reported to the consolidated tape received by BZX Exchange during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used.

[9] As defined in Rule 1.5(w), the term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[10] As defined in Rule 1.5(o), the term ''NBBO'' shall mean the national best bid or offer.

[11] The term ''Derivative Securities Product'' as used in Arca's rules means a security that meets the definition of ''derivative securities product'' in Rule 19b–4(e) under the Securities Exchange Act of 1934. *See* Arca Rule 1.1(k). For purposes of Rule 19b–4(e), a ''derivative securities product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest, in, an underlying instrument. 17 CFR 240.19b–4(e).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a method of determining the BZX Official Closing Price in an Exchange-listed security that is a Derivative Securities Product if there is no Closing Auction or if a Closing Auction trade is less than a round lot on a trading day. More specifically, the Exchange believes the proposed methodology for determining the BZX Official Closing Price would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a more up-to-date indication of the value of such a security if there have not been any Final Last Sale Eligible Trades leading in to the close of trading. The Exchange believes the proposed BZX Official Closing Price calculation would also provide a closing price that more accurately reflects the most recent and reliable market information possible.

The Exchange further believes that the proposed TWAP calculation would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a more robust mechanism to determine the value of an affected security for purposes of determining a BZX Official Closing Price. By using either the price of a Final Last Sale Eligible Trade that occurs within five minutes of the close or a time-weighted calculation based on the midpoint of the NBBO over the last five minutes of trading leading into the close, the Exchange believes that the proposed calculation would result in a BZX Official Closing Price that is more reflective of the true and current value of such security on that trading day than would otherwise occur under the current Closing Auction mechanism.

The Exchange also believes that the proposed methodology for determining a BZX Official Closing Price would be appropriate for Derivative Securities Products because if such securities are thinly traded, the price of the Final Last Sale Eligible Trade that occurred earlier in a trading day or even from a prior trading day may no longer be reflective of the value of such product, which should be priced relative to the value of the components of such security. In such case, either a more recent execution (in the last five minutes of Regular Trading Hours) or recent quoting activity will likely be more reflective of the value of the security. As such, the Exchange is proposing to use the TWAP in order to measure such quoting activity in order to avoid overly weighting a potentially stale quote that may occur leading into the close, which the Exchange believes would provide a greater indication of the value of such securities.

Finally, the Exchange believes that the proposed functionality does not raise any substantive issues not already considered by the Commission in approving the Arca Rule.

For the above reasons, the Exchange believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to provide for how the Exchange would determine the BZX Official Closing Price for Exchange-listed securities that are Derivative Securities Products if there is no Closing Auction or if a Closing Auction trade is less than a round lot on a trading day, which will help it better compete as a listing venue.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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–CboeBZX–2018–079 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2018–079. 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

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–079, and should be submitted on or before November 26, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24067 Filed 11–2–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33285; 812–14945]

Cushing Asset Management, LP and Cushing ETF Trust

October 30, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

APPLICANTS: Cushing ETF Trust (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Cushing Asset Management, LP (the ''Initial Adviser''), a Texas limited partnership registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on August 31, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 26, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: Cushing Asset Management, LP and Cushing ETF Trust, 8117 Preston Road, Suite 440, Dallas, TX 75225.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Counsel, at (202) 551–6883, or Aaron Gilbride, Branch Chief, at (202) 551–6906 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Initial Adviser is the investment adviser to the Cushing Energy & MLP ETF, Cushing Utility & MLP ETF, Cushing Transportation & MLP ETF and Cushing Energy Supply Chain & MLP ETF (together, the ''Initial Funds''), each a series of the Trust, pursuant to an investment management agreement with the Trust (''Investment Management Agreement'').[1] Under the terms of the Investment Management Agreement, the Adviser, subject to the supervision of the board of trustees of the Trust (''Board''), provides continuous investment management of the assets of each Subadvised Fund. Consistent with the terms of the Investment Management Agreement, the Adviser may, subject to the approval of the Board, delegate portfolio management responsibilities of all or a portion of the assets of a Subadvised Fund to one or more Sub-Advisers.[2] The Adviser will continue to have overall responsibility for the management and investment of the assets of each Subadvised Fund. The Adviser will evaluate, select, and recommend Sub-Advisers to manage the assets of a Subadvised Fund and will oversee, monitor and review the Sub-Advisers and their performance and recommend the removal or replacement of Sub-Advisers.

2. Applicants request an order to permit the Adviser, subject to the approval of the Board, to enter into investment sub-advisory agreements with the Sub-Advisers (each, a ''Sub-Advisory Agreement'') and materially amend such Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[3] Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Fund to disclose (as both a dollar amount and a percentage of the Subadvised Fund's net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Adviser; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, Aggregate Fee Disclosure'').[4]

[14] 17 CFR 200.30–3(a)(12).

[1] Applicants request relief with respect to the Initial Funds, as well as to any future series of the Trust and any other existing or future registered open-end management investment company or series thereof that, in each case, is advised by the Initial Adviser or any entity controlling, controlled by, or under common control with, the Initial Adviser or its successors (each, also an ''Adviser''), uses the multi-manager structure described in the application, and complies with the terms and conditions set forth in the application (each, a ''Subadvised Fund''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. Future Subadvised Funds may be operated as a master-feeder structure pursuant to section 12(d)(1)(E) of the Act. In such a structure, certain series of the Trust (each, a ''Feeder Fund'') may invest substantially all of their assets in a Subadvised Fund (a ''Master Fund'') pursuant to section 12(d)(1)(E) of the Act. No Feeder Fund will engage any sub-advisers other than through approving the engagement of one or more of the Master Fund's sub-advisers.

[2] As used herein, a ''Sub-Adviser'' for a Subadvised Fund is (1) an indirect or direct ''wholly owned subsidiary'' (as such term is defined in the Act) of the Adviser for that Subadvised Fund, or (2) a sister company of the Adviser for that Subadvised Fund that is an indirect or direct ''wholly-owned subsidiary'' of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a ''Wholly-Owned Sub-Adviser'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (3) not an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Subadvised Fund, any Feeder Fund invested in a Master Fund, the Trust, or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to a Subadvised Fund (''Non-Affiliated Sub-Advisers'').

[3] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Fund, of any Feeder Fund, or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Funds (''Affiliated Sub-Adviser'').

[4] For any Subadvised Fund that is a Master Fund, the relief would also permit any Feeder Fund

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Funds' shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Funds' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval, while the role of the Sub-Advisers is substantially equivalent to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24077 Filed 11–2–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84504; File No. SR–NYSEArca–2018–43]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Regarding Investments of the First Trust TCW Unconstrained Plus Bond ETF

October 30, 2018.

On July 11, 2018, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') 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 seeking to modify investments of the First Trust TCW Unconstrained Plus Bond ETF, the shares of which are currently listed and traded on the Exchange pursuant to NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on August 1, 2018.[3]

On September 14, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposed rule change. The Commission is publishing this order to institute proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposal [7]

The Exchange proposes to make changes to the investments of the First Trust TCW Unconstrained Plus Bond ETF (''Fund''), the shares (''Shares'') of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.600–E, which governs the listing and trading of Managed Fund Shares on the Exchange. According to the Exchange, the Shares of the Fund commenced trading on the Exchange on June 5, 2018 pursuant to the generic listing standards in Commentary .01 to NYSE Arca Rule 8.600–E.

The Shares are offered by First Trust Exchange-Traded Fund VIII (''Trust''), which is registered with the Commission as an open-end management investment company.[8] The Fund is a series of the Trust. First Trust Advisors L.P. is the investment adviser (''Adviser'') to the Fund. TCW Investment Management Company LLC (''TCW'' or the ''Sub-Adviser''), serves as the Fund's investment sub-adviser.[9] First Trust Portfolios L.P. is the distributor for the Fund's Shares. The Bank of New York Mellon acts as the administrator, custodian and transfer agent for the Fund.

A. Principal Investments of the Fund

According to the Exchange, the investment objective of the Fund is to seek to maximize long-term total return. Under normal market conditions,[10] the Fund intends to invest at least 80% of its net assets (including investment

invested in that Master Fund to disclose Aggregate Fee Disclosure.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83720 (July 26, 2018), 83 FR 37560 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 84123 (September 14, 2018), 83 FR 47654 (September 20, 2018). The Commission designated October 30, 2018, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] The Commission notes that additional information regarding, among other things, the Shares, Fund, investment objective, permitted investments, investment strategies and methodology, investment restrictions, investment adviser and sub-adviser, creation and redemption procedures, availability of information, trading rules and halts, and surveillance procedures, can be found in the Notice (*see supra* note 3) and the Registration Statement (*see infra* note 8), as applicable.

[8] The Exchange represents that the Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On May 29, 2018, the Trust filed with the Commission its registration statement (''Registration Statement'') on Form N–1A under the Securities Act of 1933 and under the 1940 Act relating to the Fund (File Nos. 333–210186 and 811–23147). In addition, the Exchange represents that the Trust has obtained an order from the Commission granting certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795).

[9] According to the Exchange, the Adviser and Sub-Adviser are not registered as broker-dealers. The Adviser is affiliated with First Trust Portfolios L.P., a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Sub-Adviser is affiliated with multiple broker-dealers and has implemented and will maintain a fire wall with respect to its broker-dealer affiliates regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser or the Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to relevant personnel and any broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[10] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5). On a temporary basis, including for defensive purposes, during the initial invest-up period (*i.e.,* the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (*i.e.,* rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods), the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objective. The Fund may adopt a defensive strategy when the Adviser and/or the Sub-Adviser believes securities in which the Fund normally invests have elevated risks due to market, political or economic factors and in other extraordinary circumstances.

borrowings) in a portfolio of ''Fixed Income Securities'' (described below).

In managing the Fund's portfolio, TCW intends to employ a flexible approach that allocates the Fund's investments across a range of global investment opportunities and actively manage exposure to interest rates, credit sectors, and currencies. TCW seeks to utilize independent, bottom-up research to identify securities that are undervalued and that offer a superior risk/return profile. Pursuant to this investment strategy, the Fund may invest in the following Fixed Income Securities, which may be represented by derivatives relating to such securities, as discussed below:

- Securities issued or guaranteed by the U.S. government or its agencies, instrumentalities or U.S. government-sponsored entities;
- Treasury Inflation Protected Securities;
- agency and non-agency residential mortgage-backed securities (''RMBS''); agency and non-agency commercial mortgage-backed securities (''CMBS''); agency and non-agency asset-backed securities (''ABS'');[11]
- domestic corporate bonds;
- Fixed Income Securities issued by non-U.S. corporations and non-U.S. governments;
- bank loans, including first lien senior secured floating rate bank loans (''Senior Loans''), secured and unsecured loans, second lien or more junior loans, and bridge loans;
- fixed income convertible securities;
- fixed income preferred securities;
- municipal bonds;
- collateralized loan obligations; and
- Rule 144A securities.

In addition, the Fund may invest in agency RMBS and CMBS by investing in to-be-announced transactions. The Fund may hold cash and cash equivalents,[12] as well as the following short-term instruments with maturities of three months or more: Certificates of deposit; bankers' acceptances; repurchase agreements and reverse repurchase agreements; bank time deposits; and commercial paper. The Fund also may enter into short sales of any securities in which the Fund may invest.

The Fund may utilize exchange-listed and over-the-counter (''OTC'') traded derivatives instruments for duration/yield curve management and/or hedging purposes, for risk management purposes, or as part of its investment strategies. The Fund will use derivative instruments primarily to hedge interest rate risk, actively manage interest rate exposure, hedge foreign currency risk, and actively manage foreign currency exposure. The Fund may also use derivative instruments to enhance returns, as a substitute for, or to gain exposure to, a position in an underlying asset, to reduce transaction costs, to maintain full market exposure, to manage cash flows, or to preserve capital. Derivatives may also be used to hedge risks associated with the Fund's other portfolio investments. Derivatives that the Fund may enter into are the following: Futures on interest rates, currencies, fixed income securities, and fixed income indices; exchange-traded and OTC options on interest rates, currencies, fixed income securities, and fixed income indices; swap agreements on interest rates, currencies, fixed income securities, and fixed income indices; credit default swaps; and currency forward contracts.

B. Other Investments of the Fund

While the Fund, under normal market conditions, invests at least 80% of its net assets in the principal investments described above, the Fund may invest its remaining assets in the following non-principal investments.

The Fund may invest in exchange-traded common stock, exchange-traded preferred stock, and exchange-traded real estate investment trusts (''REITs''), and securities of other investment companies registered under the 1940 Act, including money market funds, exchange-traded funds (''ETFs''), open-end funds (other than money market funds and other ETFs), and U.S. exchange-traded closed-end funds.[13]

In addition, the Fund may hold exchange-traded notes (''ETNs''),[14] exchange-traded or OTC ''Work Out Securities,'' [15] and exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities.

C. Investment Restrictions of the Fund [16]

The Exchange proposes that the Fund may invest up to 50% of its total assets (calculated as the aggregate gross notional value) in Private ABS/MBS, provided that the Fund may not invest more than 30% of its total assets (calculated as the aggregate gross notional value) in non-agency RMBS.

The Exchange proposes that up to 25% of the Fund's assets may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund's investments (that is, ''hedge''). The Fund's investments in OTC derivatives other than OTC derivatives used to hedge the Fund's portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund's portfolio. For purposes of these percentage limitations on OTC derivatives, the weight of such OTC derivatives will be calculated as the aggregate gross notional value of such OTC derivatives.

The Fund's holdings of bank loans will not exceed 15% of the Fund's total assets, and the Fund's holdings of bank loans other than Senior Loans will not exceed 5% of the Fund's total assets. The Fund's holdings in fixed income convertible securities and in equity securities issued upon conversion of such convertible securities will not exceed 10% of the Fund's total assets. The Fund's holdings in Work Out Securities will not exceed 5% of the Fund's total assets.

The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2X or −3X) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

D. Use of Derivatives by the Fund

The Fund may invest in the types of derivatives described in the principal investments above. Investments in derivative instruments will be made in accordance with the Fund's investment objective and policies. To limit the potential risk associated with such transactions, the Fund will enter into

[11] Non-agency RMBS, CMBS, and ABS are referred to collectively herein as ''Private ABS/MBS.''

[12] For purposes of this filing, cash equivalents are the short-term instruments with maturities of less than 3 months enumerated in Commentary .01(c) to NYSE Arca Rule 8.600–E.

[13] For purposes of this filing, the term ''ETFs'' includes Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X, or −3X) ETFs.

[14] ETNs include Index-Linked Securities (as described in NYSE Arca Rule 5.2–E(j)(6)). While the Fund may invest in inverse ETNs, the Fund will not invest in leveraged or inverse leveraged ETNs (*e.g.,* 2X or −3X).

[15] For purposes of this filing, Work Out Securities include U.S. or foreign equity securities of any type acquired in connection with restructurings related to issuers of Fixed Income Securities held by the Fund. Work Out Securities are generally traded OTC, but may be traded on a U.S. or foreign exchange.

[16] The Exchange represents that the Fund will not invest in securities or other financial instruments that have not been described in this proposed rule change.

offsetting transactions or segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees (''Board''). In addition, the Fund has included appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.

E. Impact on Arbitrage Mechanism

The Adviser and the Sub-Adviser believe there will be minimal, if any, impact to the arbitrage mechanism as a result of the Fund's use of derivatives. The Adviser and the Sub-Adviser understand that market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser and the Sub-Adviser believe that the price at which Shares of the Fund trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares of the Fund at their net asset value (''NAV''), which should ensure that Shares of the Fund will not trade at a material discount or premium in relation to their NAV.

The Adviser and Sub-Adviser do not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives.

F. Application of Generic Listing Requirements

The Exchange represents that the portfolio for the Fund will not meet all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund's portfolio will meet all such requirements except for those set forth in Commentary .01(a)(1), (a)(2), (b)(5), and (e), as described below.

(1) *Diversification Requirements for Investments in Equity Securities.* According to the Exchange, the Fund will not comply with the requirements set forth in Commentary .01(a)(1) [17] and (a)(2) [18] to NYSE Arca Rule 8.600–E with respect to the Fund's investments in equity securities.[19] Specifically, the Exchange proposes that the Fund's investments in equity securities will meet the requirements of Commentary .01(a) with the exception of (i) Commentary .01(a)(1)(C) and .01(a)(1)(D) (with respect to U.S. Component Stocks), and (ii) Commentary .01(a)(2)(C) and .01(a)(2)(D) (with respect to Non-U.S. Component Stocks). Any Fund investment in exchange-traded common stocks, preferred stocks, REITS, ETFs, ETNs, exchange-traded equity securities issued upon conversion of fixed income convertible securities, exchange-traded Work Out Securities, and U.S. exchange-traded closed-end funds would provide for enhanced diversification of the Fund's portfolio and, in any case, would be non-principal Fund investments and would not exceed 20% of the Fund's net assets in the aggregate. With respect to any Fund holdings of exchange-traded equity securities issued upon conversion of fixed income convertible securities and exchange-traded Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund's total assets. The Adviser and Sub-Adviser represent that the Fund generally will not actively invest in equity securities issued upon conversion of fixed income convertible securities or Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund's holdings in other securities. Therefore, the Fund's holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund's voluntary investment decisions. The Adviser and Sub-Adviser represent that, under these circumstances, application of the weighting requirements of Commentary .01(a)(1)(C) and Commentary .01(a)(2)(C) and the minimum number of components requirements of Commentary .01(a)(1)(D) and Commentary .01(a)(2)(D) would impose an unnecessary burden on the Fund's ability to hold such equity securities.

(2) *Investments in Private ABS/MBS.* The Exchange further represents that the Fund will not comply with the requirement in Commentary .01(b)(5) to NYSE Arca Rule 8.600–E that Private ABS/MBS in the Fund's portfolio account, in the aggregate, for no more than 20% of the weight of the fixed income portion of the Fund's portfolio.[20] Instead, the Exchange

[17] Commentary .01(a)(1) to NYSE Arca Rule 8.600–E provides that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis: (A) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum market value of at least $75 million; (B) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (C) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio; (D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; (E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934; and (F) American Depositary Receipts (''ADRs'') in a portfolio may be exchange-traded or non- exchange-traded. However, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

[18] Commentary .01(a)(2) to NYSE Arca Rule 8.600–E provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis: (A) Non-U.S. Component Stocks each shall have a minimum market value of at least $100 million; (B) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (C) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; (D) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and (E) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

[19] The Exchange represents that, for purposes of these exceptions, investments in equity securities that are OTC Work Out Securities, OTC equity securities issued upon conversion of fixed income convertible securities, or non-exchange-traded securities of other open-end investment companies (*e.g.,* mutual funds) are excluded.

[20] Commentary .01(b)(5) to NYSE Arca Rule 8.600–E provides that non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20%

Continued

proposes that, in order to enable the portfolio to be more diversified and provide the Fund with an opportunity to earn higher returns, the Fund may invest up to 50% of its total assets in Private ABS/MBS (calculated as the aggregate gross notional value), provided that the Fund may not invest more than 30% of its total assets in non-agency RMBS (calculated as the aggregate gross notional value).

The Adviser and Sub-Adviser represent that the non-agency RMBS sector can be an important component of the Fund's investment strategy because of the potential for attractive risk-adjusted returns relative to other fixed income sectors and the potential to add significantly to the diversification in the Fund's portfolio. Similarly, the CMBS and ABS sectors also have the potential for attractive risk-adjusted returns and added portfolio diversification.

(3) *Investments in OTC Derivatives.* The Fund's portfolio will not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600–E.[21] Specifically, the Fund's investments in OTC derivatives may exceed 20% of Fund assets, calculated as the aggregate gross notional value of such OTC derivatives. The Exchange proposes that up to 25% of the Fund's assets (calculated as the aggregate gross notional value) may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund's investments (that is, ''hedge''). The Fund's investments in OTC derivatives other than OTC derivatives used to hedge the Fund's portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund's portfolio, calculated as the aggregate gross notional value of such OTC derivatives.

The Adviser and Sub-Adviser believe that it is important to provide the Fund with additional flexibility to manage risk associated with its investments. Depending on market conditions, it may be critical that the Fund be able to utilize available OTC derivatives for this purpose to attempt to reduce impact of currency, interest rate or credit fluctuations on Fund assets. Therefore, the Exchange believes it is appropriate to apply a limit of up to 25% of the Fund's assets to the Fund's investments in OTC derivatives (calculated as the aggregate gross notional value of such OTC derivatives), including forwards, options and swaps, that are used for hedging purposes.

(4) *Investments in OTC Equity Securities.* As noted above, the Fund may hold equity securities that are Work Out Securities, which generally are traded OTC (but that may be traded on a U.S. or foreign exchange), exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities, and non-exchange-traded securities of other open-end investment company securities (*e.g.,* mutual funds). The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1)(A) through (E) to NYSE Arca Rule 8.600–E with respect to the Fund's investments in non-exchange-traded securities of open-end investment company securities,[22] and notwithstanding that the Fund's holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) and Commentary .01(a)(2) (A) through (E) to NYSE Arca Rule 8.600–E. Investments in non-exchange-traded securities of open-end investment company securities will not be principal investments of the Fund.[23] Such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. With respect to any Fund holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund's total assets. According to the Exchange, the Adviser and Sub-Adviser represent that the Fund generally will not actively invest in OTC equity securities issued upon conversion of fixed income convertible securities or OTC Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund's holdings in other securities. Therefore, the Fund's holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund's voluntary investment decisions.

With respect to investments in non-exchange-traded investment company securities, because such securities have a net asset value based on the value of securities and financial assets the investment company holds, the Exchange believes it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1). The Exchange notes that the Commission has previously approved listing and trading of an issue of Managed Fund Shares that may invest in equity securities that are non-exchange-traded securities of other open-end investment company securities. The Exchange believes that it is appropriate to permit the Fund to invest in non-exchange-traded open-end management investment company securities.

The Exchange notes that, other than Commentary .01(a)(1), (a)(2), (b)(5), and (e) to NYSE Arca Rule 8.600–E, the Fund's portfolio will meet all other requirements of NYSE Arca Rule 8.600–E.

II. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2018–43 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [24] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to

of the weight of the fixed income portion of the portfolio.

[21] Commentary .01(e) to NYSE Arca Rule 8.600–E provides that the portfolio may hold OTC derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

[22] Commentary .01 (a) to NYSE Arca Rule 8.600–E specifies the equity securities accommodated by the generic criteria in Commentary .01(a), namely, U.S. Component Stocks (as described in Rule 5.2–E(j)(3)); Non-U.S. Component Stocks (as described in Rule 5.2–E(j)(3)); Derivative Securities Products (*i.e.,* Investment Company Units and securities described in Section 2 of Rule 8–E); and Index-Linked Securities that qualify for Exchange listing and trading under Rule 5.2–E(j)(6).

[23] For purposes of this section of the filing, non-exchange-traded securities of other registered investment companies do not include money market funds, which are cash equivalents under Commentary .01(c) to NYSE Arca Rule 8.600–E and for which there is no limitation in the percentage of the portfolio invested in such securities.

[24] 15 U.S.C. 78s(b)(2)(B).

provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[25] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and ''to protect investors and the public interest.'' [26]

1. In its filing, the Exchange proposes that the Fund may invest up to 50% of its total assets (calculated as the aggregate gross notional value) in Private ABS/MBS, provided that the Fund may not invest more than 30% of its total assets (calculated as the aggregate gross notional value) in non-agency RMBS. Accordingly, the Exchange states that the Fund will not comply with the requirement in Commentary .01(b)(5) to NYSE Arca Rule 8.600–E that Private ABS/MBS in the Fund's portfolio account, in the aggregate, for no more than 20% of the weight of the fixed income portion of the Fund's portfolio. The Exchange also represents that, other than Commentary .01(a)(1), (a)(2), (b)(5), and (e) to NYSE Arca Rule 8.600–E, the Fund's portfolio will meet all other requirements of NYSE Arca Rule 8.600–E.

a. The Commission seeks commenters' views on whether the Private ABS/MBS will meet the requirements of Commentary .01(b)(4) to NYSE Arca Rule 8.600–E, which requires that ''[c]omponent securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Securities Exchange Act of 1934; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Securities Exchange Act of 1934; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.''

b. The Commission further seeks commenters' views on whether the Fund will meet the requirements of Commentary .01(f) to NYSE Arca Rule 8.600–E, which requires that ''[to] the extent that listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Commentary .01(a) and .01(b) (including gross notional exposures), respectively.''

2. With respect to the Fund's permitted investments in Private ABS/MBS, the Exchange claims that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such Private ABS/MBS do not comply with the requirements set forth in Commentary .01(b)(5) to NYSE Arca Rule 8.600–E because the Fund's investment in Private ABS/MBS is expected to provide the Fund with benefits associated with increased diversification, as Private ABS/MBS investments tend to be less correlated to interest rates than many other fixed income securities. The Exchange further states that the Fund's investment in Private ABS/MBS will be subject to the Fund's liquidity procedures as adopted by the Board, and the Adviser and Sub-Adviser do not expect that investments in Private ABS/MBS of up to 50% of the total assets of the Fund will have any material impact on the liquidity of the Fund's investments. In addition, according to the Exchange, the non-agency RMBS sector can be an important component of the Fund's investment strategy because of the potential for attractive risk-adjusted returns relative to other fixed income sectors and the potential to add significantly to the diversification in the Fund's portfolio. Similarly, the CMBS and ABS sectors also have the potential for attractive risk-adjusted returns and added portfolio diversification.

a. The Commission seeks commenters' views on an investor's ability to evaluate or discern pricing accuracy of the underlying Private ABS/MBS to be held by the Fund.

b. The Commission seeks commenters' views on the potential for susceptibility to manipulation or other fraudulent behavior of the Private ABS/MBS in the Fund's portfolio.

c. Given the potentially significant holdings in Private ABS/MBS of the Fund, the Commission seeks commenters' views on possible factors that might impair the ability of the arbitrage mechanism to keep the trading price of the Shares tied to the NAV of the Fund. Specifically, the Commission seeks commenters' views on whether or how these potential impairments of the arbitrage mechanism may affect the Fund's ability to ensure adequate participation by Authorized Participants. What are commenters' views on the potential effects on investors if the arbitrage mechanism is impaired?

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[27]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 26, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 10, 2018.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2018–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

[25] *Id.*

[26] 15 U.S.C. 78f(b)(5).

[27] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

All submissions should refer to File Number SR–NYSEArca–2018–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2018–43 and should be submitted by November 26, 2018. Rebuttal comments should be submitted by December 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24069 Filed 11–2–18; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

AGENCY: Small Business Administration (SBA).

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 4, 2019.

ADDRESSES: Send all comments to Dena Moglia, Senior Management & Program Analyst, Office of Performance Management, Small Business Administration, 409 3rd Street SW, Washington, DC 20416.

Comments may be sent to: Comments may also be submitted via fax to the attention of Dena Moglia at 202–205–7034 or via email to *dena.moglia@sba.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Visit *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 OMB 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 Dena Moglia at *dena.moglia@sba.gov* or Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Abstract: The SBA's Women's Business Centers represent a national network of over 100 educational centers designed to assist women in starting and growing small businesses. WBCs operate with the mission to ''level the playing field'' for women entrepreneurs, who still face unique obstacles in the world of business. Through the management and technical assistance provided by the WBCs, entrepreneurs (especially women who are economically or socially disadvantaged) are offered comprehensive training and counseling on a variety of topics in many languages to help them start and grow their own businesses. The SBA plans to conduct a web-based survey to understand to what degree the Agency's WBC programs and services help entrepreneurs start, manage, and grow businesses. The survey will help determine customer satisfaction and the outcomes of the delivered business assistance services. Surveys will be completed by a sample of clients who received business assistance services at least 1 year ago. A minimum 1-year lag is desired to allow the business outcomes of the services to be observed. Because WBCs offer both training and counseling services, clients who received either service will be included.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: SBA's Women's Business Center (WBC) Client Survey.

Form Number: N/A.

Affected Public: This study includes WBCs and WBC clients who received entrepreneurship counseling and/or training services at least 1 year ago.

Estimated Total Annual Burden Hours on Respondents: 1,005.49 hours.

Curtis Rich,

Agency Clearance Office.

[FR Doc. 2018–24109 Filed 11–2–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15782 and #15783; Northern Mariana Islands Disaster Number MP–00009]

Presidential Declaration of a Major Disaster for the Commonwealth of the Northern Mariana Islands

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of the NORTHERN MARIANA ISLANDS (FEMA–4404–DR), dated 10/26/2018.

Incident: Super Typhoon Yutu.

Incident Period: 10/24/2018 and continuing.

DATES: Issued on 10/26/2018.

Physical Loan Application Deadline Date: 12/26/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 07/26/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

[28] 17 CFR 200.30–3(a)(57).

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/26/2018, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas (Physical Damage and Economic Injury Loans): Northern Islands, Rota, Saipan, Tinian.

Contiguous Areas (Economic Injury Loans Only): None.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.000
Homeowners without Credit Available Elsewhere	2.000
Businesses with Credit Available Elsewhere	7.350
Businesses without Credit Available Elsewhere	3.675
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.675
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 157828 and for economic injury is 157830.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–24110 Filed 11–2–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15696 and #15697; NORTH CAROLINA Disaster Number NC–00099]

Presidential Declaration Amendment of a Major Disaster for the State of North Carolina

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–4393–DR), dated 09/14/2018.

Incident: Hurricane Florence.

Incident Period: 09/07/2018 through 09/29/2018.

DATES: Issued on 10/25/2018.

Physical Loan Application Deadline Date: 11/13/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 06/14/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of North Carolina, dated 09/14/2018, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Chatham, Durham, Guilford.

Contiguous Counties (Economic Injury Loans Only):

North Carolina: Davidson, Forsyth, Granville, Rockingham, Stokes.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–24113 Filed 11–2–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15744 and #15745; GEORGIA Disaster Number GA–00108]

Presidential Declaration Amendment of a Major Disaster for the State of GEORGIA

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of GEORGIA (FEMA–4400–DR), dated 10/14/2018.

Incident: Hurricane Michael.

Incident Period: 10/09/2018 and continuing.

DATES: Issued on 10/25/2018.

Physical Loan Application Deadline Date: 12/13/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 07/15/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of GEORGIA, dated 10/14/2018, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Calhoun, Clay, Laurens, Randolph, Sumter, Tift, Turner.

Contiguous Counties (Economic Injury Loans Only):

GEORGIA: Ben Hill, Berrien, Bleckley, Cook, Dodge, Emanuel, Irwin, Johnson, Macon, Marion, Quitman, Schley, Stewart, Treutlen, Twiggs, Wheeler, Wilkinson.

ALABAMA: Barbour.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–24112 Filed 11–2–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15746 and #15747; North Carolina Disaster Number NC–00100]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of North Carolina

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Carolina (FEMA–4393–DR), dated 10/12/2018.

Incident: Hurricane Florence.

Incident Period: 09/07/2018 through 09/29/2018.

DATES: Issued on 10/24/2018.

Physical Loan Application Deadline Date: 12/11/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 07/12/2019.

ADDRESS: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of North Carolina, dated 10/12/2018, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Alamance, Madison, Polk, Rowan, Tyrrell.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–24114 Filed 11–2–18; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2018–0010]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a New Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new matching program with the Bureau of the Fiscal Service (Fiscal Service), Department of the Treasury (Treasury).

This matching agreement sets forth the terms, conditions, safeguards, and procedures under which Fiscal Service, Treasury will disclose savings security data (as described in section VI.D) to SSA. SSA will use the data to determine continued eligibility for Supplemental Security Income (SSI) applicants and recipients, or the correct benefit amount for recipients and deemors who did not report or incorrectly reported ownership of savings securities.

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication in the **Federal Register**. The matching program will be applicable on December 26, 2018 and will expire on June 25, 2020, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, G–401 WHR Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, or email at *Mary.Ann.Zimmerman@ssa.gov*. All comments received will be available for public inspection by contacting Ms. Zimmerman at this street address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, by any of the means shown above.

SUPPLEMENTARY INFORMATION: None.

Mary Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

PARTICIPATING AGENCIES: SSA and Fiscal Service, Treasury.

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM: The legal authority for this agreement is executed in compliance with the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, the regulations and guidance promulgated thereunder. Legal authority for the disclosure under this agreement is contained in sections 1631(e)(1)(B), and (f) of the Social Security Act (Act), (42 U.S.C. 1383(e)(1)(B), and (f)).

PURPOSE(S): The purpose of this matching program is to set forth the terms, conditions, safeguards, and procedures under which Fiscal Service, Treasury will disclose savings security data (as described in section VI.D) to SSA. SSA will use the data to determine continued eligibility for Supplemental Security Income applicants and recipients, or the correct benefit amount for recipients and deemors who did not report or incorrectly reported ownership of savings securities.

CATEGORIES OF INDIVIDUALS: The individuals whose information is involved in this matching program are SSI applicants, recipients, and deemors who did not report, or incorrectly reported, ownership of savings securities.

CATEGORIES OF RECORDS: SSA will provide Fiscal Service with a finder file containing the Social Security numbers (SSN) and name of each individual for whom SSA requests savings security information. When a match occurs on an SSN, Fiscal Service will disclose to SSA: The denomination of the security; the serial number; the series; the issue date of the security; the current redemption value; and the return date of the finder file.

SYSTEM(S) OF RECORDS: The relevant SSA system of records (SOR) is ''Supplemental Security Income Record and Special Veterans Benefits, Social Security Administration,'' 60–0103. The SOR Notice (SORN) was fully published on January 11, 2006 at 71 FR 1830 and updated on December 10, 2007 at 72 FR 69723. The relevant Fiscal Service SORs are Treasury/BPD.002, United States Savings Type Securities, and Treasury/BPD.008, Retail Treasury Securities Access Application. The SORNs were last published on August 17, 2011 at 76 FR 51128.

[FR Doc. 2018–24085 Filed 11–2–18; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 10598]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Death in the Ice: The Mystery of the Franklin Expedition'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Death in the Ice: The Mystery of the Franklin Expedition,'' 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 owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Mystic Seaport Museum, Mystic, Connecticut, from on or about November 30, 2018, until on or about April 28, 2019; at the Anchorage Museum, Anchorage, Alaska, from on or about June 7, 2019, until on or about September 29, 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. 2018–24117 Filed 11–2–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10599]

Fine Arts Committee; Notice of Meeting

The Fine Arts Committee of the Department of State will meet on November 16, 2018 at 1:00 p.m. in the Henry Clay Room of the Harry S. Truman Building, 2201 C Street NW, Washington, DC 20520. The meeting will last until approximately 4:00 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting on April 20, 2018 and the announcement of gifts and loans of furnishings as well as financial contributions from January 1, 2018 through October 15, 2018.

Public access to the Department of State is strictly controlled and space is limited. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office at (202) 647–1990 or send an email to *Curator@state.gov* by November 9, 2018, providing their name, date of birth, citizenship, and a government-issued ID number [*i.e.,* from a U.S. government ID (agency), U.S. military ID (branch), passport (country), or driver's license (state)] in order to gain admittance. All attendees must use the ''C'' Street entrance located at 2201 C Street NW, Washington, DC. One of the following valid IDs will be required for admittance: Any U.S. driver's license with photo, a passport, or a U.S. government agency or military ID. Attendees should expect to remain in the meeting for the entire session. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Personal data 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.

Marcee F. Craighill,

Fine Arts Committee, Department of State.

[FR Doc. 2018–24116 Filed 11–2–18; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2018–0033]

Applications for Inclusion on the Binational Panels Roster Under the North American Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for applications.

SUMMARY: The North American Free Trade Agreement (NAFTA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the roster. The Office of the United States Trade Representative (USTR) invites applications from eligible individuals wishing to be included on the roster for the period April 1, 2019, through March 31, 2020.

DATES: USTR must receive your application by November 26, 2018.

ADDRESSES: You should submit your application through the Federal eRulemaking Portal: *http://www.regulations.gov,* using docket number USTR–2018–0033. Follow the submission instructions in sections 7 and 8 below. For alternatives to online submissions, please contact Sandy McKinzy at (202) 395–9483 before transmitting your application and in advance of the November 26, 2018 deadline.

FOR FURTHER INFORMATION CONTACT: Philip Butler, Assistant General Counsel, *Philip.A.Butler@ustr.eop.gov,* (202) 395–5804.

SUPPLEMENTARY INFORMATION:

1. Binational Panel AD/CVD Reviews Under the NAFTA

Article 1904 of the NAFTA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party using the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of 15 current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two NAFTA Parties must consult and seek to achieve a mutually satisfactory solution.

2. Roster and Composition of Binational Panels

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

When there is a request to establish a panel, roster members from the two involved NAFTA Parties will complete a disclosure form that is used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

3. Criteria for Eligibility for Inclusion on Roster

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182,

as amended (19 U.S.C. 3432)) (Section 402) provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

4. Adherence to the NAFTA Code of Conduct for Binational Panelists

The ''Code of Conduct for Dispute Settlement Procedures Under Chapters 19 and 20'' (*https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Code-of-Conduct*), which was established pursuant to Article 1909 of the NAFTA, provides that current and former Chapter 19 roster members ''shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.'' The Code of Conduct also provides that candidates to serve on chapter 19 panels, as well as those who are ultimately selected to serve as panelists, have an obligation to ''disclose any interest, relationship or matter that is likely to affect [their] impartiality or independence, or that might reasonably create an appearance of impropriety or an apprehension of bias.'' Annex 1901.2 of the NAFTA provides that roster members may engage in other business while serving as panelists, subject to the Code of Conduct and provided that such business does not interfere with the performance of the panelist's duties. In particular, Annex 1901.2 states that ''[w]hile acting as a panelist, a panelist may not appear as counsel before another panel.''

5. Procedures for Selection of Roster Members

Section 402 establishes procedures for the selection by USTR of the individuals chosen by the United States for inclusion on the Chapter 19 roster. The roster is renewed annually, and applies during the one-year period beginning April 1st of each calendar year.

Under Section 402, an interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the Chapter 19 roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, the United States Trade Representative selects the final list of individuals chosen by the United States for inclusion on the Chapter 19 roster.

6. Remuneration

Roster members selected for service on a Chapter 19 binational panel will be remunerated at the rate of 800 Canadian dollars per day.

7. Applications

USTR invite eligible individuals who wish to be included on the Chapter 19 roster for the period April 1, 2019, through March 31, 2020, to submit an application. In order to be assured of consideration, USTR must receive your application by November 26, 2018. All submissions must be sent electronically via *www.regulations.gov.* For alternatives to online submissions, please contact Sandy McKinzy at (202) 395–9483 before transmitting your application and in advance of the November 26, 2018 deadline.

To submit an application via *regulations.gov*, enter docket number USTR–2018–0033 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''notice'' under ''document type'' on the left side of the search-results page, and click on the ''comment now!'' link. For further information on using the *www.regulations.gov* website, please consult the resources provided on the website by clicking on the ''How to Use Regulations.gov'' on the bottom of the page.

The *www.regulations.gov* website allows users to provide comments by filling in a ''type comment'' field, or by attaching a document using an ''upload file'' field. USTR prefers that applications be provided in an attached document. If a document is attached, please type ''Application for Inclusion on NAFTA Chapter 19 Roster'' in the ''upload file'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''type comment'' field.

Applications must be typewritten, and should be headed ''Application for Inclusion on NAFTA Chapter 19 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.

2. Business address, telephone number, fax number, and email address.

3. Citizenship(s).

4. Current employment, including title, description of responsibility, and name and address of employer.

5. Relevant education and professional training.

6. Spanish language fluency, written and spoken.

7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.

8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.

9. A list and copies of publications, testimony, and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.

10. Summary of any current and past employment by, or consulting or other work for, the Governments of the United States, Canada, or Mexico.

11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.,* and the dates of all registration periods.

12. List of proceedings brought under U.S., Canadian, or Mexican AD/CVD law regarding imports of U.S., Canadian, or Mexican products in which the applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian, or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.

13. A short statement of qualifications and availability for service on Chapter 19 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.

14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

8. Current Roster Members and Prior Applicants

Current members of the Chapter 19 roster who remain interested in inclusion on the Chapter 19 roster only need to indicate that they are reapplying and submit updates (if any) to their applications on file. Current members do not need to resubmit their applications. Individuals who have previously applied but have not been selected must submit new applications to reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

9. Public Disclosure

Applications are covered by a Privacy Act System of Records Notice and are not subject to public disclosure and will not be posted publicly on *www.regulations.gov.* They may be referred to other federal agencies and Congressional committees in the course of determining eligibility for the roster, and shared with foreign governments and the NAFTA Secretariat in the course of panel selection.

10. False Statements

Pursuant to section 402(c)(5) of the NAFTA Implementation Act, false statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the Chapter 19 roster or for appointment to binational panels, are subject to criminal sanctions under 18 U.S.C. 1001.

Juan Millan,

Assistant United States Trade Representative for Monitoring and Enforcement, Office of the U.S. Trade Representative.

[FR Doc. 2018–24119 Filed 11–2–18; 8:45 am]

BILLING CODE 3290–F9–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2018–0091]

Approval of BNSF Railway Company Test Program To Evaluate Automated Track Inspection Technologies

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of approval.

SUMMARY: FRA is issuing this notice to explain its rationale for approving a BNSF Railway Company (BNSF) Test Program designed to evaluate the effectiveness of various types of automated track inspection technologies and for granting a limited, temporary suspension of one Federal railroad safety requirement necessary to facilitate the conduct of the Test Program.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–6460 or email *yujiang.zhang@dot.gov;* Aaron Moore, Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–7009 or email *aaron.moore@dot.gov.*

SUPPLEMENTARY INFORMATION: On July 31, 2018, BNSF petitioned FRA under Title 49 Code of Federal Regulations (CFR) Section 211.51 to suspend certain requirements of its track safety regulations to conduct a pilot program testing various types of automated track inspection methodologies on identified portions of BNSF's Powder River Division main line and siding tracks. BNSF also submitted a Test Program providing a description of the proposed pilot program and the geographic scope of the testing territory. After review and analysis of the Petition and Test Program, on September 26, 2018, subject to certain conditions designed to ensure safety, FRA approved BNSF's Test Program and suspended the requirements of 49 CFR 213.233(c) as necessary to carry out the Test Program.[1] As required by 49 CFR 211.51(c), FRA is providing this explanatory statement describing the Test Program.

The Test Program specifies that the pilot program will be conducted on approximately 1,348 miles of main and siding tracks from Lincoln, Nebraska and Donkey Creek, Wyoming and back to Lincoln, Nebraska via BNSF's coal loop excluding the Orin Subdivision. Specifically, the Test Territory includes the following track segments spanning seven subdivisions of BNSF's Powder River Subdivision:

1. Ravenna (Milepost (MP) 11.082 to MP 128.200);
2. Sand Hills (MP 128.2 to MP 364.1);
3. Butte (MP 364.1 to MP 476.1);
4. Black Hills (MP 476.1 to MP 586.286);
5. Canyon (MP 90.4 to MP 133.2);
6. Valley (MP 0.00 to 90.4); and
7. Angora (MP 33.826 to MP 0.3).

The Test Program explains that tonnage over the Test Territory varies by subdivision from 105 million gross tons (MGT) to 198 MGT and that the primary traffic over the Test Territory is coal traffic. Further, BNSF indicates that 55 percent of the ties in the Test Territory are concrete and 45 percent are wood, with 520 control points, 292 bridges and 598 turnouts included within the territory.

The Test Program is designed to test the use of manned and unmanned track geometry cars for track inspection as a viable alternative to manual visual inspections and to implement and test an optical visual platform to supplement manual visual inspections. The Test Program will be carried out in four separate phases over the course of one year as detailed in Table 1 below:

Phase	Days	Inspection	Metric
1	1–60	• Maintain current manual visual inspection frequency. • Target of approximately weekly geometry car frequency. • Joint BNSF/FRA ''baseline'' manual field inspection	Below 2014 baseline for: 1. Unprotected Red tags/100 miles = 6.95.
2	61–120	• Weekly mandated manual visual main line inspections; monthly sidings. • Target of approximately weekly mainline geometry car frequency; monthly sidings. • ATIP Inspection near end of phase 2	Reduction from baseline: 1. Unprotected Red tags/100 miles = 5.0 or below measured quarterly (28% reduction).

[1] On October 24, 2018, in response to a request from BNSF, FRA modified the conditions of its September 26, 2018 approval.

Phase	Days	Inspection	Metric
3	121–300	• Data-driven focused manual visual inspections • Twice monthly mandated manual visual mainline inspections; monthly sidings. • Data driven geometry car frequency, with a minimum of two such tests per month. • Automated Optical inspection platform added at same frequency of track geometry testing. • ATIP Test end of phase 3	Reduction from baseline: 1. Unprotected Red tags/100 miles = 4.8 or below measured quarterly (31% reduction).
4	301–365	• Data-driven focused manual visual inspections • Twice monthly manual visual mainline inspections; monthly sidings. • Data driven geometry car testing frequency, with a minimum of two such tests per month. • Data driven optical testing frequency, with a minimum of two such tests per month. • Additional technology tested • Joint BNSF/FRA Manual Field Inspection	Reduction from baseline: 1. Unprotected Red tags/100 miles = 4.6 or below measured quarterly (34% reduction).

Table 1: Phases of Test Program.

FRA approved the Test Program and granted BNSF's petition for a temporary suspension of 49 CFR 213.233(c) subject to certain conditions designed to ensure the safety of the Test Program. Among those conditions, BNSF must demonstrate to FRA how it will implement the ''data driven focused manual visual inspections'' in Phases 3 and 4 of the Test Program and the railroad must meet the metrics specified in the Test Program to monitor and measure the effectiveness of the technologies being tested. If those metrics cannot be met in any phase of the program, BNSF must revise the Test Program. A copy of FRA's letters approving BNSF's Test Program and granting the requested limited, temporary suspension of 49 CFR 213.233(c) is available in the public docket at *www.regulations.gov* (docket no. FRA–2018–0091).

FRA finds that the temporary, limited suspension of 49 CFR 213.233(c) is necessary to the conduct of the approved Test Program which is specifically designed to evaluate the effectiveness of various types of automated track inspection technologies. FRA also finds that the scope and application of the granted suspension of 49 CFR 213.233(c) as applied to the Test Program is limited to that necessary to facilitate the conduct of the Test Program.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2018–24111 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0083]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on October 4, 2018, the BNSF Railway Company (BNSF), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 225.25, *Recordkeeping.* FRA assigned the petition Docket Number FRA–2018–0083.

Specifically, BNSF seeks a waiver of compliance from 49 CFR 225.25(h) which states, in part, ''Except as provided in paragraph (h)(15) of this section, a listing of all injuries and occupational illnesses reported to FRA as having occurred at an establishment shall be posted in a conspicuous location at that establishment, within 30 days after the expiration of the month during which the injuries and illnesses occurred, if the establishment has been in continual operation for a minimum of 90 calendar days.''

BNSF requests a waiver regarding the actual posting of the monthly listing of employee reportable injuries, occupational illnesses, and fatalities, as reported to FRA that have occurred during the past 12-month period at each establishment. In lieu of physically posting a ''paper'' copy of the monthly listing at each establishment, BNSF has developed an electronic version that would be available to its employees by accessing this information on computer terminals located at company facilities and personal devices. BNSF would place posters on the notice boards at each establishment indicating that the monthly listings are available to be viewed in two ways: electronically through access from a computer terminal, or through direct request of a manager.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by December 20, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–24122 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0084]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on October 5, 2018, the Texas State Railroad (TSR), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 240.201(d). FRA assigned the petition Docket Number FRA–2018–0084.

TSR seeks a waiver of compliance from 49 CFR 240.201(d) which states, ''After December 31, 1991, no railroad shall permit or require any person to operate a locomotive in any class of locomotive or train service unless that person has been certified as a qualified locomotive engineer and issued a certificate that complies with § 240.223.'' TSR desires to conduct a ''Hands on the Throttle Program,'' which would allow ''non-certified'' individuals to operate a locomotive as a ''Student Locomotive Engineer.''

TSR owns and operates a fleet of steam and historic diesel locomotives and desires to provide non-certified persons the opportunity to operate these locomotives. As proposed, TSR will verify that each participant will be at least 18 years old and possesses a valid state-issued motor vehicle license, and will have a certified locomotive engineer in the cab of the locomotive at all times. The operations will occur at two locations on TSR trackage between milepost (MP) 0.0l and MP 2.16 in Rusk, Texas, and between MP 23.30 and MP 26.12 in Palestine, Texas, during daylight hours, at restricted speed, with no opposing train movements, without passengers, involving no public highway grade crossings, and derail protection will be placed at the end of each movement at both locations. Each participant will receive a job briefing prior to operating a locomotive. TSR believes that this program will generate needed revenue and interest in historic locomotives. TSR also believes these operations will not pose any safety concerns to the public at large.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by December 20, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–24123 Filed 11–2–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one entity that has been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel. 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On October 17, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is blocked under the relevant sanctions authority listed below.

Entity

1. AFAQ DUBAI (a.k.a. AFAK DUBAI EXCHANGE COMPANY; a.k.a. AFAQ DUBAI COMPANY; a.k.a. AFAQ DUBAI HAWALAH; f.k.a. ''ASTU''), Iraq; Email Address *me.iraq17@yahoo.com* [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(d)(i) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for assisting in, sponsoring, or providing financial, material, or technological support for, or financial or other services to or in support of, the ISLAMIC STATE OF IRAQ AND THE LEVANT, an entity determined to be subject to E.O. 13224.

Dated: October 17, 2018.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2018–24066 Filed 11–2–18; 8:45 am]

BILLING CODE 4810–AL–P

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

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